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State Superintendent of Schools

Student Data Privacy Council Meeting

December 12, 2019

**Maryland Department of Transportation
7201 Corporate Center Drive
Hanover, MD**

Meeting Minutes

Council Members in Attendance: Dr. Carol A. Williamson (Chairperson), Ms. Kathleen Bender (on behalf of the Honorable Delegate Jheanelle Wilkins), Mr. Thomas Chapman, Mr. Ryan Cowder, Ms. Tina Dove (on behalf of Ms. 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), Mr. Baron Rodriguez, Ms. Tonya Sweat, Ms. Amelia Vance, and Ms. Alison Vannoy.

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

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

The meeting was called to order at 9:02 a.m. and a quorum was established.

Welcome & Introductions

Dr. Carol A. Williamson, chairperson, welcomed the members; the members exchanged introductions and their roles on the council. The members reviewed the meeting agenda, meeting materials, and the minutes from the meeting on November 12, 2019. A motion to approve the meeting minutes as presented was made by Mr. Baron Rodriguez and seconded by Ms. Alison Vannoy; the motion carried.

Council Norms and Practices

Dr. Williamson shared with the members that the governing document of the council had been changed to norms and practice based on feedback received during the previous meeting. Ms. Jacqueline LaFiandra, Office of the Attorney General, stated that amending the name to norms and practices was done to provide clarity. Ms. LaFiandra informed the members that language regarding designee representation, membership term, and attendance had been amended.

A motion to approve the norms and practices of the council was made by Mr. Michael Lore and seconded by Ms. Tonya Sweat; the motion carried.

Finalizing Council Scope

The members reviewed House Bill (HB) 245, which established the Student Data Privacy Council, and a set of guiding questions provided in the meeting materials. Ms. Laia Tiderman, MSDE staff, provided an overview of the purpose of the guiding questions. The guiding questions were based on outcomes expected of the council as established in HB 245, which would involve studying HB 298, the *Student Data Privacy Act of 2015*.

Mr. Theodore Hartman stated that the members need to be privy to gaps or inconsistencies in definitions established under HB 298; Dr. Jeffrey Lawson asked whether identifying gaps or inconsistencies fell under the charge of the council. Ms. Tiderman clarified that the council would address definitions at some point in time, but that the members must first focus on the implementation and impact of HB 298.

The members discussed what constitutes an operator in the local school systems (LSS). Mr. Michael Lore asked whether or not the Department of Information Technology (DoIT) surveys LSSs chief information officers; MSDE staff agreed to look into the question further. Mr. Lore informed the members that a cybersecurity bill will be introduced in the 2020 Legislative Session; the proposed bill will be based on a similar law passed in the State of North Dakota.

The members discussed the legislative history of HB 298 and amendments that were made throughout the adoption of the bill. Mr. Hartman indicated that HB 298 was radically amended throughout the session in which it was passed. Mr. Lore stated he would provide the written testimony on HB 298 for the member's information prior to the next meeting.

The members discussed differences in cybersecurity and data governance across counties throughout the State. Several members expressed that smaller counties do not have chief operating officers. Ms. LaFiandra clarified that HB 298 does not authorize the State Board of Education to create any regulations over student data; oversight is assigned to LSSs. Ms. Tina Dove asked if outreach had been made to Delegate Anne Kaiser, author of HB 298, to provide clarification on the original purpose and rationale on key components of the law; MSDE staff agreed to send an invitation to Delegate Kaiser's office to attend and speak during a future meeting.

The members broke out into work groups at 9:57 a.m. The members reconvened at 10:18 a.m.

Group Discussion Feedback

Mr. Hartman presented on the impact of the *Student Data Privacy Act of 2015* on operator practices, and the protection of covered information from unauthorized access, destruction, use, modification or disclosure. The group identified a need to identify how the legislation impacted contracting practices within LSSs. Ms. Tiderman asked if the group discussed the definitions of terms such as access and destruction; Mr. Hartman stated the group did not. Ms. Sweat spoke to the discrepancies in definitions and need for clarification. Ms. Vance spoke to a need for more information on record retention laws within the State of Maryland.

Ms. Vance presented on the implementation and maintenance of reasonable practices as defined under the law. Ms. Vance stated her group felt it would be useful to find out whether there are any security practices that LSSs would like to have implemented. The group discussed whether LSSs audit their security polices and documents, and the role of DoIT in the process.

Ms. Vannoy presented on the implementation and maintenance of reasonable privacy controls to protect covered information. The group identified existing laws such as FERPA and SOPIPA as providing an existing framework on privacy controls. The group expressed an interest in identifying the parties responsible for enforcement in oversight of contracts. The group also expressed an interest in learning more about contract standards that have been adopted in other states. Ms. Vance asked whether or not the State of Maryland has any existing model policies; Mr. Michael Garman and Mr. Hartman stated that some LSSs have policies in place while others do not.

