

Student Data Privacy Council Meeting

October 10, 2019

**Maryland State Department of Education
8th Floor-Conference Room 6**

Meeting Minutes

Council Members in Attendance: Dr. Carol A. Williamson (Chairperson), Ms. Leah Barteldes (on behalf of The Honorable Delegate Jheanelle Wilkins), Mr. Thomas Chapman, Mr. Ryan Cowder, Ms. Chrystie Crawford-Smick, Mr. Michael Garman, Mr. Theodore Hartman, Ms. Ann Kellogg, Ms. Jacqueline LaFiandra, Mr. Michael Lore (on behalf of The Honorable Senator Susan C. Lee), Dr. Jeffrey Lawson, Mr. Tyler Park (on behalf of Ms. Amelia Vance), Mr. Baron Rodriguez, Ms. Alison Vannoy, and Ms. Ellen Zavian (on behalf of the Maryland PTA)

MSDE Staff in Attendance: Ms. Chandra Haislet, Dr. Jennifer Judkins, Mr. Shane J. McCormick, and Ms. Laia Tiderman

The meeting was called to order at 9:10 a.m.

Welcome & Introductions

Dr. Carol A. Williamson, council chairperson, welcomed the members, MSDE staff, and members of the public. The members exchanged introductions and shared their level of experience working with and knowledge of best practices in student data privacy. They reviewed the meeting materials provided and were notified that the November meeting date had been changed to November 12, 2019.

The members were encouraged to share or discuss information and meeting materials with their respective organization. Members were asked to identify an alternate representative to attend in his/her place in the event they would be unable to attend a future meeting.

Overview of Council Purpose and Enacting Legislation

The members reviewed House Bill (HB) 245, which established the Student Data Privacy Council. The council will be responsible for presenting a report of its findings to the Governor of Maryland and the Maryland General Assembly on or before December 31, 2020.

The members reviewed the purpose of the council as established under HB 245, which includes studying the development and implementation of the *Student Data Privacy Act of 2015*, and reviewing and analyzing similar laws and best practices in other states. The council will also review and analyze developments in technologies related to student data privacy.

Ms. Laia Tiderman, MSDE staff, reviewed the proposed timeline of the council. The council would convene and review the purpose, scope, and outcome of the council in fall 2019, and by spring 2020 will review the implementation status of the *Student Data Privacy Act of 2015*. The

council will review similar laws and best practices by summer 2020, and prepare its recommendations by fall 2020.

The members discussed the objectives and timeline of the council. An inquiry was made whether a call-in option would be available to the members during future meetings; the members were notified that a call-in option for future meetings can be adopted in the council by-laws. Ms. Zavian and Mr. Hartman encouraged the council look at the original language of the *Student Data Privacy Act of 2015*, which contained much stronger language than the legislation that eventually passed. Mr. Hartman encouraged the council to consider how technology has outpaced the legislation given it has been several years since the legislation was passed.

Discussion of Council Structure and Processes

Ms. Jacqueline LaFiandra, Office of the Attorney General, provided members with information regarding the *Maryland Open Meetings Act*. The council, as a public body established by law, must open its meetings to the public. A quorum of the members must be present to conduct business, and the minutes of the council shall be approved by the council members and made available to the public.

Ms. LaFiandra shared that anyone could file a complaint citing a violation of the *Open Meetings Act*. Public comment is not required under the law but the council may include language in its by-laws allowing time for public comment.

The members reviewed and discussed the proposed bylaws of the council. The bylaws state the membership composition of the council, staff of the council, and terms of appointment to the council. The bylaws contain a provision on attendance, whereby a member with unexcused absences from two consecutive meetings will be considered to have resigned from the council. The bylaws include language allowing for a designee to attend and vote during a meeting in place of a member. The members agreed to add a provision regarding representation for members of the General Assembly.

The members reviewed language regarding meetings of the council. Mr. Rodriguez inquired about adding a provision for inclement weather. The members discussed holding conference calls in the event of inclement weather; the council would need clarification on potential conflicts with the *Open Meetings Act*. The council agreed to revisit the discussion of an inclement weather policy.

