

Protecting school district data

School board leadership is crucial to cybersecurity

By Adam Griffin, Esq.

As another school year progresses with continuingly challenging and complex issues, your school district must pay attention to its obligations to protect student data. Threats of disclosure of confidential and sensitive student and employee data are numerous and dangerous.

Criminals have preyed on remote learning and remote work from home to initiate attacks on school district data. It only takes one person to compromise an entire school district's data. All employees, including school board members, administrators, teachers, and all other staff must be aware of their responsibilities for cybersecurity.

This article focuses on the most

common incidents of attacks and breaches and explores some ways to reduce risks.

What to be worried about

Ransomware attacks are the most reported cyber incidents facing school districts. In these incidents, criminals hold school districts' systems and data hostage for payment of cryptocurrency. These attacks often disrupt operations to the point of shut-down and can cost millions of dollars.

Not long ago, robust air-gapped backup systems reduced or eliminated the risks associated with such attacks. But the rise of the double ransom—where the attacker group requires payments to secure its promise not to release data on the



internet—has limited mitigation by backups. As a result, school districts may face an uncomfortable decision with a short time fuse of whether to pay thousands, or millions, of dollars in ransom to avoid having student data released on the internet.

Overseas criminals are the perpetrators of many attacks. The increased availability of ransomware using a business model like that used in the software industry (ransomware as a service) has en-

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Remote/Hybrid Meetings Return: Open Meeting Law Implications

A number of districts have called the MASC office to say that they are reverting to remote/hybrid meetings in light of the surge in recent COVID cases and asked whether there have been any changes to how these meetings need to be conducted. The MASC Field Staff has updated our Open Meeting Law/Remote Meetings FAQ document to reflect additional guidance. The revised document is printed below.

What are the changes to the Open Meeting Law that the Governor has authorized?

- It is not necessary to have a physical quorum present and the Chair need not be physically present.
- The public must have access to the meeting, but this access can be virtual. The meeting can be streamed or the public can access the meeting through a link. Under extraordinary circumstances that would create a financial hardship to the district, where live access is not pos-

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Fiscal Planning for the Upcoming Budget Year

As we look ahead to fiscal year 2023, the ups and downs of the past few years of budgeting continue. A few considerations we urge members to keep in mind in their planning:

- **ESSER funding:** The three rounds of federal funding, given the blanket term of Elementary and Secondary Schools Education Relief, (ESSER) continues to impact FY23 budgeting. The most important factor to keep in mind as you prepare your budget is that this is grant funding which ends; ESSER III, the last round of this federal funding, must all be expended by September of 2024. These monies should be allocated such that the district won't be staring down a fiscal cliff in 2025; the grant funding should either go to cover one time costs or to costs that can be picked up by the general fund. As with all spending, but particularly with grants of this level of attention, we advise committees to be very transparent

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MASC Legislative Committee considers 2022 legislative priorities

The MASC Legislative Committee met remotely on December 21 to consider a number of initiatives for the upcoming year, including resolutions moved forward by the 2021 Delegate Assembly, COVID/post-pandemic concerns, and legislative priorities carried over from prior years.

Delegate Assembly Legislative Directives include:

- Legislative support to provide free broadband internet to all K-12 students in MA
- Support for pending legislation guaranteeing recess time
- Support for pending legislation that would encourage use whenever possible of restorative/therapeutic/educational approaches in lieu of enforcement of zero-tolerance strategies
- Establishment of a Commission to research alternative assessment options in place of MCAS
- Restoration of school committee oversight in districts in receivership
- Legislation that would prohibit use of Native American mascots

COVID/Post-Pandemic Issues include:

- Ensure district flexibility in allocation of ESSER funds to adequately respond to student needs
- Post-COVID issues around Open Meeting Law requirements
- Staffing flexibility, including critical shortage waivers
- Social, emotional and health supports for students and staff returning from pandemic isolation

Continuing Priorities include:

- Continued full implementation of the Student Opportunity Act funding
- Full funding for regional school transportation
- Full funding for the special education circuit breaker
- Support for small and rural school districts
- Appropriate Chapter 70 adjustments for inflation
- Strengthen the children's services safety net
- Medicaid services reimbursements directly to school districts

MASC will be providing members more detailed guidance on these issues in advance of our 2022 Day on the Hill, which is scheduled to be held on **Thursday, April 14**. Unfortunately, the State House continues to be closed to the public so we will be unable to host the traditional vocational student luncheon. The morning program, however, will take place at our most recent venue, the Grand Lodge of Masons, just across the Common from the State House.

Background materials and registration information are forthcoming. Check your mailbox/email/MASC website for updates.

