

Department of Legislative Services
Maryland General Assembly
2014 Session

FISCAL AND POLICY NOTE
Revised

House Bill 607
Ways and Means

(Delegate Kaiser, *et al.*)

Education, Health, and Environmental Affairs

Education - Student Data Privacy Act of 2014

This bill requires the Maryland State Department of Education (MSDE) to complete the following by December 31, 2014: (1) consult with experts in the field of children's privacy protection on best practices for protecting student data privacy if a local school system decides to use a software service to host student data; (2) establish parameters for the appropriate manner in which a local school system may use a software service to host student data; (3) develop, in consultation with industry experts, a sample contract that includes a provision that student data may not be used for online behavioral advertising or marketing purposes, to be used by a local school system if the local school system decides to use a software service provider to process student data; and (4) once the sample contract is developed, provide each local school system with the sample contract. Each local school system must use the sample contract developed by MSDE in contracts entered into with a software service provider on or after March 31, 2015. MSDE must adopt regulations to implement the bill.

The bill takes effect June 1, 2014.

Fiscal Summary

State Effect: None. MSDE can develop and distribute the required best practices, parameters, and contract regarding software services to host student data using existing resources.

Local Effect: It is assumed that local school system expenditures for hosting student data will not be significantly impacted due to current federal regulations regarding privacy of student data. However, to the extent the bill prevents local school systems from entering into less expensive contracts to host student data due to the bill's requirements, local expenditures may increase.

Small Business Effect: None.

Analysis

Current Law: Software services to host student data are not specifically addressed in statute; however, educational institutions are bound by the Family Educational Rights and Privacy Act (FERPA) to protect the privacy of student and family information. In addition, MSDE follows guidelines specified by the Maryland Department of Information Technology's Information Security Policy.

Background: The market regarding software services to host student data is rapidly developing. One type of software service to host student data is cloud computing. Cloud computing generally involves a large number of computers connected through a real-time communication network such as the Internet. It allows clients to buy computing services such as data storage, processing power, and software services, rather than incurring the capital expenses of buying onsite computer servers and the related storage space. However, using a cloud service usually requires a great deal of network bandwidth, and raises some data security concerns.

Some cloud computing services offset costs for the client by using the data it is storing for purposes such as online behavioral advertising. For example, Google's email service (*i.e.*, Gmail) for individuals is a free service. In return for that free service, users agree to have their emails automatically monitored so that Google can target advertising to the individuals' interests. Google can charge advertisers more for these targeted advertisements because presumably the individuals targeted by the advertisements will be interested in the products advertised.

Local Expenditures: It is assumed that local school system expenditures for software services to host student data will not be significantly impacted due to current privacy regulations. However, to the extent the bill prevents local school systems from entering into less expensive contracts to host student data due to the bill's requirements, local expenditures may increase. Due to the rapidly developing market for software services to host student data, the potential impacts on local school system expenditures cannot be reliably estimated at this time.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland State Department of Education, Department of Legislative Services

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