



**Karen B. Salmon, Ph.D.**  
State Superintendent of Schools

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## **Student Data Privacy Council Meeting**

**May 14, 2020**  
**WebEx Virtual Meeting**

### Meeting Minutes

Council Members in Attendance: Dr. Carol A. Williamson (Chairperson), Mr. Thomas Chapman, Ms. Chrystie Crawford-Smick, Mr. Ryan Cowder, Mr. Michael Garman, Mr. Theodore Hartman, Ms. Ann Kellogg, Dr. Jeffrey Lawson, Mr. Michael Lore (on behalf of the Honorable Senator Susan C. Lee), Mr. Baron Rodriguez, Ms. Tonya Sweat, Ms. Amelia Vance, Ms. Allison Vannoy, 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, Mr. Elliott Schoen (on behalf of Ms. Jacqueline LaFiandra), and Ms. Laia Tideman

Members Absent: Ms. Michele McNeil, and The Honorable Delegate Jheanelle Wilkins

The meeting was called to order at 9:01 a.m. and a quorum was established.

### **Welcome & Approval of Meeting Minutes**

Dr. Carol Williamson, chairperson, welcomed the members, and the members reviewed the minutes from the April 9, 2020, meeting. A motion to approve the minutes as presented was made by Ms. Ann Kellogg and seconded by Ms. Allison Vannoy. A roll call of the members was made to approve the minutes.

Roll Call: 11 Yes, 0 No, 0 Abstentions. Members Absent from Vote: Mr. Ryan Cowder, Mr. Michael Garman, and Mr. Theodore Hartman. The motion carried.

The members reviewed the meeting agenda and the topics that would be discussed.

### **Priorities of the Council**

The members were asked to share their perspectives on the priorities and recommendations of the council based on the topics discussed during the previous meetings. Ms. Ann Kellogg stated that one of the priorities of the council is to establish its definitions and provide clarity on the requirements of the law. Mr. Baron Rodriguez stated that providing guidance and clarification to vendors and operators was a priority; Mr. Theodore Hartman concurred with Mr. Rodriguez.

Mr. Hartman stated that the legislation must contain provisions on how an operator can be subject to litigation as a means of enforcement.

Mr. Michael Lore, on behalf of the Honorable Senator Susan C. Lee, asked for clarification on the current appeals process in the State of Maryland and in states previously discussed by the council; Ms. Amelia Vance clarified that current State laws do not identify an appeals process. Dr. Jeffrey Lawson stated that creating improved technical assistance and guidance to local school systems and school system staff would be impactful to ensuring the protection of student data privacy. Mr. Hartman affirmed to the members that the *Student Data Privacy Act of 2015* does not prescribe solutions to local school systems on what to do; prescriptive recommendations for local school systems are highlighted in the *Student Data Governance Act of 2018*.

Ms. Tonya Sweat recommended that the council emphasize that all stakeholders understand the importance of and their role in protecting student data privacy, and from there focus on enforcement options and compliance requirements. Ms. Sweat also recommended that the council focus on the resources that will be required to fully implement its recommendations.

### **LSS Survey Results**

Ms. Laia Tiderman, MSDE staff, discussed with the members the results of the survey created by the council staff and distributed to local school system personnel. Ms. Tiderman shared with the members that all twenty-four local school systems in the State responded to the survey. Seventeen local school systems indicated that they were either familiar or very familiar with Maryland's existing privacy laws, and that they were either familiar or very familiar with the *Student Data Privacy Act of 2015*.

Ms. Tiderman discussed the additional questions that were asked in the survey and shared response data to each question. The survey found that ninety-one percent of local school system respondents implemented their processes for vetting online services for data privacy and security after 2015 in response to the passage of the law. Ms. Tiderman concluded by reaffirming that the purpose of the survey was to evaluate the impact of the law and to study implementation in local school systems.

The members were asked for their feedback on the survey results. Mr. Baron Rodriguez stated the survey raises questions about the adequacy of training and professional development. Ms. Vance stated that the survey indicates that the law was impactful and that local school systems are generally familiar with the law. Dr. Lawson discussed the need for follow-up discussions in local school systems based on the survey findings. Mr. Lore asked about the level of communication between local school systems regarding vendors; Mr. Thomas Chapman discussed his experience at the local school system level communicating and collaborating with other systems.