MASC 2022 Legislative Committee members are: Kim Savery, Plymouth (Chair); Jason Fraser, Silver Lake Regional (Vice Chair); Mindy Kempner, Southeastern Reg. Voc. Tech.; Greg St. Lawrence, Tri-County Reg. Voc. Tech.; Barbara Davis, Holbrook; Margaret Hughes, Narragansett Regional; Beverly Hugo, Framingham; Lynn Ryan, Assabet Voc. Tech.; William Fonseca, East Longmeadow; Darlene Torre, Billerica; Nichola Gallagher, Canton; Paul Schlichtman, Arlington

Protecting School Districts

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abled more attackers to engage in illegal activity. Some criminal groups intentionally target school districts because of the lucrative result of the attacks and the percentage of districts that pay ransoms to restore systems and prevent exposure of sensitive data.

Data breaches may happen as part of a ransomware attack (a double ransom) or as a stand-alone event. Even an inadvertent disclosure or loss of a device with sensitive information may meet the legal definition of a breach. Each state and territory has its own data breach notification laws, some of which clearly apply to public school districts, some of which do not apply, and some of which are ambiguous. It is critically important to treat even potential breaches or compromises as serious and investigate each.

Vendors have custody (but not ownership) of districts' most important and sensitive data. Do not assume that because the vendor has custody of data that it is solely responsible for keeping the data secure and is actually doing so. By default, under many state laws, the school district as the data owner bears responsibility for actually sending notice to affected persons after a vendor experiences a breach.

Social engineering fraud occurs when a criminal tricks a district employee into wiring or transferring funds to the criminal's account. An example is a change to wiring instructions that is not properly verified.

What your district can do now

Leadership by the school board is crucial. These threats go well beyond the information technology department and can shut down the whole district for days. Boards that view cybersecurity as an IT-only issue will change that limited view when incidents threaten the operations or financial viability of the district.

School boards may engage these issues by:

- Asking questions so that they are well-informed about the district's current cybersecurity policies and

procedures.

- Dedicating resources, including financial resources, to cybersecurity.
- Reviewing internal district policies related to cybersecurity.
- Ensuring the district carries appropriate cyber insurance to cover financial risks.

Training and awareness for all district staff can significantly reduce the risk of cyber incidents. The acts or failures of any single district employee (clicking on a phishing email, losing a device, wiring money incorrectly) can and often do affect the whole district.

Multifactor authentication, including two-factor authentication, is an effective tool to make unauthorized access more difficult. Even if an attacker gets a username and password (one factor), they are not as likely to have that person's phone with the code required to log in (the second factor).

Cyber insurance may provide some financial protection for covered incidents. Not all cyber insurance is equal. Many school districts have purchased cyber insurance without careful examination of the policy, and they discover its limitations only when the districts makes a claim.

Contracts with vendors are very important for reducing vendor-related risks. Contracts should treat in detail, among other matters, what the vendor will do to keep data secure, what insurance the vendor will carry, and who is responsible for what if a breach occurs. The provisions should be included in contracts with "free" vendors who have district data but to whom no payment is made to ensure they do not use data for improper purposes. In Massachusetts, negotiating and reviewing contract language is the responsibility of the Superintendent and their administrative team.

Cyberattacks and breaches are unfortunately inevitable. The risks to student data and district financial data have never been greater. However, school boards can manage these risks and the outcomes of incidents when they do occur.

Adam Griffin (adam.griffin@arlaw.com) is a partner with Adams and Reese LLP and advises school districts nationwide on issues about data privacy and security. This article first appeared in the December 2021 issue of NSBA's American School Board Journal. Reprinted with Permission.

Time for a School Governance TUNE-UP?



These have been long and challenging months for school governance teams. As we address the upheaval of the past years, districts have a unique opportunity to renew and rebuild relationships, and to forge new ones with members who may have recently joined the team.

MASC can help with a workshop tailored for your committee. Topics include: working and communicating together, operating protocols, strategies to help you focus on your goals, and tools to evaluate your progress.

For more information contact: Dorothy Presser
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Massachusetts Association of School Committees, Inc.

Remote/Hybrid meetings return

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sible, a recording or transcript of the meeting must be made public.

What has not changed?

The posting requirements remain the same.

- If public access is to be virtual, the posting must include information about how the public can access the meeting.
- Minutes of the meeting must be produced.

Other requirements for remote participation remain in place:

- All meeting participants must be able to hear each other.
- Call the roll at the beginning of the meeting, so that everyone is clear on who is present.
- All votes must be roll call votes.
- If the meeting is an Executive Session, all participants must confirm that they are alone in the room.

