Student Data Privacy Council Meeting

June 11, 2020
WebEx Virtual Meeting

Meeting Minutes

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

Members Absent: The Honorable Delegate Jheanelle Wilkins

The meeting was called to order at 9:00 a.m. and a quorum was established.

Welcome & Approval of Meeting Minutes

Dr. Carol Williamson, chairperson, welcomed the members, and reviewed the meeting agenda. The members reviewed the minutes from the previous meeting on May 14, 2020. A motion to approve the minutes as presented was made by Mr. Michael Garman and seconded by Mr. Theodore Hartman. A roll call of the members was made to approve the minutes.

Roll Call: 13 Yes, 0 No, 0 Abstention. Members Absent from the Vote: Mr. Michael Lore, and Mr. Derek Wheeler. The motion carried.

Local School Systems Survey Results

Ms. Laia Tiderman, MSDE staff, presented on the results of the local school system (LSS) survey that was distributed to the twenty-four LSSs in the State of Maryland to evaluate knowledge of the *Student Data Privacy Act of 2015*, the impact of the legislation and the implementation status of the legislation within LSSs. The members were informed that LSSs in the State were categorized by size; the size categories were small, medium, and large school districts. Ms. Tiderman shared that the results indicated that larger school systems had greater

familiarity with the legislation and implemented vetting processes for operators in response to the legislation faster than smaller systems.

Ms. Tiderman shared that local school systems were categorized to summarize changes in their practices and operations. With regards to enforceable data privacy and security requirements by data businesses processes involving student data, a majority of district responses indicated they had made changes to all business practices. Of these respondents, most of these districts were categorized as small or medium sized districts.

The survey found that with regards to changes in practices or operations, smaller and medium sized districts primarily finalized, upgraded, or added to formal privacy policies and regulations. Other medium sized districts and the majority of large districts formed workgroups to vet applications, digital tools, and/or vendors. The survey also found that with regards to educating staff on vetting processes, larger systems utilized formal training sessions and other methods, while smaller and medium sized districts varied between utilizing formal training sessions, distributing materials to staff, and sending email reminders.

The members were asked to provide any feedback to the survey results. Ms. Tiderman summarized that most of the LSSs in the State have processes and policies in place to deal with operators, but the implementation levels vary. Mr. Thomas Chapman stated that the results indicate that the larger school districts have more resources at their disposal, specifically with regards to staffing and expertise.

Dr. Williamson asked whether there was any information that would be useful to the council that was not collected. Ms. Tiderman stated that she did not believe any pertinent information was not collected, and that any lingering questions would be addressed in the presentation on the Student Data Governance Workgroup.

MSDE Student Data Governance Workgroup Report

Ms. Chandra Haislet, MSDE staff, provided a report on the activities of the Student Data Governance Workgroup, which was established by the Maryland State Department of Education (MSDE) and in partnership with the Maryland Department of Information Technology (DoIT) in response to *House Bill (HB) 568 of 2018* to identify best practices in governance, transparency, and professional development, and to collaborate to report on engagement, barriers, and statutory changes within LSSs. The MSDE must submit a report to the Maryland General Assembly to provide a status update on multiple areas:

- Development and implementation of best practices in the areas of data governance, transparency, and professional development;
- Levels of engagement by county boards;
- Barriers to engagement; and
- Recommended statutory changes

Ms. Haislet reviewed further the work group's charge and purpose, and shared that the workgroup has been developing a student data governance toolkit to guide LSSs. The toolkit

was designed to reflect the needs of the workgroup members, the requirements of the legislation, and other national best practices. The toolkit focuses on data governance, transparency, professional development, and LSSs capacity. Due to the changing nature of student data privacy issues, the toolkit would be updated periodically.

Ms. Haislet reviewed the requirements for LSSs. LSSs are required to manage and maintain a data governance program, develop, and implement an incident response plan, a data breach plan, and researcher access procedures. LSSs are also required to provide annual notification on items such as types of student data and personally identifiable information (PII). Ms. Haislet reviewed barriers and challenges to implementation identified by the workgroup, including risks to student data, barriers to building a culture of privacy, and professional development challenges.

Ms. Haislet reviewed recommendations for consideration from the workgroup. The workgroup recommends that the MSDE continue the workgroup past June 2020. The workgroup also recommends that each county board of education designate an employee to manage and maintain a data governance program in the county, and support the adoption of regulations to clarify the expectations for LSSs to fully implement the requirements of the *Student Data Governance Act*.

