



Student Data Privacy Council Meeting

**November 12, 2019
100 Community Place
1st Floor Conference Room, Side B
Crownsville, MD**

Meeting Minutes

Members in Attendance: Dr. Carol A. Williamson (Chairperson), Mr. Thomas Chapman, Mr. Ryan Cowder, Mr. Chrystie Crawford-Smick, Mr. Michael Garman, Mr. Chas Goldman (on behalf of the Honorable Senator Susan C. Lee), Mr. Theodore Hartman, Ms. Ann Kellogg, Ms. Jacqueline LaFiandra, 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. Alison Vannoy, and The Honorable Delegate Jheanelle Wilkins

MSDE Staff in Attendance: Ms. Molly Abend, Ms. Chandra Haislet, Mr. Shane J. McCormick, and Ms. Laia Tideman

Members Absent: Mr. Charles Askew, Mr. Chip Stewart

The meeting was called to order at 9:06 a.m. and a quorum was established.

Welcome & Introductions

Dr. Carol A. Williamson, council chairperson, welcomed the members, MSDE staff, and members of the public, and reviewed the council activities during the meeting on October 10, 2019. A motion to approve the October meeting minutes as presented was made by Mr. Michael Garman and seconded by Mr. Michael Lore, on behalf of the Honorable Senator Susan C. Lee; the motion carried.

The members exchanged introductions and their roles on the council. Dr. Williamson reviewed the mission of the council and provided a timeline of activities for future meetings. The members reviewed the agenda for the meeting.

Review of Council Bylaws

The members reviewed the draft bylaws of the council, which had been revised based on their feedback at the first meeting and recommendations of Ms. Jacqueline LaFiandra, Office of the Attorney General. Ms. LaFiandra discussed the revisions and changes that had been made since that meeting. The mission and the roles and responsibilities of the council were tightened. Ms. LaFiandra shared that an inclement weather policy had been added based on the recommendations of the members.

Ms. LaFiandra shared that language regarding a potential legislative position had been removed based on feedback from the members. Ms. Tonya Sweat asked about language in the initial draft

pertaining to taking a legislative position which may oppose the position of the Governor of Maryland; Ms. Laia Tiderman shared that language had been removed.

The Honorable Delegate Jheanelle Wilkins inquired about the need for bylaws to govern the council. Ms. LaFiandra shared that adopting bylaws was to provide structure to the council's business and to prepare for potential conflicts that may arise. Dr. Williamson asked the members if there was any objection to adopting bylaws to govern the council; the members expressed no objections.

Delegate Wilkins asked about language in the bylaws pertaining to the removal of members from the council, because House Bill (HB) 245, which established the Student Data Privacy Council, identified specific stakeholders who will serve on the council. Dr. Williamson stated the language was to provide a safeguard in the instance that council members miss multiple meetings without notifying the chairperson or council staff. The members requested that the language be clarified to allow for a council members designee to count for attendance purposes, and that the language be amended regarding approved excused absences.

Ms. Sweat asked for clarification on the language regarding member's terms of service to the council. Ms. Tiderman stated the membership term was based on the final deadline for the council's findings to be submitted to the Maryland General Assembly. The council's final recommendations must be submitted by December 31, 2020.

Ms. Amelia Vance asked if language could be added clarifying what council activities outside of face-to-face meetings would fall under the *Maryland Open Meetings Act*. Ms. LaFiandra stated that additional language would be adopted. Dr. Williamson asked the members if there was a consensus to vote on adoption of the bylaws, or to wait until the December meeting to vote on adoption. The members agreed to wait to vote on adoption of the bylaws so that additional revisions could be made and presented during the December meeting.

Ms. LaFiandra discussed questions regarding closing a public meeting and voting during a public meeting under the *Maryland Open Meetings Act*. A provision exists under the law to close a public meeting if the content discussed references private information such as network security information, private student or school information, usernames, passwords, etc. Ms. LaFiandra clarified that a conference call or webinar conducted by the council would need to be made available to the public to attend if the members agreed to conduct its business in that manner. The members were informed that voting would need to be held in public under the law.

The members were also informed that they could not be reimbursed by the State of Maryland for serving on the council, but that they could be reimbursed by their organization or place of business for expenses incurred through their participation. Members that were unable to receive reimbursement were instructed to contact council staff for additional guidance.

Discussion of Tasks Required by HB 245

The members reviewed and discussed HB 245. Delegate Wilkins shared with the members that the Maryland General Assembly drafted several bills regarding student data privacy during the

2019 Legislative Session, and that HB 245 was passed to evaluate where the State of Maryland currently stands. The members reviewed the charge and scope of the council, which includes evaluating the impact of HB 298-*Student Data Privacy Act of 2015*. The council would also review the implementation and maintenance of reasonable security procedures and practices, privacy controls, and developments in technologies. The members broke out into groups to further discuss the council's charge and scope.

