



DEPARTMENT OF JUSTICE
OFFICE OF THE ATTORNEY GENERAL

DATE: April 7, 2021
TO: Honorable Michael Dembrow, Chair of the Senate Education Committee
FROM: Kate Denison, Deputy Legislative Director
SUBJECT: SB 594 – Preserving Student Privacy

This testimony is presented in support of SB 594.

BACKGROUND

In the world of ever-evolving technology, software has been developed for the purpose of tracking students, including much of what goes on during a student’s day at school, the student’s educational records, email address, home address, discipline history, test results, grades, juvenile records, socioeconomic information, food purchases and more. Once captured, this information can be used to develop a marketing profile that can follow a student for life.

Tech companies also offer services to schools that involve monitoring students’ emails, web searches, internet usage and even social media accounts. Parents and students are still largely unaware of the degree to which schools are monitoring their activities, even as demand for these technologies has grown due to concern over school shootings, online bullying and other threats. In Oregon, although we are unsure whether schools are using these surveillance tools, our privacy laws are insufficient to stop it from happening.

Students should be able to learn in an environment free from fear of surveillance. For students of color and other underrepresented groups who already face a disproportionate amount of disciplinary action, this type of tracking can be especially harmful. A recent article in *The Guardian*¹ highlights how both machine learning and human analytics commonly misunderstand and unfairly target these students – especially if the human analytics are from different cultural backgrounds than other students they are monitoring.

In 2015, the Legislature passed the Oregon Student Information Privacy Act (OSIPA), a law that prohibits “data mining” information obtained from K-12 schoolchildren through online educational programs and apps that are often used in the classroom. While OSIPA does concern technology used in schools and gives school administrators guidance on vendor management and permissible contract terms, OSIPA is directed at the data privacy and security practices of

¹ “Under digital surveillance: how American schools spy on millions of kids,” by Lois Beckett, *The Guardian* (Oct. 22, 2019): <https://www.theguardian.com/world/2019/oct/22/school-student-surveillance-bark-gaggle>.

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education technology providers, not the information security practices of schools or school districts.

CONCEPT

During this global pandemic when we are now relying on technology to educate our children, it is imperative that our schools are not allowed to improperly gather information or track their activities, or authorizing third parties to do so. There are enough impediments to learning in this environment – our students and their parents should not have to fear for their privacy.

SB 594 will supplement existing law by prohibiting schools at the district level from authorizing or using any monitoring software related to a student's computer usage.

Contact:

Kate Denison, Deputy Legislative Director, 971-599-9851, kate.e.denison@doj.state.or.us

Kimberly McCullough, Legislative Director, 503-931-0418, kimberly.mccullough@doj.state.or.us