The members discussed further providing guidance to the LSSs, including professional development opportunities. Mr. Baron Rodriguez asked whether any consideration had been made to require district-wide training when new technologies are introduced; Mr. Rodriguez clarified that the district-wide training would be facilitated by operators to explain security protocols and features of their services and platforms. Ms. Amelia Vance reviewed security training provided by Google for their G-Suite service. Mr. Derek Wheeler discussed with the members security provisions required of vendors in request for proposals (RFP) through DoIT.

Continued Discussion: Gaps in the Student Data Privacy Act of 2015

Ms. Tiderman reviewed with the members frequently cited gaps in the *Student Data Privacy Act of 2015* that were identified during the May meeting. These gaps include a lack of clarity, issues with compliance and transparency, operator responsibilities, and a lack of professional development opportunities. Mr. Hartman asked for clarification on the inclusion of a digital divide as a gap in the legislation. Ms. Tiderman clarified that the digital divide was related to the members concerns about exacerbating existing digital gaps and inequalities.

The members further reviewed gaps in the legislation and were asked to clarify why these gaps are an issue, what evidence supports them, and the priority level to change the legislation. The members recommended synthesizing the number of gaps identified, specifically with regards to lack of clarity in who must comply with the requirements of the legislation and what protocols must be followed.

The members discussed issues with enforcement and the lack of enforcement in the legislation. Ms. Tonya Sweat summarized that a lack of enforcement puts pressure on LSSs to regulate operators, and to be up to date on what operators can and cannot do. Ms. Sweat stated that a lack of enforcement leaves LSSs susceptible to lawsuits, and that smaller systems may not be able to assume litigation costs at the same level as larger systems. The members agreed that a lack of

enforcement was an issue based on feedback from LSSs staff, experts on the council, and a lack of enforcement within the legislation or similar legislation. The members agreed that ensuring enforcement in the legislation was a high priority.

The members discussed a lack of transparency with regards to compliance as a gap in the legislation. The members expressed it was burdensome to LSSs to identify operators that other LSSs have utilized and their experiences. The members agreed that there is information regarding operators that would be pertinent to LSSs that is not readily available. The members also discussed matters of public perception and ensuring public trust.

The members discussed the importance of operator transparency. Ms. Sweat expressed that transparency carried medium importance with regards to the legislation, but that clarifying compliance was of a higher priority. The members reviewed and discussed other issues related to operator transparency; the members would return to discuss other operator related issues at another time.

Ms. Tiderman shared with the members that feedback from the May meeting identified professional development as a gap in the legislation, specifically using professional development as a strategy to protect student data privacy. Ms. Vannoy stated that professional development needs to distinguish what is specifically for teachers, and what is more general data governance guidance for administrators within the LSSs. Mr. Hartman recommended including language that requires operators to explain what service they are providing through resources such as a training video or module. Ms. Tiderman summarized the members' concerns that operators be required to explain their services and address concerns with data privacy protection.

The members discussed the identified gap of the purpose of the Student Data Privacy Council and the mission of the council moving forward. The council must submit its findings to the General Assembly by December 2020. Ms. Sweat suggested that it would be useful for the council to continue to meet periodically, but that it may not require a monthly meeting. Ms. Vance concurred with Ms. Sweat, and recommended having an embedded council to meet periodically to discuss changes in technology and issues related to data privacy.

The members agreed that the council would support compliance and transparency. The members agreed that the continuation of the council would be of medium priority in the legislation.

Discussion of Questions for Invited Operators

Ms. Tiderman shared with the members that three operators have been invited to speak during the July 2020 meeting of the council. The members were asked to identify questions they would like to ask operators during the meeting. Ms. Vance expressed an interest in how operators' market themselves and how they market training opportunities. Ms. Ann Kellogg expressed an interest in knowing whether or not operators are including technical documents on configuration to protect privacy. Ms. Val Emrich, MSDE staff, expressed an interest in knowing whether operators offer differentiated training based on the attendee, such as administrators versus users.

The members further expressed an interest in knowing how operators have changed their practices in recent years in response to several data privacy laws, and in knowing processes for

disclosing information. Dr. Williamson shared with the members that the document with the list of questions for operators and the document with the gaps in the legislation would be made available so that the members could add comments and suggestions.

Adjournment

Dr. Williamson stated that the comments made in the virtual chat should be saved for the information of the members. The members were asked whether they would prefer to meet in-person or virtually for the July meeting. The members expressed their preference to meet virtually for the meeting.

The meeting was adjourned at 10:53 a.m.