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State Superintendent of Schools

BILL: House Bill 1062 **DATE:** February 24, 2021
SUBJECT: Education - Student Data Privacy - Reports and Student Data Privacy Council Sunset Extension **COMMITTEE:** Ways and Means
POSITION: Favorable with Amendments
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EXPLANATION:

The Maryland State Department of Education (MSDE) is providing information for consideration regarding **House Bill 1062** – *Education - Student Data Privacy - Reports and Student Data Privacy Council Sunset Extension*. MSDE supports House Bill 1062, with proposed amendments and with reservations outlined below.

Background on the Student Data Privacy Council

The [Student Data Privacy Council](#) (established under [HB0245/CH0398](#)) reported findings from over a year of work in its [final report](#) to the Governor and General Assembly in December 2020. The Council concluded that the Student Data Privacy Act (SDPA, [HB0298/CH0413](#)) as a whole was sufficiently implemented though there were areas that needed additional clarification, description, and adjustment.

Proposed Definitions

House Bill 1062 includes the Council’s proposed changes to the definition of “operators” to more comprehensively include all companies using “covered information” and contracted with Maryland public school systems and schools. The MSDE supports this definition change and all the proposed definition changes in House Bill 1062.

Operators versus Digital Tools

The scope of the SDPA narrowly focused on “operators” and restrictions on operators. While the SDPA focused on “operators”, the Council found that the burden for implementation of the SDPA was on local school systems. House Bill 1062 places an additional burden on local school systems to report to the MSDE on “digital tools.”

While the Council’s recommendations support transparency, this requirement adds an additional burden as it expands beyond the scope of “operators” to the undefined “digital tools.” The MSDE supports transparency in the form of an online database of “operators” and recommends changing “digital tools” to “operators” in the proposed legislation.

Supporting Local School Systems

The Council’s report noted the limited information available on operators with contracts in Maryland’s public school systems and schools. Local school systems noted the need for additional information and opportunities to leverage collective resources across the state. Examples of information that could inform local schools system

decisions include why a local school system has chosen not to contract with a particular operator and when an operator is unwilling to negotiate. The proposed legislation does not include this type of information.

The MSDE supports an online database of:

1. Operators (as defined by the proposed legislation) with current, active contracts with local school systems;
2. Operators with expired or not-renewed contracts with local school systems;
3. Operators with contracts that failed negotiations with local school systems.

Charge of the Council

The Council recommended changes in the charge of the Council particularly focused on increasing transparency and accountability.

The proposed legislation charges the Council with reporting “best practices for student data privacy protection” for “parents and guardians of students in the state.” Local school systems have annual notification requirements to parents and eligible students under state and federal laws. Additionally, the MSDE Student Data Governance Workgroup is engaged in developing resources and best practices to support local school systems.

The MSDE supports charges to the Council that include promoting transparency on local school system’s contracted operators to families and the public. As written, the current legislation seems to suggest the Council provide best practices to parents and guardians of students rather than supporting local school systems to promote transparency to parents and guardians of students.

Agency Fiscal Impact

The Maryland State Department of Education estimates that HB 1062 will have an operational and fiscal impact on the agency. The Division of Assessment, Accountability, and Information Technology would require a subcontractor, at an estimated cost of \$25,000 for design, development, testing, deployment, and review of the online database. As this database would be separate and apart from existing infrastructure, existing data management personnel cannot absorb the additional development workload. After initial deployment of the database, the MSDE would require a part-time education program specialist to collect the information from local school systems, provide technical assistance to personnel in the local school systems for the collection and transmittal of the data, and generally manage the online database. The MSDE estimates 2022 FY costs to be \$71,529.

We respectfully request that you consider this information as you deliberate **HB 1062**. For additional information, please contact Zachary Hands at Zachary.hands1@maryland.gov or at 410-767-0504.