The members discussed follow-up qualitative questions for consideration. Dr. Lawson recommended reaching out to specific local school systems regarding their responses. Mr. Lore suggested asking follow-up questions to local school systems on their experiences with inadequate vendors.

### **Discussion: Relevant Definitions & Identified Issues from Legislative History**

Ms. Tiderman reviewed the draft of the council's relevant definitions and directed the members to the text comparison of the first version of the *Student Data Privacy Act of 2015* and the adopted law. Components of the council's definitions were adopted from the law and modified or added to as applicable. Ms. Molly Abend, MSDE staff, discussed the definition of covered information; Ms. Abend stated that online behavior or usage of applications when linked or linkable to a specific student was added to the council's definitions. Mr. Hartman discussed the intent of the definitions workgroup that developed the council's relevant definitions to clear up and clarify specific definitions where possible.

The members reviewed the definition of an operator and were asked for their feedback. Ms. Abend and Mr. Chapman discussed some of the changes and additions to the council's definition from the definition in the law. One of the major changes under the council's definitions is that an entity that usually serves a general audience but has created a division for education clients, such as Google providing Google for Education, would be considered the entity covered by the law, and not the parent entity as a whole, so long as the education division does not share covered information with the parent entity.

The members reviewed the definition of persistent unique identifiers, which was changed significantly under the council workgroup's definitions. The definition includes extending coverage to a preK-12 student, their family, or a device linked to either party. The members reviewed the definition of targeted advertising and were asked for their feedback. Ms. Tiderman stated that in the initial version of the legislation targeted advertising was not discussed but that it was added in the adopted law.

Ms. Vance recommended revising language on online data collection so that it is easier to understand. Ms. Kellogg asked if a vote was required by the members to adopt the council's definitions in its recommendations; Ms. Tiderman stated that a vote would be tabled until after the members reviewed gaps in the *Student Data Privacy Act of 2015*.

The meeting was recessed for a break at 10:11 a.m. The meeting was reconvened at 10:19 a.m.

### **Discussion: Gaps in the Student Data Privacy Act of 2015**

The members were asked to identify gaps in the *Student Data Privacy Act of 2015*, such as the responsible parties, burdens to implementation, and whether there is any alignment with the council's priorities. Ms. Vance identified the limited number of operators covered under the operator definition as a gap in the law. Mr. Hartman discussed issues of responsible parties, compliance and guidance, and limitations on covered information in the law.

Mr. Rodriguez stated there needs to be consistency on the measurement and frequency of compliance by vendors and that findings need to be transparent. Mr. Rodriguez stated that if a vendor is found to be acting inappropriately then other local school systems need to be made aware.

Mr. Lore discussed issues with informing and empowering parents in the data privacy protection process, specifically in the event of an operator breach. Ms. Vance discussed limitations with notifications to parents, specifically notifications from operators to parents, citing that such actions could lead to the unintended distribution of added private information. Mr. Hartman reiterated that provisions regarding notifications to parents are discussed in the *Student Data Governance Act of 2018*. Mr. Rodriguez discussed the incorporation of transparency and disclosure regarding historical breaches by an operator. Ms. Vance recommended modifying the disclosure of historical breaches to focus on whether an operator has been involved in a breach with multiple local school systems.

The members were asked for feedback on gaps in the legislation with regards to training and professional development. Ms. Kellogg discussed the idea of adopting a data privacy advisory board or group, which was included in similar legislation passed in the State of Utah. Mr. Rodriguez recommended targeting training to vendors on how to conduct business with local school systems in the State of Maryland. Mr. Hartman and Ms. Vance concurred with the suggested incorporation of an advisory board or group.

### **Adjournment**

The members were reminded that the next meeting would be held Thursday, June 11, 2020. Dr. Williamson reviewed the next steps of the council and the topics that would be discussed during the June meeting.

The meeting was adjourned at 10:48 a.m.