Ms. Barteldes asked for clarification on language regarding quorum during meetings. Ms. LaFiandra shared that for voting purposes a quorum would be a majority serving on the council. The council agreed to research options to host meetings virtually. The members reviewed and agreed to the provisions in the bylaws regarding voting. Ms. Barteldes requested that language be included regarding voting abstentions. The members discussed whether voting could be held anonymously; Ms. LaFiandra stated she would research the question further.

The members reviewed language regarding records and meetings of the council. Mr. Rodriguez asked if the minutes would reflect the members in attendance; all minutes of the council would

reflect attendance. The members discussed language regarding rules of conduct and a conflict of interest. Ms. LaFiandra stated she would research the question further. The members reviewed and discussed language regarding legislative positions. Ms. Tiderman stated that the mission of the council is to make recommendations on statutory changes to legislation. The council agreed, on the recommendation of Ms. LaFiandra, to look into the issue further before adopting language in the bylaws.

The members reviewed language regarding expenses and compensation for service on the council. The legislation states that council members may not receive direct compensation for serving on the council, but can be reimbursed for travel expenses under the Standard State Travel Regulations. Dr. Williamson shared with the members that more information regarding expenses and compensation will be shared with the members during the November meeting.

Ms. Tiderman shared that meeting information, agendas, and minutes will be made available on the MSDE website. The members will also have access to meeting materials and records via a Dropbox folder.

The meeting recessed for break at 10:43 a.m. The meeting reconvened at 10:58 a.m.

Review of the Privacy Landscape

Mr. Sean Cottrell, State Support Team for the Statewide Longitudinal Data Systems, facilitated a presentation to the members on the Maryland-National Privacy Landscape. Mr. Cottrell highlighted privacy laws that have been passed at the federal level and state levels. Mr. Cottrell highlighted that forty-one states have passed 126 student privacy laws since 2013.

The members learned about recent trends in student data privacy laws, including laws that established access and security standards for statewide longitudinal data systems (SLDS), laws that prohibit the collection or disclosure of social security numbers and other sensitive personal student information, and laws that regulate schools' access to students' social media accounts.

The members received information on privacy laws within the State of Maryland, including the *Maryland Public Information Act*, and the *Maryland Personal Information Protection Act*. The members received information on the State Student Privacy Report Card, established by the Parent Coalition for Student Privacy. Mr. Cottrell shared that on the grading scale established in the report card, the State of Maryland received a grade of D+, and in the area of transparency the State received a grade of F. Mr. Cottrell shared that several state departments of education have designated specific individuals as chief privacy officers to address concerns over student data privacy.

Mr. Rodriguez shared that transparency and privacy are usually at odds, and that the council needs to be aware of this conflict, and that any recommendations made by the council needs to consider the impact on small and rural local school systems. Dr. Williamson shared that the council is comprised of members from local school systems of varying sizes in order to have a diverse representation of expertise and perspective.

Questions and Discussion

The members discussed the most pressing issues in the State of Maryland related to student data privacy. Mr. Rodriguez shared that the applications used by teachers in instruction is a pressing issue; several members expressed agreement. Ms. Kellogg stated that how to define student data privacy is a challenge. Mr. Hartman stated that definitions and policies are vague. The members agreed that defining what success looks like is essential to the mission and final recommendations of the council. The members agreed that an important task would be identifying best practices across other states and countries to be used as a resource or a model.

The members were asked if any information or resources would be beneficial to assist them in their roles serving on the council. The members agreed that identifying practices across local school systems throughout the State of Maryland would be beneficial. Ms. Zavian requested that information on recent lawsuits regarding data privacy would be beneficial to the council.

Dr. Williamson encouraged members to review the legislation prior to the next meeting. The members will discuss the legislation and the council bylaws during the November council meeting.

Adjournment

The meeting was adjourned at 11:40 a.m.