

S.289 Vermont House Committee on Commerce and Economic Development

Thursday, April 4, 2024

Testimony by Emily Cherkin, MEd.

My name is Emily Cherkin. I am here to speak in support of S. 289, also known as the Vermont Kids' Code. I strongly urge you to pass, and continue to strengthen, these meaningful protections for kids.

I am The Screentime Consultant. I work with families and schools across the country, helping them embrace a “tech-intentional” approach to screen-based technology. I am a former middle school teacher, a parent of two, and a co-founder of The Student Data Privacy Project, an organization whose mission is to shed light on the data practices of Educational Technology companies. I am also the author of “The Screentime Solution: A Judgment-Free Guide to Becoming a Tech-Intentional Family.” As the name of my book implies, I am passionate about providing real solutions so parents, schools, and policy makers can take tangible steps to protect children. I would also like to explicitly state that my views and testimony are entirely my own, based on my education, experience, and expertise-- I do not endorse tech-based products or tools and I do not offer affiliates for “child-friendly” phone alternatives because I do not believe that this problem can be solved solely via technological solutions.

While I support the entirety of S. 289, today I will focus on the Educational Technology portion.

Let me state first– there are two distinct challenges to digital technology when it comes to education:

1. The use of student’s personal devices AT school, which include smartphones and smartwatches.
2. The use of EdTech for teaching and learning.

I feel it is important to address BOTH of these challenges, and any fix for one will benefit the other.

For several years, I have been deeply concerned about the reach and influence of EdTech companies, particularly the way in which they collect and monetize data about our children, and pressure schools to put screens before skills. I believe that a tech-intentional design code for EdTech must include at its core two priorities:

Informed consent and **Skills before screens**.

I’d like to share two stories that illustrate the need for these solutions:

First, a story about the predatory data practices of EdTech companies. In the Summer of 2020, our activism group, The Student Data Privacy Project, attempted to test the efficacy of the federal student data privacy law known as the Federal Education Rights and Privacy Act, or FERPA. We recruited parent volunteers from around the country to request the data collected by EdTech vendors about their children, a protection granted under FERPA. We successfully brought over a dozen parent complaints from across 9 states.

What we found was shocking. Most parents received no meaningful response, and the ones who did were disturbed by what they learned. One parent in Minnesota

received over 2,000 files about their young daughter held by various EdTech platforms used by her school. The files included photos of her as a baby, her artwork, written assignments, and videos of her doing yoga in her bedroom during an online PE class. The family was not told how long this information would be held, where it was stored, to whom it was disclosed, or for what purpose it was being used. We filed complaints with the Department of Education in July of 2021. We have received no response since. This failed effort showed what we had suspected— that the federal government is not willing or able to protect kids' privacy via FERPA, which has not been meaningfully updated since 1974.

EdTech is widespread, and so are its harms. In 2022, the K-12 EdTech Safety Benchmark report by the Internet Safety Lab found that nearly every school in the United States uses EdTech in some way. Schools average 125 EdTech platforms per school. Nearly all apps reviewed in this report (96%) share children's personal information with third parties; 28% are “non-education specific” (such as YouTube and Spotify); and 23% expose children to digital ads, creating risk for leaking personal data to advertising companies. When EdTech companies sell the data they collect to third parties, it is often without parent, student, or school consent or knowledge.

EdTech is a lucrative and rapidly growing industry. The global market for EdTech is roughly \$150 billion today and is expected to grow to \$550 billion in the next 10 years.

My second story is about **the way EdTech pressures schools to put screens before skills.**

In 2015, I tutored a 6th grader named Carly. 100% of Carly's school and learning materials were on an school-district-issue iPad– textbooks were digital, written assignments were typed, and turning in homework meant uploading it to a learning management system, where grades and teacher feedback were also located.

One day, Carly told me she had a science assignment to work on. She pulled out her iPad, and opened several tabs:

- her science e-book
- her learning management system where the assignment was listed
- the Notability app in which she would write– I mean, type– her answers.

After reading the first question, Carly started skimming through her eBook for the related chapter. It was hundreds of pages of a PDF and she started to get frustrated. After a few minutes of fruitless searching, Carly went back to the assignment, copied the question, opened a Google browser, pasted it into the search bar, copied the first response, then went back to her Notability app to paste the answer.

“There!” she said, satisfied.

I was shocked. I asked– “Do you know what plagiarism is?”

She replied, “Yes, but my teacher doesn't really read the assignments anyway.”

I said, “What about at least paraphrasing the answer in your own words?”

Carly replied, “Well, I don't even know how to type.”

While this anecdote is shocking, it is not uncommon. As schools increasingly rely on EdTech platforms to, as they claim, “alleviate teacher burnout”, “differentiate instruction”, and “meet each child where they are” this scenario has become the norm.

Unfortunately, the technology industry would also prefer for this to be viewed as a parenting problem, rather than a design one.

Let me be clear:

It is not parents’ fault that these applications have been designed to displace skills, mine data, and manipulate neural pathways. It *is* our job as parents to educate ourselves so we can make more intentional decisions around technology, but until technology companies are held to— at bare minimum— a stricter design code that prioritizes informed consent, skills before screens, and transparent business practices, parents alone will never be able to solve this problem. We wouldn’t be here today if that were the case.

The elephant in the room is the technology companies themselves, whose business models rely on addictive persuasive design features and whose profits are too good to meaningfully make changes, even when those changes are what is best for children (and I would argue, humanity).

This brings me to solutions. I am not anti-tech, and I do not believe we can or even should attempt to remove all technology from education entirely. Instead, we need a tech-intentional approach to EdTech and EdTech design. I define tech-intentional design as follows:

Tech-intentional design in technology-based products used by children for education would mean technology companies must create screen-based technology choices that are in line with child development and the pedagogy of learning; that put the best interests of a child before the profits of a company; that never monetizes a child's attention or data; and which requires informed consent and transparency.

Informed consent, as a design standard, simply means that every family should be able to clearly understand what data about their child will be captured by EdTech used in their school, so they can give (or deny) informed consent. Of course, this means it also must be easy, and painless, for families not only to access this information, but to opt their children out of EdTech in the classroom, without fear of reprisal or negative consequences.

Skills before screens means ensuring the schools prioritize child development before putting them in front of a screen in the name of “education”.

-It means ensuring that schools *prove* that a technological solution is better than an analog alternative *before* implementing an EdTech version.

-It means making pen and paper the default experience, not the exception,

-and relying on independent– NOT industry-funded research– to prove that this app or platform is a better pedagogical tool than what it is replacing.

I would be remiss if I didn't also offer a warning about Artificial Intelligence in the classroom. I strongly encourage lawmakers to learn about the growing momentum for the use of AI in the classroom to “support” teaching and learning.

We cannot let technologists make decisions about what is best for children and development.

Children are not standardized.

Education is not a business (or shouldn't be).

Teaching and learning is full of nuance and complexity and most importantly, it is rooted in real-world, real-life relationships.

In an ideal world, schools will move to 'away for the day' policies that *include* not just student smartphones, but most EdTech platforms as well. The Vermont Kids' Code is an important step towards protecting children both at home and at school from the long reach of both Big Tech and EdTech.

Today, I am here as an expert, educator, parent, and advocate for children.

Childhood is brief. Children cannot vote. Children need adults who understand development and learning to advocate on their behalf.

I support the Vermont Kids Code— it is a step in the right direction towards protecting children.

Thank you for your time and consideration.