

AMENDED IN ASSEMBLY MAY 1, 2014  
AMENDED IN ASSEMBLY APRIL 7, 2014  
AMENDED IN ASSEMBLY MARCH 25, 2014  
CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1442**

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**Introduced by Assembly Member Gatto**  
**(Coauthor: Assembly Member Gonzalez)**

January 6, 2014

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An act to add Section 49073.6 to the Education Code, relating to pupil records.

LEGISLATIVE COUNSEL'S DIGEST

AB 1442, as amended, Gatto. Pupil records: social media.

Existing law requires school districts to establish, maintain, and destroy pupil records according to regulations adopted by the State Board of Education.

This bill would, notwithstanding that provision, require a school district, county office of education, or charter school that considers a program to gather or maintain in its records any personal information obtained from social media, as defined, of any pupil enrolled in the school district, county office of education, or charter school to first notify pupils and their parents or guardians about the proposed program, and to provide an opportunity for public comment *at a regularly scheduled public meeting* before the adoption of the program. The bill would require a school district, county office of education, or charter school that adopts a program pursuant to ~~this provision~~ *these provisions* to, among other things, gather and maintain only information that was made publicly accessible, as defined, provide a pupil with access to any

personal information about the pupil obtained from social media, and to destroy the personal information gathered from social media and maintained in its records, as provided. If a school district, county office of education, or charter school contracts with a 3rd party to gather personal information from social media on an enrolled pupil, the bill would prohibit the use, sale, or sharing of the information by the 3rd party, and would provide additional restrictions on the destruction of the information by the 3rd party, as specified.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 49073.6 is added to the Education Code,  
2 to read:  
3 49073.6. (a) For purposes of this section, the following terms  
4 have the following meanings:  
5 (1) “Social media” means an electronic service or account, or  
6 electronic content, including, but not limited to, videos, still  
7 photographs, blogs, video blogs, podcasts, instant and text  
8 messages, email, online services or accounts, or Internet Web site  
9 profiles or locations.  
10 (2) (A) “Publicly accessible” means anything posted on social  
11 media or any other Internet Web site that is accessible to the  
12 general public.  
13 (B) “Publicly accessible” does not include anything posted on  
14 social media or any other Internet Web site that is only accessible  
15 to a restricted group of persons.  
16 (b) Notwithstanding any other law or regulation, a school  
17 district, county office of education, or charter school that considers  
18 a program to gather or maintain in its records any personal  
19 information obtained from social media of any enrolled pupil shall  
20 notify pupils and their parents or guardians about the proposed  
21 program and provide an opportunity for public comment *at a*  
22 *regularly scheduled public meeting of the governing board of the*  
23 *school district or county office of education, or governing body of*  
24 *the charter school, as applicable, before the adoption of the*  
25 *program. The notification required by this subdivision may be*  
26 *provided as part of the notification required pursuant to Section*  
27 *48980.*

1 (c) Notwithstanding any other law or regulation, a school  
2 district, county office of education, or charter school that adopts  
3 a program pursuant to subdivision (b) shall do all of the following:

4 (1) Gather or maintain only information that was made publicly  
5 accessible, which shall not include either of the following:

6 (A) Information that the school district, county office of  
7 education, or charter school knows or has reason to believe was  
8 reposted or otherwise made publicly accessible by another party  
9 without the express consent of the original author.

10 (B) Any secondary information, including, but not limited to,  
11 geolocation information, derived from content posted to social  
12 media, unless that secondary information was intentionally made  
13 publicly accessible.

14 (2) Provide a pupil with access to any personal information  
15 about the pupil gathered or maintained by the school district,  
16 county office of education, or charter school that was obtained  
17 from social media, and an opportunity to correct or delete  
18 information that was gathered or maintained in violation of  
19 paragraph (1).

20 (3) (A) Destroy personal information gathered from social  
21 media and maintained in its records within one year after a pupil  
22 turns 18 years of age or within one year after the pupil is no longer  
23 enrolled in the school district, county office of education, or charter  
24 school, whichever occurs first.

25 (B) Notify each parent or guardian of a pupil subject to the  
26 program that the pupil's personal information is being gathered  
27 from social media and that any information subject to this section  
28 maintained in the school district's, county *office* of education's,  
29 or charter school's records with regard to the pupil shall be  
30 destroyed in accordance with subparagraph (A). *The notification*  
31 *required by this subparagraph may be provided as part of the*  
32 *notification required pursuant to Section 48980.*

33 (C) If the school district, county office of education, or charter  
34 school contracts with a third party to gather personal information  
35 from social media on an enrolled pupil, the contract shall do all of  
36 following:

37 (i) Prohibit the third party from using the information for its  
38 own purposes.

- 1 (ii) Prohibit the third party from selling or sharing the
- 2 information with any person or entity other than the school district,
- 3 county office of education, or charter school.
- 4 (iii) Require the third party to destroy the information
- 5 immediately upon satisfying the terms of the contract, within one
- 6 year after a pupil turns 18 years of age, or within one year after
- 7 the pupil is no longer enrolled in the school district, county office
- 8 of education, or charter school, whichever occurs first.

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