Social Credit Scores Now At American Universities May Be Illegal

December 28, 2019 - What if you were a college student and your school used an outside resource to track your attendance? And what if the results of that tracking were used to influence your grade and intimidate you into attending class? Well, based on our reading of the Fair Credit Reporting Act (FCRA), that would mean that the outside resource was functioning as a consumer reporting agency (CRA), and unless that resource was following the reporting requirements included in the FCRA, it would be illegal. Unfortunately, it is already a reality at a number of American universities.

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Over the past few days, there have been several articles published on a number of platforms about an application named SpotterEDU.

The SpotterEDU app is pretty simple conceptually. Schools using it can place sensors in their classrooms that ping all of the cell phones of everyone present. It's essentially a hi-tech way of taking attendance. So far, so good. But the app doesn't just let the professor know who is there. It then feeds that information into a university database. That data can then be used to track attendance for individual students across the entire campus. And there is no telling who has access to that data or how it will be used.

According to an article published on Boston.com, Syracuse University is using the system to track class attendance, awarding points to students for attending and notifying the university (and professors) when someone is absent. It quotes a professor at the school talking about the points being awarded and how missing classes can impact grades. He's even quoted as saying, "They want those points. They know Iâ€™m watching and acting on it. So, behaviorally, they change."

First of all, that's a little creepy. If it sounds to you like a professor on a power-trip (and anyone who ever attended college has met more than one of them) we'd have to agree. We're talking about college students - by definition, adults - who are supposed to be responsible enough to get to class on their own. Not two-year-olds who need to be monitored on a minute by minute basis.

Secondly, and more importantly, the information being provided to the university is then being used in a way that appears to influence grades. Because the data is being collected by SpotterEDU rather than the school itself, it appears to make SpotterEDU and consumer reporting agency. And there are extensive federal rules in the FCRA about what consumer reporting agencies can and can't do.

The FCRA defines consumer reporting agencies as "any person which, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties, and which uses any means or facility of interstate commerce for the purpose of preparing or furnishing consumer reports." It doesn't matter if the data is a simple "yes" or "no" to a question such as, "Did so-and-so attend?" And it doesn't even matter if the points discussed above are a part of a scroing system devised by the reporting agency or by the school. It only matters that third party reports are being used to benefit some students and to the detriment of others.

Once that definition is met, then both the universities using the system and the company supplying it have certain obligations. At the very least, they need to ensure the accuracy of the data and have an appeals process in place. For instance, what if a student loses a phone and it takes a week to get a replacement? There has to be a way to deal with a scenario like that.

If the attendance data is used to downgrade a student, then the university has an obligation to provide the student with contact information for the consumer reporting agency. And the reporting agency needs to give the student the ability to review the data being supplied. If the data is wrong, the student has to have the ability to correct it and then contest the grade based with the school.

Ironically, all of these issues could be avoided by going back to an old-school system of collecting attendance. Even if the school used hi-tech to take attendance, if it was their own system it wouldn't be an issue. And it probably wouldn't be too difficult for universities to design their own systems for this sort of thing.

But a third-party system covering multiple universities is another issue entirely. How long do you think it will take for this data to be made for sale to other schools when reviewing applications for graduate school? Or for sale to employer running background checks? After all, wouldn't employers like to know if they were hiring someone who was brilliant but lazy - who only attended class for tests - or someone who was a hard worker and showed up 100% of the time, rain or shine? Trust me. There is a much bigger market for this data, and that is a problem!

Unfortunately, this kind of monitoring is bound to create other issues too. One of the things you're supposed to walk away from a university with - in addition to a degree - is some sense of responsibility. That means showing up when you are supposed to. This sort of a system negates that. And it means that employers can expect the next generation of college grads to bring some issues into the office with them. You may need to be a baby sitter. Of course, those same grads may have no problem with you monitoring every move they make.
by Jim Malmberg
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