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State Superintendent of Schools

Student Data Privacy Council Meeting

November 12, 2020
WebEx Virtual Meeting

Meeting Minutes

Council Members in Attendance: Dr. Carol A. Williamson (Chairperson), Ms. Chrystie Crawford-Smick, Mr. Michael Garman, The Honorable Delegate Dana Jones, Ms. Ann Kellogg, Mr. Michael Lore (on behalf of the Honorable Senator Susan C. Lee), Ms. Michele McNeil, Mr. Baron Rodriguez, Ms. Amelia Vance, Ms. Alison Vannoy

MSDE Staff in Attendance: Ms. Molly Abend, Ms. Val Emrich, Ms. Chandra Haislet, Ms. Jacqueline LaFiandra, Mr. Shane J. McCormick, Ms. Laia Tiderman

Members Absent: Mr. Ryan Cowder, Mr. Theodore Hartman, Dr. Jeffrey Lawson, Ms. Tonya Sweat, and Mr. Derek Wheeler (on behalf of Mr. Chip Stewart)

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

Welcome & Approval of Meeting Minutes

Dr. Carol Williamson, chairperson, welcomed the members and discussed the previous activities of the council since its first meeting in October 2019. Dr. Williamson expressed her belief that the council will have strong recommendations to present to the General Assembly in its final report. Dr. Williamson reviewed with the members the planned activities for the meeting, and the expectations for the council's final meeting in December.

The members reviewed the meeting minutes from the meeting on September 17, 2020. A motion to approve the minutes as presented was made by Mr. Michael Garman and seconded by Mr. Baron Rodriguez.

Roll Call: 9 Yes, 0 No, 0 Abstention. Members Absent from the Vote: Mr. Michael Lore (on behalf of the Honorable Senator Susan C. Lee). The motion carried.

Review of Draft Final Report

Ms. Laia Tiderman, MSDE staff, reviewed the draft final report with the members. Ms. Tiderman conveyed that the council staff needed feedback on any content missing from the report. Dr. Williamson expressed that some additional content should be added to the background section of the report. Ms. Amelia Vance expressed her approval with the report and

commended the contributions of the staff in preparing the report. Ms. Vance expressed that some additional information should be added explaining why the *Student Data Privacy Act of 2015* created added burdens upon local school systems (LSS).

Ms. Tiderman acknowledged Mr. Theodore Hartman for his contributions to the background section; Mr. Hartman contributed significant information on the legislative history. The Honorable Delegate Dana Jones expressed that the background section would be very helpful to members of the legislature and their staff in understanding the history and the pertinence of specific issues. Ms. Tiderman reviewed the sections on the council's charge and the establishment of the council; Ms. Tiderman noted that both of these sections were taken directly from House Bill (HB) 245, the authorizing legislation that established the council. Dr. Williamson noted that additional information could be included on how the council staff identified and invited prospective individuals to serve as members.

Ms. Tiderman reviewed with the members the section on the findings of the council. Ms. Tiderman asked the members for feedback on whether there was sufficient information presented in the council's findings. Ms. Tiderman stated that the first paragraph of the section should be developed further. Ms. Alison Vannoy recommended including language explaining where the council believes that the *Student Data Privacy Act of 2015* has been implemented sufficiently and worked well, given that the council focuses primarily on areas where the legislation has been insufficient and lacking.

The members reviewed the section regarding the council's first guiding question about the national and State privacy landscapes. Mr. Baron Rodriguez recommended discussing how remote learning has changed the landscape in the five years since the legislation was originally passed. Ms. Vannoy recommended discussing how the landscape has changed since the beginning of 2020 due to the impacts of the COVID-19 pandemic, specifically since the council had discussed the impact of the pandemic on emerging technologies later in the report.

Ms. Val Emrich, MSDE staff, recommended removing language highlighting the State's rating in a student privacy report. The members agreed with removing the language due to the report being a national report that evaluated several states and was not specific to the State of Maryland. Mr. Michael Lore asked whether the report could be referenced as a footnote. Ms. Tiderman noted that the specific report is highlighted and referenced in the council's October 2019 meeting minutes.

The members discussed the sections regarding the importance of student data and the *Maryland Student Data Governance Act of 2018*. Ms. Tiderman recommended including more information about the Data Quality Campaign (DQC), which presented during the January 2020 meeting. Dr. Williamson recommended including additional information clarifying the difference between the council and the MSDE Student Data Governance group, noting there had been confusion previously among the members regarding the differences between the two groups. Ms. Vannoy concurred with Dr. Williamson's recommendation.

