



Personal Online Account Privacy Act

Section 1. Definitions – As used in this Act,

- (A) “Applicant” shall mean an Applicant for employment.
- (B) “Employee” shall mean an individual who provides services or labor to an Employer in return for wages or other remuneration or compensation.
- (C) “Employer” shall mean a person who is acting directly as an Employer, or acting under the authority or on behalf of an Employer, in relation to an Employee.
- (D) “Educational Institution” shall mean:
 - (1) A private or public school, institution, or school district, or any subdivision thereof, that offers participants, Students, or trainees an organized course of study or training that is academic, trade-oriented, or preparatory for gainful employment, as well as school Employees and agents acting under the authority or on behalf of an Educational Institution; or
 - (2) A state or local educational agency authorized to direct or control an entity in Section 1(D)(1).
- (E) “Personal Online Account” means any online account maintained by an Employee, Student, or Tenant, including but not limited to a social media or email account, that is protected by a login requirement. “Personal Online Account” does not include an account, or a discrete portion of an account, that was either (1) opened at an Employer’s behest, or provided by an Employer and intended to be used solely or primarily on behalf of or under the direction of the Employer, or (2) opened at a school’s behest, or provided by a school and intended to be used solely or primarily on behalf of or under the direction of the school.
- (F) “Prospective Student” shall mean an Applicant for admission to an Educational Institution.
- (G) “Prospective Tenant” shall mean a person who inquires about or applies to rent real property from a Landlord for residential purposes.
- (H) “Landlord” shall mean the owner or lawful possessor of real property who, in an exchange for rent, Leases it to another person or persons for residential purposes, or someone acting under the authority or on behalf of a Landlord, in relation to a Tenant or Prospective Tenant.

- (I) “Lease” shall mean a legally binding agreement between a Landlord and a residential Tenant or Tenants for the rental of real property.
- (J) “Specifically Identified Content” shall mean data or information stored in a Personal Online Account that is identified with sufficient particularity to distinguish the discrete, individual piece of content being sought from any other data or information stored in the account with which it may share similar characteristics.
- (K) “Student” shall mean any full-time or part-time Student, participant, or trainee that is enrolled in a class or any other organized course of study at an Educational Institution.
- (L) “Tenant” shall mean a person who Leases real property from a Landlord, in exchange for rent, for residential purposes.

Section 2. Employers – An Employer shall not:

- (A) Require, request, or coerce an Employee or Applicant to:
 - (1) Disclose the user name and password, password, or any other means of authentication, or to provide access through the user name or password, to a Personal Online Account;
 - (2) Disclose the non-public contents of a Personal Online Account;
 - (3) Provide password or authentication information to a personal technological device for purposes of gaining access to a Personal Online Account, or to turn over an unlocked personal technological device for purposes of gaining access to a personal online account;
 - (4) Access a Personal Online Account in the presence of the Employer in a manner that enables the Employer to observe the contents of such account; or
 - (5) Change the account settings of a Personal Online Account so as to increase third party access to its contents;
- (B) Require or coerce an Employee or Applicant to add anyone, including the Employer, to their list of contacts associated with a Personal Online Account;
- (C) Take any action or threaten to take any action to discharge, discipline, or otherwise penalize an Employee in response to an Employee’s refusal to disclose any information specified in Section 2(A)(1)-(3) or refusal to take any action specified in Section 2(A)(4)-(5) or (B); or
- (D) Fail or refuse to hire any Applicant as a result of an Applicant’s refusal to disclose any information specified in Section 2(A)(1)-(3) or refusal to take any action specified in Section 2(A)(4)-(5) or (B).

Section 3. Educational Institutions – An Educational Institution shall not:

- (A) Require, request, or coerce a Student or Prospective Student to:

- (1) Disclose the user name and password, password, or any other means of authentication, or provide access through the user name or password, to a Personal Online Account;
 - (2) Disclose the non-public contents of a Personal Online Account;
 - (3) Provide password or authentication information to a personal technological device for purposes of gaining access to a Personal Online Account, or to turn over an unlocked personal technological device for purposes of gaining access to a personal online account;
 - (4) Access a Personal Online Account in the presence of an Educational Institution Employee or Educational Institution volunteer, including, but not limited to, a coach, teacher, or school administrator, in a manner that enables the Educational Institution Employee or Educational Institution volunteer to observe the contents of such account; or
 - (5) Change the account settings of a Personal Online Account so as to increase third party access to its contents;
- (B) Require or coerce a Student or Prospective Student to add anyone, including a coach, teacher, school administrator, or other Educational Institution Employee or Educational Institution volunteer, to their list of contacts associated with a Personal Online Account;
- (C) Take any action or threaten to take any action to discharge, discipline, prohibit from participating in curricular or extracurricular activities, or otherwise penalize a Student in response to a Student's refusal to disclose any information specified in Section 3(A)(1)-(3) or refusal to take any action specified in Section 3(A)(4)-(5) or (B); or
- (D) Fail or refuse to admit any Prospective Student as a result of the Prospective Student's refusal to disclose any information specified in Section 3(A)(1)-(3) or refusal to take any action specified in Section 3(A)(4)-(5) or (B).

