

Testimony in Support of HB 2709
13 February 2015
by
Lisa A. Shultz, M.S.E.E.

Dear Chair Doherty and Members of the House Education Committee:

I am writing in support of HB 2709.

The recommendations in this bill pertaining to the student education record are in alignment with current frameworks for data privacy such as *Fair Information Practices* [1], OECD guidelines [2], and the *Student Privacy Bill of Rights* from the Electronic Privacy Information Center (EPIC) [3].

The recommendations in Section 1 (a) through (d) not only ensure basic rights related to a student's education record, but would contribute to the validity of the data collected in the student education record.

One helpful amendment to the bill would be to clearly define the term "student education record". Please consider this February 12, 2015 testimony from Professor Joel Reidenberg of Fordham University's Center on Law and Information Privacy to the U.S. House of Representatives Committee on Education and Workforce Subcommittee on Early Childhood, Elementary and Secondary Education Hearing on "How Emerging Technology Affects Student Privacy" [4]:

The 1974 definition [of "education record"] and the directory information exclusion no longer make sense in 2015. Much of the data gathered and used in the context of online services will be outside the scope of the existing definition. For example, metadata gathered from a learning app used by a child in school that was then compiled to create a profile of the child for content delivery would not be an "educational record" and would fall outside the bounds of FERPA. Similarly, information developed by a school's transportation company identifying the street corners where 6th graders wait to take the school bus would fall outside FERPA and could be disclosed for advertising purposes and even possibly disclosed to non-custodial parents. Likewise, a child's homework assignment saved or shared with a teacher on a third-party service would not be an "educational record" and would not be protected by FERPA.

For meaningful protection of student privacy in this environment, FERPA needs to encompass any information gathered about children for educational and school related uses. This would include profiles, whether or not identified to specific students, if those profiles will have an effect on the child's education or school related services.

Given the proliferation of student data and the lack of current protections, I urge the Committee to pass this bill as part of a comprehensive package of student data privacy protections.

Thank you for your consideration of this testimony. Please feel free to contact me with any questions or concerns.

Sincerely,
Lisa Shultz
Former Beaverton School Board Director, Zone 7
12860 SW Glenhaven Street
Portland, OR 97225
Email: lisa4schools@gmail.com

[1] http://epic.org/privacy/consumer/code_fair_info.html

[2] <http://www.oecd.org/internet/ieconomy/oecdguidelinesontheProtectionofPrivacyandTransborderFlowsOfPersonalData.htm>

[3] <https://epic.org/privacy/student/bill-of-rights.html>

[4] http://edworkforce.house.gov/uploadedfiles/reidenberg_testimony_final.pdf