

Department of Legislative Services
Maryland General Assembly
2017 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 1165

(Senator Waugh)

Education, Health, and Environmental Affairs

Ways and Means and Appropriations

**Maryland Longitudinal Data System - Student and Workforce Data Linkage -
Extension of Time Limit**

This bill increases the length of time during which student data and workforce data used by the Maryland Longitudinal Data System (MLDS) may be linked from 5 years from the date of latest attendance in any educational institution in the State to 20 years. The bill prohibits the MLDS Center from selling any information that may not be disclosed under the federal Family Educational Rights and Privacy Act (FERPA) and other relevant privacy policies and also prohibits the center from charging user fees.

The bill takes effect July 1, 2017.

Fiscal Summary

State Effect: None. The Maryland State Department of Education (MSDE), Maryland Higher Education Commission (MHEC), and other affected State agencies can share additional data with MLDS using existing resources. MLDS can accept the data and perform analyses on the data using existing resources. Increasing the time period during which data may be linked may allow MLDS to provide additional policy insights. Prohibiting the sale of specified information and prohibiting the collection of user fees codifies current practice and, thus, has no impact on revenues for the MLDS Center.

Local Effect: None. Local school systems and community colleges can share additional data with MLDS using existing resources. Revenues are not affected.

Small Business Effect: None.

Analysis

Current Law: The linkage of student data and workforce data for the purposes of MLDS is limited to no longer than five years from the date of latest attendance in any educational institution in the State.

Direct access to data in MLDS is restricted to authorized staff of the center. The center may only use de-identified data in the analysis, research, and reporting it conducts. The center may only use aggregate data in the release of data in reports and in response to data requests. Data that may be identifiable based on the size or uniqueness of the population under consideration may not be reported in any form by the center. The center may not release information that may not be disclosed under FERPA and other relevant privacy laws and policies. The center may receive funding from the following sources: State appropriations; grants or other assistance from local education agencies and institutions of higher education; federal grants; user fees; and any other grants or contributions from public or private entities received by the center.

Background: Chapter 190 of 2010 established MLDS to contain individual-level student data and workforce data from all levels of education and the State's workforce. The legislation also established the MLDS Center within State government to serve as a central repository for the data, to ensure compliance with federal privacy laws, to perform research on the data sets, and to fulfill education reporting requirements and approved public information requests. The MLDS Center is located in MSDE for administrative and budgetary purposes.

Privacy issues, including compliance with FERPA, were a major consideration in the creation of MLDS. FERPA governs the protection and permissible uses of student administrative data, including the disclosure and transfer of personally identifiable information in education records. Prior to beginning system testing, as required by Chapter 190, the center's governing board submitted to the Governor and the General Assembly the inventory of individual student data proposed to be maintained in the system, the privacy policies of the center, and a data security and safeguarding plan for the center. Chapter 190 requires the center to ensure routine and ongoing compliance with FERPA and other relevant privacy laws and policies, including the required use of de-identified data (in which individual-level identity information, including State-assigned student identifiers and Social Security numbers, has been removed) in data research and reporting, the required disposition of information that is no longer needed, and the reporting of other potentially identifying data. The center is also required to provide for the performance of regular audits for compliance with data privacy and security standards.

To meet these requirements, an expert was hired to develop the center's data security and safeguarding plan. The plan establishes that the center must employ the concept of least

privilege, that is, allowing only authorized access for users (and processes acting on behalf of users) that are necessary to accomplish assigned tasks in accordance with the MLDS mission and functions. The plan also outlines policies to limit access to authenticated authorized users, and it requires the center to assign an employee as the privacy officer.

To further reduce privacy concerns and in response to the technical issues experienced by other states that attempted to capture all state data into a single system, the scope of the data in the MLDS data warehouse is limited by the policy questions it is designed to answer. The governing board, working in consultation with the Governor's P-20 Council, has developed 15 priority policy questions that MLDS has been designed to address. These policy questions include whether Maryland students are academically prepared for college and graduate in a timely fashion, whether financial aid programs are effective in supporting access and success, and whether students are successful in the workplace. Some of the questions have required State agencies, particularly MHEC, to expand their data collection efforts. The MLDS data inventory documents the specific data elements included in MLDS. The scope of the data incorporated into MLDS is not permanent and could be updated if new policy questions are added.

Currently, the database contains both aggregate data sets and de-identified, encrypted student and workforce data. Data associated with an individual is not available for viewing in the MLDS database, and workforce-related data is only retained for five years after an individual leaves school.

FERPA compliance concerns of local school systems and institutions of higher education have been addressed through limiting the personally identifiable information entered into MLDS and by assuring them that the redisclosure of personally identifiable information to the center is permitted according to revised federal FERPA regulations. The regulations were revised in December 2011 to reconcile them with federal laws (*e.g.*, Race to the Top) that provided incentives for the development and use of state longitudinal data systems. The revised regulations clarified that FERPA does not prevent the redisclosure of personally identifiable information as part of agreements from FERPA-permitted entities to researchers to conduct studies for, and on behalf of, educational agencies and institutions.

Further, MLDS is working on a federally funded synthetic data project that, if successful, will allow MLDS to create a "fictitious" dataset that, in the aggregate, would produce the same statistics as the actual dataset. This would enable MLDS to share more of its data with more researchers without raising data security or privacy concerns.

The MLDS Center advises that no user fees have been assessed, nor were there plans to establish user fees.

Additional Information

Prior Introductions: None.

Cross File: HB 680 (Delegate Kaiser, *et al.*) (By Request - Maryland Longitudinal Data System) - Ways and Means and Appropriations.

Information Source(s): Maryland State Department of Education; Maryland Longitudinal Data System Center; Maryland Higher Education Commission; University System of Maryland; Morgan State University; St. Mary's College of Maryland; Department of Labor, Licensing, and Regulation; Department of Legislative Services

Fiscal Note History: First Reader - March 17, 2017
md/rhh Third Reader - April 4, 2017
Revised - Amendment(s) - April 4, 2017
Revised - Clarification - April 4, 2017

Analysis by: Caroline L. Boice

Direct Inquiries to:
(410) 946-5510
(301) 970-5510