Section 4. Landlords – A Landlord shall not:

- (A) Require, request, or coerce a Tenant or Prospective Tenant to:
- (1) Disclose the user name and password, password, or any other means of authentication, or to provide access through the user name or password, to a Personal Online Account;
 - (2) Disclose the non-public contents of a Personal Online Account;
 - (3) Provide password or authentication information to a personal technological device for purposes of gaining access to a Personal Online Account, or to turn over an unlocked personal technological device for purposes of gaining access to a personal online account;

- (4) Access a Personal Online Account in the presence of the Employer in a manner that enables the Employer to observe the contents of such account; or
 - (5) Change the account settings of a Personal Online Account so as to increase third party access to its contents;
- (B) Require or coerce a Tenant or Prospective Tenant to add anyone, including the Employer, to their list of contacts associated with a Personal Online Account;
 - (C) Take any action or threaten to take any action to evict or otherwise penalize a Tenant in response to Tenant's refusal to disclose any information specified in Section 4(A)(1)-(3) or refusal to take any action specified in Section 4(A)(4)-(5) or (B);
 - (D) Fail or refuse to rent real property to, or otherwise penalize any Prospective Tenant as a result of a Prospective Tenant's refusal to disclose any information specified in Section 4(A)(1)-(3) or refusal to take any action specified in Section 4(A)(4)-(5) or (B); or
 - (E) Include any provisions in a new or renewal Lease, executed after the date this Act takes effect, that conflict with Section 4 of this Act. Any such conflicting Lease provisions shall be deemed void and legally unenforceable.

Section 5. Limitations – Nothing in this Act shall prevent an Employer, Educational Institution, or Landlord from:

- (A) Accessing information about an Applicant, Employee, Student, Prospective Student, Tenant, or Prospective Tenant that is publicly available;
- (B) Complying with state and federal laws, rules, and regulations, and the rules of self-regulatory organizations as defined in section 3(a)(26) of the Securities and Exchange Act of 1934, 15 USC 78c(a)(26), or another statute governing self-regulatory organizations;
- (C) For an Employer, without requesting or requiring an Employee or Applicant to provide a user name and password, password, or other means of authentication that provides access to a Personal Online Account, requesting or requiring an Employee or Applicant to share Specifically Identified Content that has been reported to the Employer for the purpose of:
 - (1) Enabling an Employer to comply with its own legal and regulatory obligations;
 - (2) Investigating an allegation, based on the receipt of information regarding Specifically Identified Content, of the unauthorized transfer of an Employer's proprietary or confidential information or financial data to an Employee or Applicant's Personal Online Account; or
 - (3) Investigating an allegation, based on the receipt of information regarding Specifically Identified Content, of unlawful harassment or threats of violence in the workplace;

(D) For an Educational Institution, without requesting or requiring a Student or Prospective Student to provide a user name and password, password, or other means of authentication that provides access to a Personal Online Account, requesting or requiring a Student or Prospective Student to share Specifically Identified Content that has been reported to the Educational Institution for the purpose of:

(1) Complying with its own legal obligations, subject to all legal and constitutional protections that are applicable to the Student or Prospective Student;

(E) For a Landlord, without requesting or requiring Tenant or Prospective Tenant to provide a user name and password, password, or other means of authentication that provides access to a Personal Online Account, requesting or requiring a Tenant or Prospective Tenant to share Specifically Identified Content that has been reported to the Landlord for the purpose of:

(1) Enabling a Landlord to comply with its own legal and regulatory obligations; or

(2) Investigating an allegation, based on the receipt of information regarding Specifically Identified Content, of a Lease violation by the Tenant where such a violation presents an imminent threat of harm to the health or safety of another Tenant or occupant of the real property or of damage to the real property;

(F) Prohibiting an Employee, Applicant, Student, or Prospective Student from using a Personal Online Account for business or Educational Institution purposes; or

(G) Prohibiting an Employee, Applicant, Student, or Prospective Student from accessing or operating a Personal Online Account during business or school hours or while on business or school property.

Section 6. Inadvertent receipt of password –

(A) If an Employer, Educational Institution, or Landlord inadvertently receives the user name and password, password, or other means of authentication that provides access to a Personal Online Account of an Employee, Applicant, Student, Prospective Student, Tenant, or Prospective Tenant through the use of an otherwise lawful technology that monitors the Employer's, Educational Institution's, or Landlord's network or Employer-provided, Educational Institution-provided, or Landlord-provided devices for network security or data confidentiality purposes, the Employer, Educational Institution, or Landlord:

(1) Is not liable for having the information;

(2) May not use the information to access the Personal Online Account of the Employee, Applicant, Student, Prospective Student, Tenant, or Prospective Tenant;

(3) May not share the information with any other person or entity; and

- (4) Must delete the information as soon as is reasonably practicable, unless the information is being retained by the Employer, Educational Institution, or Landlord in connection with the pursuit of a specific criminal complaint or civil action, or the investigation thereof.

Section 7. Enforcement –

- (A) Any Employer, Educational Institution, or Landlord, including its Employee or agents, who violates this Act shall be subject to legal action for damages and/or equitable relief, to be brought by any person claiming a violation of this Act has injured his or her person or reputation. A person so injured shall be entitled to actual damages, including mental pain and suffering endured on account of violation of the provisions of this Act, and reasonable attorneys' fees and other costs of litigation.
- (B) Any Employee or agent of an Educational Institution who violates this Act may be subject to disciplinary proceedings and punishment. For Educational Institution Employees who are represented under the terms of a collective bargaining agreement, this Act prevails except where it conflicts with the collective bargaining agreement, any memorandum of agreement or understanding signed pursuant to the collective bargaining agreement, or any recognized and established practice relative to the members of the bargaining unit.

Section 8. Admissibility – Except as proof of a violation of this Act, no data obtained, accessed, used, copied, disclosed, or retained in violation of this Act, nor any evidence derived therefrom, shall be admissible in any criminal, civil, administrative, or other proceeding.

Section 9. Severability – The provisions in this Act are severable. If any part or provision of this Act, or the application of this Act to any person, entity, or circumstance, is held invalid, the remainder of this Act, including the application of such part or provision to other persons, entities, or circumstances, shall not be affected by such holding and shall continue to have force and effect.

Section 10. Effective Date – This Act shall take effect upon passage.