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State Superintendent of Schools

Student Data Privacy Council Meeting

January 9, 2020
Maryland Department of Transportation
7201 Corporate Center Drive
Hanover, MD

Meeting Minutes

Council Members in Attendance: Dr. Carol A. Williamson (Chairperson), Ms. Kathleen Bender (remote attendee-on behalf of the Honorable Delegate Jheanelle Wilkins), Mr. Thomas Chapman, Mr. Ryan Cowder, Ms. Chrystie Crawford-Smick, Ms. Mary Pat Fannon (on behalf of Dr. Jeffrey Lawson), Mr. Michael Garman, Mr. Chas Goldman (on behalf of the Honorable Senator Susan C. Lee), Mr. Theodore Hartman, Ms. Ann Kellogg, Ms. Tonya Sweat, Ms. Amelia Vance, Ms. Alison Vannoy, and Mr. Derek Wheeler (on behalf of Mr. Chip Stewart)

MSDE Staff in Attendance: Ms. Molly Abend, Ms. Val Emrich, Ms. Chandra Haislet, Mr. Shane J. McCormick, Ms. Christle Sheppard-Southall, and Ms. Laia Tiderman

Members Absent: Mr. Baron Rodriguez

The meeting was called to order at 9:05 a.m. and a quorum was established.

Welcome & Introductions

Dr. Carol Williamson, chairperson, welcomed the members and the members exchanged introductions and their professional affiliations. A motion to approve the December 12, 2019, meeting minutes as presented was made by Mr. Michael Garman and seconded by Ms. Amelia Vance. The motion carried.

Discussion of Policy Priorities to Make Data Work for Students

Ms. Chandra Haislet, MSDE staff, introduced Ms. Abigail Cohen, Associate Director of Policy and Research at the Data Quality Campaign (DQC), to facilitate a presentation on making data work for students. Ms. Cohen shared the mission and philosophy of DQC. Ms. Cohen highlighted the four policy priorities identified by DQC to make data work for students: measure what matters, make data use possible, guarantee access and protect privacy, and be transparent and earn trust. Ms. Cohen shared resources with the members on protecting student data privacy, directing the members to a set of principles prepared by the Student Data Principle, as well as a student data privacy pledge prepared by the Student Privacy Pledge Signatory.

The members discussed discrepancies in current data protection laws, and the importance of providing parents with as much information as possible. Ms. Cohen shared that copies of the presentation and other resources would be made available to the members. Ms. Cohen discussed a poll of parents facilitated by DQC and noted that the 2019 poll received feedback from over one thousand parents. The poll identified parents' thoughts on data protection, identified parties that parents trust in the data collection process, and noted that parents feel more information could be better communicated about what data is being collected. Ms. Tonya Sweat asked whether any questions were asked regarding parents' awareness of risks with data collection; Ms. Cohen stated that no such questions were asked.

Ms. Cohen discussed a 2019 poll of teachers also facilitated by DQC; a poll that received feedback from over seven hundred teachers. The poll found that teachers believe that using data is important and is a valuable use of time. It identified various ways that teachers use data in the classroom, and found that when using data that teachers are largely left on their own. It also found that one of the largest barriers in data usage was lack of time to examine it.

The members discussed discrepancies in teacher training and preparation with data privacy and collection in the classroom. Ms. Alison Vannoy stated that many decisions in the classroom regarding data collection and privacy are based on what has been approved at the local level. Ms. Ann Kellogg asked if the teacher poll requested how recently respondents had graduated from college. Ms. Cohen stated that no such question was asked.

The members discussed trust issues from parents with regard to data collection. Several members expressed that parents are more comfortable with collection and privacy issues when it is on an individual basis, such as a specific teacher. Mr. Theodore Hartman stated that privacy has different definitions for different people, and that some individuals, including students, are more accepting of sharing data through social media platforms such as Facebook or Instagram, but not with a teacher or parent.

Student Data Governance Workgroup

Ms. Haislet presented on the Student Data Governance Workgroup, which is a collaboration between the Maryland State Department of Education (MSDE), the Department of Information Technology (DoIT), and local boards of education. Mr. Hartman and Mr. Thomas Chapman serve on the workgroup, in addition to the council. The workgroup is charged with managing and maintaining data privacy and security practices specific to processing student data and personally identifiable information (PII) within IT and records management systems. The workgroup is also responsible for developing professional development opportunities on best practices in data governance and data privacy. Ms. Haislet highlighted the specific charges to MSDE and to local school systems (LSS). LSSs have the option to implement best practices, but are not mandated to do so.

Ms. Haislet highlighted some of the deliverables of the workgroup, including a report published in July 2019, and one that will be published in July 2020. The workgroup will develop a toolkit to serve as a resource for LSSs to develop and implement best practices, and to provide examples

of best practices. Ms. Haislet shared that the members will receive information on processes and procedures in the event of a data breach during a future meeting.

