Local Board Policy Impacts of the 2018 Legislative Session

2018 Session Overview

- The 2018 legislative session of the Maryland General Assembly convened on Wednesday, January 10, 2018 and adjourned "sine die" at midnight on Monday April 9, 2018. The session saw the introduction of 1,846 House bills and 1,260 Senate bills.
- Of these 3,126 bills and resolutions, MABE tracked more than 400 bills, and provided testimony and advocated on nearly 80 House bills and more than 60 Senate Bills.
School Safety & Security

Education – Child Sexual Abuse Prevention – Instruction and Training (HB 1072) (Del. Wilson)

All employees must receive annual training on the prevention, identification, and reporting of child sexual abuse:

- To recognize sexual misconduct in adults;
- Recognize, and appropriately respond to sexually inappropriate, coercive, or abusive behaviors among minors;
- Recognize behaviors and verbal cues that could indicate a minor has been a victim of child sexual abuse; and
- Respond to disclosures by minors or their parents or guardians of child sexual abuse or reports of boundary-violating behaviors.

School Safety & Security

Education – Child Sexual Abuse Prevention – Instruction and Training (HB 1072)

The bill enacts a new definition of “Sexual Misconduct”:

“An act by an adult, including an oral, nonverbal, written, or electronic communication, or a physical activity directed toward or with a minor that is designed to promote a romantic or sexual relationship with the minor, including: (i) sexual or romantic invitation; (ii) dating or soliciting dates; (iii) engaging in sexualized or romantic dialogue; (iv) making sexually suggestive comments; (v) grooming behaviors; (vi) self-disclosure or physical exposure of a sexual, romantic, or erotic nature; and (vii) a sexual, indecent, romantic, or erotic contact with the minor.”
School Safety & Security

Sharing Employment Histories – The Alternative?

Questions for Board Consideration

1. Do you understand this issue?
2. How has the issue been handled in the past?
3. What are the budget ramifications?
4. Who does the Board/LEA need to work with on this legislative/policy requirement?
5. How does this mandate mesh with existing policies, regulations, and practice?
6. Does your Board need to take action, and if so what, when, and how?
Dear Chief State School Officers:

As you know, in December 2015, Congress reauthorized the Elementary and Secondary Education Act of 1965 (ESEA), through the Every Student Succeeds Act (ESSA). The reauthorized law builds on the ESEA’s role in helping to ensure that every child has the opportunity to obtain a high-quality education. Achieving this goal is essential, but we can achieve it only if every student is safe in his or her school. To that end, I am writing to remind you of an important provision that Congress included in the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the Every Student Succeeds Act, to help protect students from sexual abuse. That provision, in section 8546 of the ESEA (20 U.S.C. § 7926), requiring policies to be in place to prohibit the aiding and abetting of sexual abuse, imposes an important requirement on States, State educational agencies (SEAs), and local educational agencies (LEAs) that receive ESEA funds. When your agency applied for funds under ESEA, your agency provided an assurance that all applicable legal requirements, including section 8546, would be complied with; additionally, LEAs provided similar assurances.

For too long, and too often, teachers or other school staff who have engaged in sexual misconduct with a student or minor at one school have been able to obtain employment at another school, without that other school ever learning of the prior misconduct. This sometimes occurs because someone from the employee’s prior school provides a recommendation that helps the employee obtain new employment. Section 8546 of the ESEA seeks to end this abhorrent practice.

Under section 8546, every State, SEA, or LEA that receives ESEA funds must have in place laws, regulations, or policies that prohibit the SEA, an LEA, or school, as well as any school employee, contractor, or agent, from providing a recommendation of employment for an employee, contractor, or agent that the SEA, LEA, or school, or the individual acting on behalf of the SEA, LEA, or school, knows, or has probable cause to believe, has engaged in sexual misconduct with a student or minor in violation of the law. The SEA, LEA, school, or individual acting on behalf of one of those entities would not be prohibited from following routine procedures regarding the transmission of administrative or personnel files but would be prohibited from doing more than that to help the employee obtain new employment.

Section 8546 allows for certain exceptions to the prohibition on providing a recommendation of employment. In particular, the prohibition does not apply if: (1) the alleged misconduct has been properly reported to law enforcement and any other authorities required by Federal, State, or local law; and (2) the matter has been officially closed; the employee, contractor, or agent has been exonerated; or the relevant case or

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The Department of Education’s mission is to promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access.
ESEA Section 8546 (20 U.S.C. § 7926):
Prohibition on Aiding and Abetting Sexual Abuse

(a) IN GENERAL. — A State, State educational agency, or local educational agency in the case of a local educational agency that receives Federal funds under this Act shall have laws, regulations, or policies that prohibit any individual who is a school employee, contractor, or agent, or any State educational agency or local educational agency, from assisting a school employee, contractor, or agent in obtaining a new job, apart from the routine transmission of administrative and personnel files, if the individual or agency knows, or has probable cause to believe, that such school employee, contractor, or agent engaged in sexual misconduct regarding a minor or student in violation of the law.

