



219 North Main Street, Suite 402
Barre, VT 05641 (p) 802-479-1030 | (f) 802-479-1835

Testimony on S.110, Data Privacy and Consumer Protection

Given by:

Daniel M. French, Ed. D., Secretary of Education

Thank you for the opportunity to speak about the issue of student data privacy and the ongoing efforts in Vermont to ensure student information is not exploited or shared inappropriately. S.110 is one example of these efforts.

The privacy of our data and online interactions is a crucial issue of our time. Issues of data privacy for students are even more crucial. The growth of education technology has opened up exciting new opportunities for student learning at all grade levels. At the same time, the rate of growth and change in this field opens new challenges and risks. It is therefore doubly important that we take steps to make sure data collected in pursuit of student learning is not used for commercial purposes or at risk of being compromised by bad actors. With this in mind, the Agency of Education is very supportive of the intent of this bill.

I would also like to take this opportunity to inform you about ongoing initiatives to protect student privacy led by the Agency of Education and our local school systems.

Agency of Education Efforts in Student Data Privacy

There is a growing conversation and concern among some school boards and school staff, around this issue. Recognizing that, the Agency of Education has become involved in a national effort to help schools manage privacy issues around the collection of student, parent and community data.

The agency has joined the Student Data Privacy Consortium, a group of 25+ states that have formed together to develop common language and agreements for keeping student data privacy safe.

One element of Vermont's participation in the consortium is provision of a website, Vermont Student Privacy Alliance, that provides resources and a common framework for schools to pursue privacy policy. Additionally, the Agency of Education worked with a national legal team provided through the consortium to develop a Vermont-based model user agreement that is premised on work done in other consortium states, adding Vermont language as deemed necessary to structure the agreement for a Vermont audience. This work was undertaken with assistance from the Vermont School Boards Association.

Implications for School Systems in S.110 and Proposed Amendments

There are three essential purposes behind S.110 as I understand them. The first, is a report to be generated by the state's Chief Data Officer about state government's use of personally identifiable data. I will defer to the Agency of Digital Services for comment on this section.

The second purpose of the bill seems to be directed solely toward companies that operate and market applications used for PK-12 school purposes. The language as drafted does not and should not apply to school district-operated websites. Educational institutions are already under the requirements of federal law, specifically the Family Educational Privacy Rights Act (FERPA), which prohibits disclosure of student information except for certain limited purposes. For that reason, I do not believe the provisions that apply to operators (as defined in the bill) need to apply to school districts. We support the bill's current language in Section 3.

Third, I understand there are two provisions that were in the bill as introduced that were not passed by the Senate. These provisions would add new requirements for school districts in addition to the obligations of FERPA to provide a parental opt-out for sharing certain directory information. The new requirements would guarantee that a parent could opt out of certain types of disclosures but not others. The intent is to ensure that a student whose parent exercises the opt-out right will not be prevented from having directory information shared in the school newspaper, yearbook or other publications. I would encourage the committee to take testimony on these questions and determine whether parents and students are currently facing difficulties around opt-out before you place new requirements in law.

Finally, if new sections are added to the legislation, the enforcement section should be clarified to ensure that there is no private right of action against a school district in connection with those new obligations.