Review of Local School System Information

Ms. Molly Abend, MSDE staff, presented findings on a review of LSSs websites throughout the State. Ms. Abend stated that almost all LSSs had a public list of online tools deemed accessible, including student information shared with vendors, essential versus supplemental categories, and grade level and subject areas. Some LSSs included links to outside information on standard contract language between LSSs and operators, information on staff training, and information on communication with parents.

Proposed Local School System Survey

Ms. Tiderman discussed a proposed LSS survey, which is modeled after a document by the Trusted Learning Environment Seal Program provided within the meeting materials. The survey would focus on business practices, including vetting processes for online services for data privacy and security. Mr. Hartman stated the first question of a proposed survey needs to focus on the level of awareness within the LSSs of the *Student Data Privacy Act of 2015*, and then focus on the business practices and contract language between LSSs and vendors. Ms. Vance asked if the question needs to extend to any data privacy or governance laws.

Mr. Hartman asked for clarification on the intended survey audience; Dr. Williamson and Dr. Jeffrey Lawson agreed that the survey can be sent to the local superintendents as a starting point so that local superintendents are made aware. Mr. Garman recommended that individuals completing the proposed survey indicate their job title for informational purposes. Ms. Dove stated that some LSSs may not have the staff or personnel in place to be able to sufficiently answer questions in the proposed survey. Ms. Vannoy stated the survey should focus on leadership practices and asking LSSs what practices are already in place or determine if LSSs are aware of the Privacy Act of 2015.

Mr. Lore stated that potentially being able to create a contact list of representatives within the LSSs would be an ideal starting point for the council. Mr. Hartman argued against making a

proposed survey too broad. Mr. Tiderman stated that a draft of the proposed survey would be provided during the next meeting.

Dr. Lawson agreed to share information on the survey during the next meeting of the Public State Superintendents' Association of Maryland (PSSAM). Ms. Vance discussed existing software that is used by vendors in data governance and student data privacy security; MSDE staff would research existing software and share during a future meeting.

The members recessed for break at 11:00 a.m.; the meeting reconvened at 11:13 p.m.

Montgomery County Public Schools Implementation Experience

Mr. Thomas Chapman facilitated a presentation on data privacy in Montgomery County Public Schools (MCPS). Mr. Chapman provided a definition to an online digital tool within MCPS and provided examples of online digital tools, including Google, Learn Zillion, and Adobe. MCPS has over 1,300 online digital tools actively used by teachers and students; twenty-seven percent of student web activity is spent interacting with online digital tools.

Mr. Chapman reviewed recent developments in MCPS, including the creation of a data privacy website that acts as a central hub for all MCPS data privacy resources. MCPS has created general use guidelines that must be adhered to by all online digital tools, a vetting form for end users to submit new online digital tools, and consent form templates and directions. Ms. Tiderman asked how many online digital tools are left over and how many are new; Mr. Chapman stated that some tools are no longer active, have not been updated, or are used sparingly.

The members viewed features of the MCPS data privacy website. Mr. Chapman discussed prohibited vendors in MCPS; Ms. Dove asked for clarification on prohibited vendors and regulation of online platforms such as Facebook, since many schools and LSSs use Facebook to communicate news and information with students and parents. The members discussed social media practices within different LSSs across the State. Mr. Chapman shared that vetted online digital tools are listed on MCPS' data privacy website with contact information to each. He directed the members to the page for their information.

Mr. Chapman discussed the vetting process in MCPS. Mr. Chapman reviewed the issue of parental consent and discussed current policies. Parental consent is currently completely optional in MCPS. The policy is sent out with a memo to all schools on September 19 annually, and is available as a PDF or paper form.

The members discussed issues related to parental consent. Ms. Sweat stated that by law all LSSs in the State are required to have a parental advisory council, and asked whether MCPS utilizes their local advisory council to assist in communications about parental consent; Mr. Chapman stated that MCPS does. The members discussed issues related to digitalization and sharing policies, such as approval of parental consent via digital platforms, such as Google forms.

Dr. Lawson stated that although there is a push to be a digital society, there are many parents that do not want to participate. Ms. Sweat stated that there is a difference if the request for consent is sent through the school system compared to granting authorization directly to a vendor; Mr. Lore concurred that parents will be more likely to respond if a request for consent is provided by an entity that parents are familiar with compared to one's they are not.

Mr. Chapman discussed the MCPS data privacy committee. The privacy committee was established to identify representatives from each office/department within MCPS, and it will develop data privacy goals for the 2020-2021 school year. Ms. Dove stated that a large portion of issues regarding data privacy have to do with contract law, and that some of the recommendations made by the council need to be grounded in contract law.

Discussion

The members discussed statutory vetting and procurement practices, and the stakeholders that would need to be incorporated to change policies and procedures. Ms. LaFiandra explained that procurement practices vary among local school systems, as well as the State.

The members discussed the scope of the council and whether or not the members had any additional feedback to the council's scope; the members had no additional feedback.

Adjournment

The meeting was adjourned at 11:58 a.m.