(b) EXCEPTION. — The requirements of subsection (a) shall not apply if the information giving rise to probable cause —

(1)(A) has been properly reported to a law enforcement agency with jurisdiction over the alleged misconduct; and
(B) has been properly reported to any other authorities as required by Federal, State, or local law, including title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.) and the regulations implementing such title under part 106 of title 34, Code of Federal Regulations, or any succeeding regulations; and

(2)(A) the matter has been officially closed or the prosecutor or police with jurisdiction over the alleged misconduct has investigated the allegations and notified school officials that there is insufficient information to establish probable cause that the school employee, contractor, or agent engaged in sexual misconduct regarding a minor or student in violation of the law;
(B) the school employee, contractor, or agent has been charged with, and acquitted or otherwise exonerated of the alleged misconduct; or
(C) the case or investigation remains open and there have been no charges filed against, or indictment of, the school employee, contractor, or agent within 4 years of the date on which the information was reported to a law enforcement agency.

(c) PROHIBITION. — The Secretary shall not have the authority to mandate, direct, or control the specific measures adopted by a State, State educational agency, or local educational agency under this section.

(d) CONSTRUCTION. — Nothing in this section shall be construed to prevent a State from adopting, or to override a State law, regulation, or policy that provides, greater or additional protections to prohibit any individual who is a school employee, contractor, or agent, or any State educational agency or local educational agency, from assisting a school employee who engaged in sexual misconduct regarding a minor or student in violation of the law in obtaining a new job.
Student Data Privacy

Education – Student Data Governance (HB 568) (Del. Kaiser)

- This bill requires the Maryland State Department of Education (MSDE), in consultation with the Department of Information Technology (DoIT) and the county boards of education, to develop and update best practices for county boards on data governance and professional development on data governance policies and procedures.
- MSDE must develop strategies to coordinate and assist local data governance staff in school systems to implement the bill’s requirements.
- The bill takes effect July 1, 2018.

Student Data Privacy

Education – Student Data Governance (HB 568)

- The 3 key policy components include:
  1. a data privacy and security incident response plan;
  2. a breach notification plan; and
  3. procedures and requirements for allowing access to student data and personally identifiable information (PII) for legitimate research purposes.

- MSDE must report by July 1 of 2019 on the development and implementation of best practices in the areas of data governance, transparency, and professional development; and “levels of engagement by county boards.”
EDUCATION TECHNOLOGIES: DATA COLLECTION AND UNSECURED SYSTEMS COULD POSE RISKS TO STUDENTS

The FBI is encouraging public awareness of cyber threat concerns related to K-12 students. The US school systems' rapid growth of education technologies (EdTech) and widespread collection of student data could have privacy and safety implications if compromised or exploited.

EdTech can provide services for adaptive, personalized learning experiences, and unique opportunities for student collaboration. Additionally, administrative platforms for tracking academics, disciplinary issues, student information systems, and classroom management programs, are commonly served through EdTech services.

As a result, types of data that are collected can include, but are not limited to:

- personally identifiable information (PII);
- biometric data;
- academic progress;
- behavioral, disciplinary, and medical information;
- Web browsing history;
- students' geolocation;
- IP addresses used by students; and
- classroom activities.

Malicious use of this sensitive data could result in social engineering, bullying, tracking, identity theft, or other means for targeting children. Therefore, the FBI is providing awareness to schools and parents of the important role cybersecurity plays in the securing of student information and devices.

Sensitive Student Data

The widespread collection of sensitive information by EdTech could present unique exploitation opportunities for criminals. For example, in late 2017, cyber actors exploited school information technology (IT) systems by hacking into multiple school district servers across the United States. They accessed student contact information, education plans, homework assignments, medical records, and counselor reports, and then used that information to contact, extort, and threaten students with physical violence and release of their personal information. The actors sent text messages to parents and local law enforcement, publicized students’ private information, posted student PII on social media, and stated how the release of such information could help child predators identify new targets. In response to the incidents, the Department of Education released a Cyber Advisory alert in October 2017 stating cyber criminals were targeting school districts with weak data security or well-known vulnerabilities to access sensitive data from student records to shame, bully, and threaten children.

Cybersecurity issues were discovered in 2017 for two large EdTech companies, resulting in public access to millions of students' data. According to security researchers, one company exposed internal data by storing it on a public-facing server. The other company suffered a breach and student data was posted for sale on the Dark Web.
Student Health


- This bill requires the Maryland State Department of Education (MSDE) to, in consultation with the Maryland Department of Health, develop health and safety best practices for the use of digital devices in school classrooms by June 1, 2019.
- By July 1, 2019, MSDE must provide the best practices to each local board of education and nonpublic school for consideration and adoption.
- The bill takes effect July 1, 2018.

According to the bill’s fiscal and policy note:

- Extended use of computers and other digital devices is associated with certain health hazards, including carpal tunnel syndrome, eye strain, and back problems.
- Other issues include the risks of online behaviors, privacy, interference with sleep, and even addiction.
- MSDE has contracted with Maryland Public Television to develop a video for educators related to screen time and Wi-Fi use, which is expected to be available for the 2018-2019 school year.
QUESTIONS?

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