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Mississippi Passes Bill Requiring Edtech Providers To Moderate Content



A new law in Mississippi will require vendors that offer digital resources in Mississippi schools to have content safety policies and moderation practices in place.

Obligations

Mississippi Code § 37-11-81, effective July 1, 2023, provides that certain Mississippi schools may offer digital or online resources or databases to K-12 students only if the vendor or person or entity providing the resources verifies that the resources will comply with the following:

- The entity/provider has safety policies and technology protection measures in place that:
 - Prohibit and prevent a person from sending, receiving, viewing, or downloading materials that are:
 - Child pornography.
 - Materials that depict or promote child sexual exploitation or trafficking.
 - Obscene materials (as defined in Sec. 37-11-81(c)).
 - Materials that are sexually oriented (as defined in Sec. 97-5-27(2)).

- Block, or otherwise prohibit and prevent, access to obscene materials, inappropriate materials, materials that are sexually oriented, or materials that depict, describe, or promote child pornography or child sexual exploitation.

Impact on Existing Contracts

Section 37-11-91 provides that this section takes precedence over any provision of law to the contrary in a contract with the provider.

Further, if a provider of digital or online resources or databases fails to comply with the requirements of this section, the contracting party must withhold further payments, if any, to the provider pending verification of compliance.

Penalties

Breach of Contract. A provider's first uncured occurrence of noncompliance, and failure to verify within 30 days of receiving a notice of noncompliance from the contracting party that the provider is in compliance with this section, will be considered to be a breach of contract.

Price Reduction. In the case of a second uncured occurrence of noncompliance and failure to verify compliance within 30 days of a notice of noncompliance, the contracting party is entitled to a 10% reduction of the contract price.

Contract Termination and Payment Refund. In the case of a third uncured occurrence of noncompliance and failure to verify compliance within 30 days of a notice of noncompliance, the contract must be considered terminated, and the contracting party is entitled to a complete refund and must withhold future payments. The provider must also return the contracting party's previous payments.

Potential Attorney General Investigation. The Attorney General may investigate noncompliance with this section, and the contracting party must report a provider's failure to comply with this section no later than 30 days after learning of the provider's noncompliance. This report will also be considered a public record.

Looking Forward

This law reflects two related regulatory trends in state capitols across the United States: (1) a growing emphasis on teen and child safety (and privacy) online; and (2) efforts to restrict certain "harmful materials" on digital services accessible in schools.

Visit [Digital Safety & Human Rights](#) to learn more about Perkins Coie's counseling services on content and safety issues.

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