

Education Committee JOINT FAVORABLE REPORT

Bill No.: HB-5444

Title: AN ACT CONCERNING REVISIONS TO THE STUDENT DATA PRIVACY ACT.

Vote Date: 3/23/2018

Vote Action: Joint Favorable

PH Date: 3/14/2018

File No.:

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SPONSORS OF BILL:

Education Committee

REASONS FOR BILL:

The purpose of HB 5444 is to create a uniform student data privacy terms-of-service agreement addendum for use in contracts, to require a one-time annual notice relating to contracts entered into by the board of education, to require the Department of Education to provide written guidance on the laws relating to student data privacy, to authorize the retention of student records required by state and federal law and for purposes of disaster recovery systems, to allow the use of certain web sites and mobile applications that do not comply with the law if specified in a child's IEP, and to add the executive director of the Connecticut Association of Schools to the membership of the student data privacy task force. This bill will increase data privacy protection for all of Connecticut's students, increase transparency for parents about the vendors providing services to schools, and allow students with IEPs to access programs they need.

RESPONSE FROM ADMINISTRATION/AGENCY:

[Douglas Casey, Executive Director, Connecticut Commission for Educational Technology \(CET\):](#)

Mr. Casey submitted testimony on behalf of CET in support of HB 5444 citing the common sense modifications added to the bill. CET is the principal educational technology policy advisor for state government and has provided strong support for Connecticut schools, educational interest groups, and software companies to advocate for the benefits of educational technology while helping to operationalize the Student Data Privacy Act. He noted that in Section 1, CET is tasked with creating a uniform student privacy terms of agreement addendum that school districts can use. "Similarly, the directive in Section 4 that CET work with the state Department of Education to provide written guidance on the Student

Data Privacy Act conforms the language to existing practice.” In addition, Mr. Casey noted that HB 5444 resolves problems related to students with IEPs being able to access programs they need and also includes clarifications to ensure that schools do not violate “the state’s public records retention schedules.” Finally, by adding a representative from the Connecticut Association of Schools to the Student Data Privacy task force and giving the task force an extension until January 2019 to report on its findings and recommendations will allow the task force the time needed to study the Student Data privacy Act and “provide meaningful feedback to the legislature.”

NATURE AND SOURCES OF SUPPORT:

Dr. Karissa L. Niehoff, Executive Director, The Connecticut Association Schools (CAS):

Dr. Niehoff expressed support on behalf of CAS for HB 5444 because currently “school districts are immersed in negotiations with vendors over student data privacy. One district technology director calculated that PowerSchool (the most common data platform in schools) has over 160 individually negotiated contracts with exactly the same language. If a district has 30 (low estimate) apps and software packages that use student data, this suggests that there are nearly 5,000 individual contracts that need to be negotiated across the state.” Having the Department of Education negotiate contracts with online platform providers including the student data privacy terms, will create an efficient, time-saving process for school districts. Dr. Niehoff expressed appreciation that the executive director of the Connecticut Association of Schools will be added to the membership of the student data privacy task force.

Dr. Charles Dumais, Superintendent, Amity Regional School District No. 5:

Dr. Dumais submitted testimony in support of HB 5444 stating that it “will serve to substantially clarify ambiguities in the statutory requirements for school districts to safeguard student data. It will also facilitate compliance with the requirements for both school districts and educational technology companies, thus improving accessibility to educational software and products that will enhance learning, support instruction, and create pathways for personalized learning.

He further stated that he is “confident that the additional oversight that has been given to the Commission for Educational Technology, including developing guidance on the implementation of student data privacy laws, information about the uniform student data privacy terms-of-service agreement, and its incorporation into district contracts, will serve Connecticut school districts well.” In addition, by adding the Executive Director of CAS to the task force will help “ensure the inclusion of all affected constituencies.”

Dr. Dumais asked that the legislature consider the following three changes:

- Allow the uniform student data privacy terms-of-service agreement *addendum* to be used **in lieu** of individualized district contracts.
- Extend the timeline for electronic reporting of a breach of security (as identified in CGS §10-243dd(3)) to **five business days** to allow districts to investigate the source and extent of the security breach with the educational technology vendor, sufficiently and accurately identify affected students, and develop and implement a comprehensive communication plan regarding the security breach.

- **Expand** the provision in CGS §10-234bb(i) that **exempts** districts from entering into a contract “if two or fewer children requiring special education” require the use of an educational technology resource. Individual student needs are evaluated as part of the Planning and Placement Team process, and may result in a recommendation for a resource need to be implemented in a timely fashion. In order to minimize the potential impact on the delivery of educationally appropriate resources in a timely manner, it is my recommendation that the number of students allowed to use a special education resource be removed and that a blanket exemption for the use of special education students, regardless of number, be included.

Kaley Lentini, Legislative Counsel, American Civil Liberties Union of CT (ACLU-CT):

Ms. Lentini spoke on behalf of the ACLU in support of HB 5444 since it would increase transparency about which online services a district has contracted with because Boards of Education will have to publish this information online. Parents will be better informed about how and with whom their children’s data is being shared.

Judy Goldberg, Vice President of Government Relations, Connecticut Parent Teacher Association (CT PTA):

Ms. Goldberg submitted testimony on behalf of the CT PTA in support of HB 5444 because creating a uniform student data privacy agreement for use in contracts will help protect student privacy.

Ray Rossomando, Director of Policy, Research and Government Relations, Connecticut Education Association (CEA):

Ray Rossomando testified on behalf of CEA in support of HB 5444 because the bill helps clarify for parents information about data privacy laws and what student data information third parties collect. The CEA commends the committee for supporting Connecticut students by creating a strong policy to protect their privacy from online providers and being one of the pioneer states in this area. The CEA also stated that the “exclusions proposed in the bill for emergency circumstances are sensible.”

Nancy Byrnes, Advocacy Committee Chairwoamn, Connecticut Education Technology Leaders (CTETL):

Ms. Byrnes submitted testimony on behalf of CTETL in support of HB 5444. Establishing a portal to digital learning tools that have been pre-screened and approved in regards to student privacy protection gives teachers the confidence and autonomy in choosing the programs that best meet the needs of their students while protecting student data. Establishing a state policy frees districts from having to analyze and negotiate contracts with the plethora of digital companies providing educational products. Allowing students with IEPs to have access to programs designed to meet their learning needs will support their academic success.

Connecticut Association of Boards of Education, Inc. (CABE):

CABE submitted testimony that did not clearly support or oppose the bill but did express concern that some vendors might chose not provide their services to Connecticut schools

based on the changes. They also requested that guidance be provided from the state Department of Education and the Commission for Educational Technology to districts before they have to implement the new rules. CABE requested a postponement date of July 2019.

John Bestor, parent, Cheshire, CT:

Mr. Bestor submitted testimony in support of HB 5444 and urges that it be implemented in July 2018, and not delayed until July 2019 as CABE is requesting. Mr. Bestor is troubled about the explosion of computer use in school that has occurred over the past few years with little oversight from administrators and with little regard to student privacy rights. He is concerned that adding new members to the task force will delay implementation.

Jennifer Jacobsen:

Ms. Jacobsen submitted testimony in support of HB 5444 but listed the following suggestions/concerns:

- Delaying implementation puts students at continued risk of privacy violations;
- Ensuring that the state-wide privacy addendum supersedes any terms of agreement that districts are currently a party to;
- Consider adding IDEA to section 2 and make sure this section complies with special education law

NATURE AND SOURCES OF OPPOSITION:

None expressed.

Reported by: Tamara Morris

Date: March 29, 2018