The members reviewed the findings in response to the council's second guiding question of how LSSs implemented the legislation. Ms. Vance recommended including language discussing how LSSs do not always have the leverage that they need and that the law is targeted to operators and not LSSs. The members reviewed the findings of transparency in LSSs implementation. Ms. Tiderman recommended that additional information be added to the section. Mr. Lore stated that the section highlights well the challenges faced by smaller LSSs and issues with economies of scale. The Honorable Delegate Jones concurred with Mr. Lore's assessment.

The members reviewed the findings in response to the council's third guiding question of how operators have implemented the legislation. Ms. Vance expressed that it may be useful to discuss different methods of accountability so that it is better understood what is missing and to reiterate the discrepancies between the larger and smaller LSSs. Mr. Rodriguez recommended including clarification on operator's responsibilities with regards to the security portion of protecting privacy. Mr. Rodriguez referenced provisions in privacy laws in the State of Utah as an example. Ms. Vance concurred with Mr. Rodriguez's assessment.

The members reviewed the findings in response to the council's fourth guiding question of how student data privacy laws in other states compare to the State of Maryland, best practices from other states, and the comprehensiveness of Maryland's current law. Ms. Vance recommended modifying the order of state laws in the findings to start with the States of California and Utah since they are the similar state laws most cited. Ms. Ann Kellogg recommended reviewing the State of Louisiana law, noting that the findings in the report were missing key provisions. Ms. Vance recommended adding additional information regarding the privacy law in the State of New York, specifically regarding the inclusion of a state-level privacy officer.

Ms. Tiderman reviewed with the members the findings in response to the council's fifth guiding question of student data privacy best practices from other states. Ms. Vance recommended including language suggesting an ongoing review or revisiting of the law via state legislators; Ms. Vance referenced the State of Utah as an example. Ms. Vance also recommended including language regarding ongoing resources and funding to be made available by the State to LSSs.

Ms. Tiderman reviewed with the members the findings in response to the council's sixth guiding question of whether the *Student Data Privacy Act of 2015* is current and comprehensive. Ms. Vance recommended reiterating for clarity what is meant by narrow scope. The members reviewed the findings in response to the council's seventh guiding question of the impact of emerging technologies. Ms. Tiderman reiterated that the council had discussed the impact of the COVID-19 pandemic on emerging technologies; the members agreed to expand on this section.

Review of Council's Final Recommendations

Ms. Tiderman reviewed with the members the council's draft final recommendations regarding compliance. The council recommends establishing a mechanism to ensure operator's compliance with the *Student Data Privacy Act of 2015*. Ms. Vance recommended citing specific language in state laws in Utah and New York regarding the establishment of a state chief privacy officer. Ms. Tiderman reviewed the draft final recommendations regarding transparency. The

council recommends requiring operators to maintain a breach notification plan. Mr. Lore asked whether the council had clarified what is defined as coverable information; this information was included in the council's definitions. The members expressed no further feedback.

Ms. Tiderman reviewed the council's draft final recommendations regarding the continuation of the council. Ms. Tiderman stated that based on the members' prior feedback it may be beneficial to include language recommending the periodic review of the law by state legislators. Mr. Lore asked for clarification regarding the recommendation to review the establishment and implementation of compliance mechanisms to ensure operator's compliance with the legislation. The members agreed to add language regarding LSSs transparency, such as the sharing of best practices and experiences with operators.

Discussion of Next Steps & Approval of Draft Report

Dr. Williamson asked the members whether sufficient information was captured in the draft final report to be able to explain the council's positions and justification for its recommendations. Ms. Vance recommended including a statement in its recommendations on clarity with an explanation on why certain definitions were changed or consolidated. The members were encouraged to add additional comments and suggestions to the shared version of the draft final report, or to submit their comments and suggestions directly to the council staff.

Ms. Tiderman reviewed the planned timeline for preparation of the final report and submission of the report to the legislature. The report must be submitted to the General Assembly by December 31, 2020. The members agreed to a deadline of December 1, 2020, to submit final comments and suggestions so that they could be incorporated into the final report in advance of the council's final meeting.

A motion to adopt the draft report framework was made by Mr. Michael Lore and seconded by Mr. Michael Garman.

Roll Call: 10 Yes, 0 No, 0 Abstained. The motion carried.

The members were reminded that the council's final meeting would be December 10, 2020.

Adjournment

The meeting was adjourned at 10:30 a.m.