What about public comment periods or public participation?

While most committees have public comment as an agenda item, it is not a requirement of the Open Meeting Law. For remote meetings, a committee may choose to leave this item off the agenda. Alternatively, consider providing a way for members of the public to get comments and questions to the committee to be read at the meeting. This could be done by providing an email address on the website (and agenda) specifically for comments and questions at the meeting. There are advantages and pitfalls to the various options, so be prepared for some trial and error to determine what might work best for your committee.

Etiquette for a remote meeting

For some professionals, a remote meeting is nothing new. Here are a few guidelines to follow:

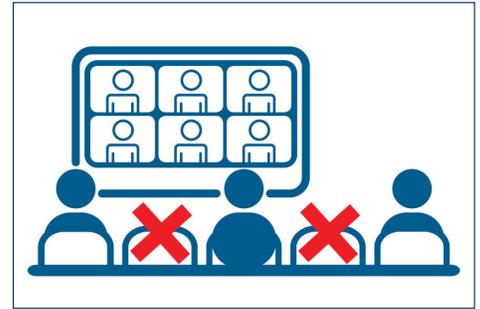
- Make sure you are in a quiet location, without background noise and distractions that may interfere with the meeting and remind others in the household of the meeting time

and expected duration to help avoid distractions.

- Mute yourself when you enter the meeting and stay muted unless you are speaking.
- If you are late, don't disrupt the meeting by announcing your arrival. Wait for the Chair to acknowledge your arrival.
- If the meeting includes video, remember that, even if you are in your home, you are still participating in a public meeting and that you are still visible to the public. Dress appropriately. Don't distract others by walking around, snacking, or other activities that you would not do in a regular public meeting.
- Be aware of lighting. When the lighting is behind you, you may appear in shadow to other participants.
- Be aware of what may be going on behind you, and be patient with others if there are distractions in the background as people learn how to navigate.

Don't forget, this is still a public meeting under the Open Meeting Law.

Many virtual services have chat windows. Just like texting or passing notes during a meeting opens the potential for creating a public record, so does the chat function. Avoid using it, unless addressing a technical issue to someone managing the meeting. Let members of the public who may be viewing the meeting know that it is not a vehicle for communicating with the Committee during the course of the meeting.



How is chairing the virtual meeting different than chairing a regular meeting?

Depending on the service used, the Chair may be running the meeting and managing the technical aspects. If the Chair is new to this, they may have someone else manage the meeting from the standpoint of muting and unmuting people and determining who is on the screen at any given point in time, etc.

Some Chairs have found that it can be helpful to manage discussions a bit differently. Rather than the Chair calling on someone waiting to be recognized, the Chair might call on each member in turn to comment or ask questions, cycling through as many times as necessary to ensure everyone gets a chance to speak. For a larger committee, this might work particularly well.

Both chairing and participating in a virtual public meeting is new for everyone. Committees are finding that it is an effective vehicle for taking care of necessary business during this unprecedented time. MASC will continue to provide guidance and best practices as we learn together.

Division X: Diversity, Equity & Inclusion

The recently distributed MASC 2022 Pocket Calendar incorrectly referenced Division X as the Minority Caucus instead of in its new, expanded role as the Division representing Diversity, Equity & Inclusion. The calendar apologizes to the members of Division X and its officers: Chair: Virginia Simms George (Assabet Voc.); Vice Chair: LaTonia Monroe Naylor (Springfield); and Secretary-Treasurer: Denise Hurst (Springfield).

MASC will notify members about upcoming division events that are currently being planned.

Fiscal Planning

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in updating the public on how the monies are being expended.

• **Student Opportunity Act implementation:** After a delayed start due to the pandemic, FY23 should be year two of what has now become six years of Student Opportunity Act implementation. As you may recall, within the foundation budget, this phase-in includes:

- o A separate inflation rate for health insurance, tied to the state-wide Group Insurance Commission (GIC) rate;
- o A phase-in of the assumed in-district special education enrollment to 4% at the end of the phase-in;
- o An increase each year in the increment for English learners;
- o An increase each year in the increment for low income students.

• **Enrollment:** Statewide, public school enrollment fell during the pandemic by over 30,000 students, and that has not rebounded as yet. The degree to which this impacts each district varies widely, with some districts having seen little to no change, and others having seen a steep decline. At ground, the Massachusetts school funding system is a pupil-based system, and the impact of changes in enrollment should be incorporated in your district planning.