Mr. Thomas Chapman shared that his group discussed the term reasonability under the law; the group found that terms of security procedures and practices were not easy to define, and that additional clarification on what constitutes reasonability is needed. The members discussed discrepancies under HB 298 in terms of protected information and conflicts with other privacy legislation, including student data on free and reduced meal eligibility (FARM). Ms. Vance shared that a measure of accountability is missing from the legislation in terms of what local school systems should be doing, issues of transparency, data governance, and vendor contracts.

Mr. Chapman shared there is some overlap between the work of the council and the Student Data Governance Workgroup, established under HB 586, because some council members also serve on the workgroup. Mr. Chapman stated that information from the workgroup may be beneficial to the council members. Ms. Chandra Haislet shared that information from the workgroup will be provided during a future council meeting.

The members discussed the similarity of HB 298 to laws in other states. The members agreed that there is a need for the council to review similar laws, and the outcomes and unintended consequences of these laws. Mr. Theodore Hartman shared that HB 298 was based on a similar privacy law passed in California-*Student Online Personal Information Protection Act (SOPIPA)*. Delegate Wilkins stated that HB 298 did not identify measures to evaluate the effectiveness and impact of the legislation, which precipitated the passage of HB 245 and the establishment of the privacy council.

The members agreed there is a need to identify what local school systems are doing, and what operators and vendors are doing. The members agreed there is a need to clarify the responsibilities of vendors that work with local school systems. The members discussed the scope of best practices amongst local school systems in working with vendors. Mr. Hartman expressed it would be beneficial to share HB 568.

The meeting recessed for break at 11:01 a.m. The meeting reconvened at 11:10 a.m.

Discussion of Student Data Privacy Act of 2015

The members discussed the scope of the council under HB 245. Mr. Chapman stated his interpretation that the council is responsible for reviewing how local school systems (LSSs) are implementing and complying with HB 298. Ms. Sweat stated that the impetus for the passage of HB 298 needs to be identified by the council, and whether or not the State has progressed towards compliance. Mr. Baron Rodriguez stated that the council needs to review the data privacy landscape as it exists, and what other states have done to get into compliance.

Ms. Alison Vannoy, referring to HB 245, stated the council is to review what the State of Maryland has done and what LSSs are doing, whether HB 298 is comprehensive, and whether or not changes need to be made. Mr. Hartman concurred that the council needs to be focused on whether or not HB 298 has been effective.

Mr. Hartman presented on HB 298. The purpose of the legislation was to in part protect certain student information from unauthorized access. Mr. Hartman stated that the definition of who constitutes an operator is very vague; the law only governs operators based on contracted services with LSSs, and the law only covers targeted advertising. Mr. Hartman shared that passage of the law was very difficult, and as a result the law was not revisited for several years after.

Mr. Hartman stated that the list of private information that should be protected is worth reconsidering. The members discussed best practices implementation within LSSs; Ms. Vance stated that with the exception of asking LSSs directly about what they have done and what operators they contract with this information cannot be verified. Ms. Vance discussed the Student Data Privacy Consortium (SDPC), which assists operators that contract with one county enter contracts with other counties. Sixteen of the twenty-four counties in the State of Maryland participate in the consortium.

Plan Development

The members discussed their needs to effectively carry out the work of the council. Council staff would provide information on HB 568, and resources from the Council of Chief State School Officers (CCSSO) on student data. Based on feedback provided during the October meeting, the members expressed a need to know what is going on in Maryland, innovative practices, applications used by educators, definitions of student data privacy, and defining what success looks like. Ms. Sweat asked if it was possible to know about existing policies within the LSSs; Dr. Williamson said that information can be requested and shared with the members.

Mr. Hartman recommended inviting feedback from parents to speak about what they see in the LSSs and their areas of concern. Ms. Tiderman stated the council can invite representatives from the Maryland Department of Technology (DoIT) to discuss implementation at the State level. Ms. Tiderman shared that relevant State data privacy laws will be via the shared Dropbox folder.

Questions and Discussion

Dr. Williamson announced that the next meeting will be December 12, 2019, at the Maryland Department of Transportation (MDOT) in Hanover, MD. It was announced that additional meetings had been added for the end of 2020 and will be shared with the members.

Adjournment

A motion to adjourn was made by Ms. Kellogg and seconded Ms. Vance; the motion carried.

The meeting was adjourned at 11:56 a.m.