

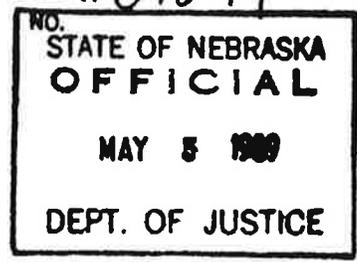
Linda Willard

DEPARTMENT OF JUSTICE

STATE OF NEBRASKA

TELEPHONE 402/471-2682 • STATE CAPITOL • LINCOLN, NEBRASKA 68509

#89044



ROBERT M. SPIRE
Attorney General
A. EUGENE CRUMP
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DATE: May 5, 1989
SUBJECT: Nebraska Education Data Center
REQUESTED BY: Senator Sharon Beck
Nebraska State Legislature
WRITTEN BY: Robert M. Spire, Attorney General
Harold Mosher, Assistant Attorney General

If enacted into operative law, LB 744 of the Ninety-first Legislature, First Session (1989), would create the Nebraska Education Data Center. Section 4 thereof establishes the Education Data Advisory Committee and section 5 imposes on that committee the duty to establish a plan to improve the education data system for elementary and secondary education and to report by March 1, 1990, its findings and a plan. You have asked several questions which pertain to LB 744, each of which are hereinafter stated and discussed.

Is there a state law that deals with the exchange of data - personal, test scores, etc.?

Subject to the limitations stated in Neb.Rev.Stat. §§79-4,157 and 79-4,158 (Reissue 1987), "[a] copy of a public or private school's files or records concerning a student shall be provided at no charge, upon request, to any public or private school to which the student transfers." Neb.Rev.Stat. §79-4,157.01 (Reissue 1987). We also call your attention to section 5 of LB 744, as amended on May 3, 1989, which states: "All data on individual students generated pursuant to this act, including data on individual student's academic performance, shall be kept private and confidential and shall be subject to section 79-4,157 and the General Education Provisions Act, 20 U.S.C. 1232(g) through (i) and all other provisions of state and federal laws insuring the privacy and confidentiality of information on students." See, page 2050 of the Legislative Journal of the Ninety-First Legislature, First Session (1989).

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Senator Sharon Beck
May 5, 1989
Page -2-

Does state law address the electronic exchange of student information?

There is no such law.

Would LB 744 mandate the collection of information on students whose parents have elected, pursuant to subdivision (5) of section 79-328 and subsections (2) through (4) of section 79-1701, not to comply with state requirements for accreditation or approval due to sincerely held religious beliefs?

No. See section 4 of LB 744, as amended on May 3, 1989, and reported at page 2050 of the Legislative Journal of the Ninety-First Legislature, First Session (1989).

If Nebraska were to develop a data collection system based on the National Assessment of Educational Progress test, would not the federal government control the curriculum in our public schools? Stated somewhat differently, you cannot compare apples and oranges - each child would need to be taught from the same curriculum in order for a valid comparison to be made and if the curriculum in the public schools is based on a federally funded assessment program, then is the federal government exercising control over our curriculum?

We find nothing in LB 744 which mandates the use of any specific test. Consequently, we cannot answer your question.

Respectfully submitted,

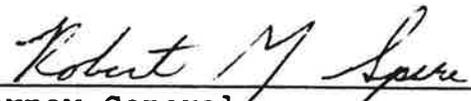
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20-66-2

cc: Patrick J. O'Donnell
Clerk of the Legislature

APPROVED BY:


Attorney General