• **Poverty count:** As a result of the Student Opportunity Act, the Department of Elementary and Secondary Education put into place this year a revised system of accounting for low income students. The intent is to identify all students in families up to 185% of the federal poverty rate. Students continue to be matched through the state system via programs including: Supplemental Nutrition Assistance Program (SNAP), Transitional Aid to Families with Dependent Children (TAFDC), Mass Health, and foster care. In addition, students who might not have

been accounted for in these state programs can now be identified through a supplemental process that enables districts to work with families to collect the necessary data. All students reported as homeless are also now included.

• **Inflation:** In addition to the separate inflation rate for health insurance mentioned above, this year's inflation rate is significant. The report from the third quarter puts this rate at 5.9%, however the Student Opportunity Act effectively caps inflation at 4.5%. This is the first year since the passage of SOA that the inflation rate has exceeded the cap; school committee member advocacy on this issue can make legislators aware of this funding gap and suggest that this discrepancy be addressed legislatively.

• **State and local revenue:** While the above has focused on calculations within the aid formula, the amount of resources available to the state and municipalities also must be included in planning. Testimony at the Joint Hearing on Revenue late last year was largely positive in projections for FY23. However, one of the most frequently stated concerns was around maintaining an adequate labor force, something which will not come as a surprise to anyone currently in public education.

• **District direction:** As with every year's budget planning, conversation around the finances of the district must start with the goals of the district. Ensuring that the resources available match the needs of the district and the direction set by the School Committee should be the starting point of every budget process.

This guidance, prepared by MASC Field Director Tracy Novick, summarizes information that she presented at MASC's Friday, January 7, Learning Lunch program. That session was recorded and can be accessed on the MASC website www.masc.org homepage (workshop recordings).

UPCOMING EVENTS

Saturday, January 22
NSBA Equity Summit
Washington DC

Sunday, January 23 -
Tuesday, January 25
NSBA Advocacy Institute
Washington DC

Sunday, January 30
Student Representatives on School Committees program
Radisson Hotel, Marlboro

Friday, February 4
MASC Learning Lunch program
Topic: MIAA Update

Saturday, February 5
MASC Charting the Course Orientation
Everett High School

Friday, March 4
MASC Learning Lunch program
Topic: Superintendent Evaluation

Saturday, March 12
MASC Charting the Course Orientation: Part I
VIRTUAL FORMAT

Saturday, March 19
MASC Charting the Course Orientation: Part II
VIRTUAL FORMAT

Friday, April 1
MASC Learning Lunch
Topic: TBA

Saturday, April 2- Monday, April 4
NSBA Annual Conference
San Diego

Thursday, April 14
MASC Day on the Hill
Grand Lodge of Masons, Boston

Friday, May 6
MASC Learning Lunch
Topic: ESSER Planning and Guidance

DESE releases new/updated COVID guidance

On January 6, DESE and the MA Department of Public Education released the following guidance re FAQ on returning to school from COVID quarantine and other COVID-related issues.

When do the updated DPH/DESE Protocols for Responding to COVID-19 Scenarios go into effect?

The updated DPH/DESE Protocols for Responding to COVID-19 Scenarios were released on December 30, 2021 and were effective immediately. The protocols can be applied retroactively for people currently in isolation or quarantine. So, if an individual tested positive for COVID-19 prior to the date the updated guidance was released, they should now use the 5-day isolation or quarantine period and return to school once they have met certain conditions as outlined in the protocols.

Can individuals returning from quarantine and isolation remove their masks to eat meals?

Per the updated protocols, individuals returning from a 5-day isolation and quarantine must mask for an additional 5 days when around others. Like individuals participating in Test & Stay, during meals, masks should only be removed when individuals are actively eating. Additionally, DESE recommends a physical distance of at least 3 feet while eating, as feasible. This means masks must be worn when individuals are waiting for meals or sitting at lunch tables after meals are finished.

What is the definition of fully vaccinated as it relates to the eligibility for the updated isolation and quarantine guidance?

At this time, and as provided in the updated DPH/DESE Protocols for Responding to COVID-19 Scenarios, fully vaccinated is still defined as two-weeks following the completion of the Pfizer or Moderna series or two-weeks following a single dose of Johnson & Johnson's Janssen vaccine.

JUST ANNOUNCED: Commissioner Riley extends school mask requirement through February 28, 2022.

The Department will continue to work with medical experts and state health officials to evaluate the mask requirement beyond February 28. The 80% threshold policy remains in effect. Whether or not a school or district avails itself of the 80% vaccination off-ramp is a local decision to be made by school and district leaders in consultation with local health officials. More information on the mask extension, including masking protocols, is posted on the Department's website: <https://www.doe.mass.edu/covid19/on-desktop/2022-0110mask-requirement-extension.pdf>

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