State of the States:
Data Privacy After the 2015 Legislative Session
2015 NCES STATS-DC Data Conference

Amelia Vance, NASBE Director of Education Data & Technology
NASBE’s Data Privacy Project: Our Goals

- Increase knowledge of the issues and resources around data privacy
- Connect SBEs with local, state, and federal partners as they seek input and build support for proposed laws or policies
- Help SBEs develop plans that address state-specific policies and strategies
State Boards of Education Have At Least Some Authority Over Education Data Privacy
National Trends in Education Data Privacy Legislation and Policy
Landscape of Privacy Concerns

» The scope and type of student data schools collect
» Who is collecting and accessing student data/education records
» 3rd party service providers
» Common Core and Assessment Consortia
» Use of data collected by ed technology vendors
» The cloud

Credit: The Data Quality Campaign
Taking the Pulse of the Media: From the Headlines

President speaks to the FTC on Privacy

SOTU Mentions Student Privacy

Google signs Student Privacy Pledge

Concern Over Edu Apps’ Security Measures

Federal and State Privacy Legislation Proposed

Student Privacy is Major Theme at SXSWedu

34 National Education Orgs Commit to Student Data Principles

Credit: The Data Quality Campaign
Beliefs shared by education community

For a full list of supporters visit www.studentdataprinicples.org/principles-supporters
The State Role

✓ No preemption

✓ Provide transparency to parents on the “who, what, where, how” of data collection/use

✓ Deliver services to demonstrate the value of data

✓ Shift the culture of data use to continuous improvement; not just compliance

✓ Support districts with resources, model policies, tech assistance, guidance, training

✓ Establish 21st century privacy/security policies that don’t unnecessarily prohibit data from being used in support of student achievement.

Credit: The Data Quality Campaign
Policy Considerations: District Guidance and Support

- State role to help school districts with privacy issues (e.g. Chief Privacy Officer)
- Provide resources, model policies, tech and procurement assistance, guidance
- Privacy Impact Assessments for state mandated or provided technologies
- Privacy training

Credit: Jim Siegl, Fairfax School District, VA
Existing State Privacy Laws Give SEAs and SBEs Authority To...

- Rule-making
- Override authority
- Adopt & implement privacy policies
- Provide a public data inventory
- Appoint Chief Privacy Officer
- Review potential new data elements to be collected/linked/shared
- Ensure role based access to data
- Notify parents of rights
- Create a Data Security Review Team
- Provide oversight of vendor contracts
Other State Activity

- Executive Orders
- State Board Actions
Legislative Activity in the States: 2013

1 bill passed related to student data privacy in 1 state

Credit: The Data Quality Campaign
Legislative Activity in the States: 2014

110 bills related to student data privacy in 36 states

30 bills became law in 21 states

Credit: The Data Quality Campaign
In 2014, states introduced legislation to codify existing statute or practice, govern data processes, improve transparency, and limit data collection, sharing, or activities.

<table>
<thead>
<tr>
<th>Bill Characteristic or Approach</th>
<th>Introduced</th>
<th>Passed</th>
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<tbody>
<tr>
<td>Provided for data governance</td>
<td>52</td>
<td>15</td>
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<tr>
<td>Described new privacy or security responsibilities for state boards (if responsibility not given to state board, often given to SEA or shared with SEA)</td>
<td>32</td>
<td>7</td>
</tr>
<tr>
<td>Described new privacy or security responsibilities for districts</td>
<td>28</td>
<td>9</td>
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<tr>
<td>Allowed some type of opt out from data collection</td>
<td>17</td>
<td>3</td>
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<td>Prevention of the continued or expanded funding of the SLDS</td>
<td>10</td>
<td>0</td>
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Credit: The Data Quality Campaign
Legislative Activity in the States: 2015 so far

24 Laws Passed in 12 States
182 Bills in 46 States

Credit: The Data Quality Campaign and NASBE
Legislating Student Data

Student data privacy bills often address one or more of three types of activities:

Collection
- How are data gathered?
- What types of data are gathered?
- Is parental consent needed?

Access
- Who can see these data?
- Who can use these data?
- Role-based access: Federal, State, District, Research.

Sharing
- Who can a school district export these data to?
- Implications for afterschool networks, non-profits, researchers.

Credit: The Data Quality Campaign
Problematic Trends

- Accidental Consequences
  - Unworkable requirements
  - Defunding SLDS
  - Opt–Outs
  - Conflation with Anti–Assessment or Anti–CCSS Legislation

- Interpreting Legislation: Words Matter
  - Ambiguous Terms
  - Interpretation Changes

- Implementation Difficulties
- Opt–In requirements
- Researcher restrictions
Interesting Trends

- Governance
  - Longitudinal Data Boards
  - Training
- Disciplinary Record or Medical Record Provisions
- Penalties (financial and criminal)
- Laws Aimed At Vendors
The 2014 California laws restrict what companies can do with the information they obtain through vendor contracts with the school.
Federal Actions

- In January, President Obama offered a multi-pronged strategy to protect student data privacy.
- There have been 6 student data privacy bills introduced in Congress so far in 2015, with at least 3 more expected by the end of the summer.
Federal Bills

- FERPA Re–Write (Discussion Draft) – Representatives Kline and Scott
- FERPA Amendment – Senators Markey and Hatch (same as 2014 bill) (S. 1322)
- FERPA Amendment – Senator Vitter (S. 1341)
- Student Digital Privacy and Parental Rights Act – Representatives Polis and Messer (H.R. 2092)
- COPPA Amendment – Senator Markey and Representative Barton (same as 2013 bill) (H.R. 2734)
- ESEA Amendment – Senators Markey and Hatch (S. 1177)

www.nasbe.org
How Can You Help?

- Bring people together
- Be transparent
  - Tell stories
- Beware of great ideas
  - Wear your “Orwellian” hat
- Ask for help
It Can (and Should) Be Simple...

Anytime, Anywhere Learning

Chesterfield County Public Schools is serious about the privacy of student data and wants to make efforts to preserve student privacy as transparent as possible. To learn more, click these icons:

- CCPS Apps & Privacy
- Privacy FAQs
- Privacy Policies & Guidelines
- Ask a Question

Chesterfield County Public Schools
P.O. Box 10, Chesterfield, VA 23832
(804) 748-1403

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With Tech Taking Over in Schools, Worries Rise

Teachers use behavior management systems to dole out positive and negative feedback in real time. Each child’s status may be visible to the class. Behavior data can be used to create reports for administrators.

Student Data Collection Is Out of Control

School districts often share student data with companies, which can lead to data breaches.

Data mining your children

School data, grades, at-risk status, medical and psychological also be included.

Grooming Students for A Lifetime of Surveillance

Some schools are using technology to track students' movements in and out of the school building.

Big Brother: Meet the Parents

School-issued devices like laptops may contain location-tracking technology that can monitor activity on password-protected sites, including webmail and social media.

Common Core: Data Collection from Cradle to Adulthood

Data analytics programs record keystrokes, and digital materials.

Student Privacy in Peril: Massive Data Gathering With Inadequate Privacy and Security

Basic student data is sent to state education departments. Some states also gather info on pregnancy, homelessness, and bullying.

HUFF POST EDUCATION

Politics and data collection go hand-in-hand.
Questions?

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