Ms. Sweat asked for a distinction between the council and the workgroup. Ms. Haislet stated that the workgroup is tasked with focusing on capacity at the local level. Ms. Laia Tideman, MSDE staff, stated that members of the workgroup are focused on what is happening at the local level, and that the council is focused on what is happening at the State level, specifically the impact and effects of House Bill (HB) 298-*The Student Data Privacy Act of 2015*. Ms. Vannoy asked for clarification on the purpose of the council in relation to the purpose of the data governance workgroup; Mr. Hartman summarized the mission of both groups. Mr. Derek Wheeler discussed the importance in data security of identifying how data is classified, and highlighted current DoIT vetting procedures.

Ms. Haislet reviewed the current timeline of the workgroup, which is being implemented in phases. The workgroup is currently in phase two, development and application. The next phase will be focused on sustainability.

The members recessed for break at 10:22 a.m.; the meeting reconvened at 10:37 a.m.

Establishing Definitions

Ms. Tideman reviewed with the members a handout provided in the meeting materials of relevant definitions pertaining to the mission of the council to study the development and implementation of the *Student Data Privacy Act of 2015*. Definitions for some terms were collected through existing laws and regulations at the State and Federal levels, as well as those defined through laws in other states. A definition was provided as to what constitutes covered information and disclosure.

Definitions have not been defined for key terms such as destruction, modification, protection, reasonable privacy controls, unauthorized access, and use. The members will need to identify working definitions for these terms. Ms. Amelia Vance asked whether there was a definition for access; Ms. Tideman stated no definition could be identified.

The members reviewed the definitions provided for disclosure and whether there was anything additional that should be considered for the council's working definition. Ms. Vannoy notified the members there is a definition of student records in the State Board of Education COMAR regulations. The members discussed the distinction between defining what constitutes a breach and what constitutes disclosure. The members also discussed definitions that constitute personally identifiable information (PII). Council staff summarized key terms on which the members had dissenting opinions: covered information, disclosure, and PII. Ms. Tideman clarified that the working definition of covered information is specifically related to operators.

The members discussed issues in defining an operator as it pertains to coverage under the definition of covered information. Ms. Tideman summarized the members' opinions regarding the definition of what currently constitutes an operator, and it was suggested to change operator

to include more than a person. Mr. Wheeler recommended changing the definition from operator to something that would cover manufacturer.

Ms. Tiderman asked the members whether a separate definition should be established as to what constitutes a digital medium, "...Internet website, online service, an online application, or a mobile application." The members agreed to add language about a digital medium to the definition of services provided by operators. The members discussed additional changes to provisions under the definition of an operator, including clarification of an educational purpose and process. Ms. Vannoy recommended changing language on educational purpose to school purpose, which is also defined under the operator definition. Ms. Vance asked whether the council should define what constitutes a contract agreement. Ms. Tiderman stated she would research existing language. The members were informed that procurement and contract agreements would be discussed during the next meeting.

The members reviewed the definitions of reasonable security procedures and practices and discussed defining reasonable privacy controls. The members discussed potential drawbacks of setting State minimum data security standards. Dr. Williamson recommended creating a workgroup to refine the council's definitions prior to the next meeting; Ms. Vance, Mr. Hartman, and Ms. Vannoy agreed to assist. Dr. Williamson shared that another workgroup would be formed to make modifications to the proposed LSS survey based on the feedback of the members.

Review of Proposed Local School System Survey

Ms. Tiderman reviewed with the members a proposed LSS survey to gather feedback on local knowledge of the *Student Data Privacy Act of 2015*, existing privacy laws, and current practices at the local level. Ms. Tiderman stated that most of the survey questions would utilize a Likert rating scale. Ms. Kellogg recommended that the language be modified for clarity to avoid any false responses. Mr. Hartman asked whether questions eleven and thirteen on the survey were necessary. Ms. Tiderman stated the questions were prepared based on feedback during prior meetings.

Ms. Mary Pat Fannon recommended adding a question on barriers experienced with implementation. Mr. Chapman recommended adding a question asking what department, if applicable, within LSSs is responsible for implementation. Ms. Vance recommended adding language clarifying the purpose of the survey, and to add a question that allows for respondents to identify what barriers have prevented successful implementation of practices and operations, as well as what resources are needed. Ms. Kellogg offered to assist in designing the survey and reviewing the data collected. Dr. Williamson asked if sending out a survey such as this would provide adequate information. She asked if it would be more appropriate to consider having a team of Council members call a representative in each of the school systems to discuss on the phone, or in person, the information the Council wanted to collect. Members agreed this method of surveying the systems may provide more specific information that the Council needs.

The members discussed the timeline of preparing the survey for distribution, and how to collect and review responses. The members had no additional feedback on the survey timeline.

Discussion of Legislative Intent

Ms. Tideman referred the members to the floor report for HB 298, which was provided in the handout materials. Mr. Michael Lore, office of the Honorable Senator Susan C. Lee, provided the report based on feedback from the members.

Adjournment

The meeting was adjourned at 11:52 a.m.