

Allison White Testimony
Common Core Task Force
November 6, 2015

Good Afternoon:

My name is Allison White and I am a proud graduate of Long Island public schools, the proud parent of two public school graduates, and the proud parent of one child still attending public school. I am also a Co-founder of the Port Washington Advocates for Public Education, a grass-roots group of over 400 parents and community members in Port Washington, on Long Island's North Shore. We are one of over 50 similar groups who are allies of (NYSAPE), the New York State Allies for Public Education.

I would like to focus today on one important issue inseparable from the Common Core: the issue of Student Data Privacy. I believe that the Common Core Standards were written around what can be tracked. This effort to standardize curriculum and testing via Common Core has unleashed a massive collection of student data, without parental consent and often even knowledge. Despite the closing of inBloom, NYSED continues to collect Personally Identified Information (PII) and to store it in a State Longitudinal Data System. Every state that agreed to the Common Core in order to receive Race to the Top (RTTT) funding (including New York) committed "to design, develop, and implement statewide P-20 [preschool through workforce] longitudinal data systems..."

Parents have been falsely told not to worry about this, because any sharing of data will comply with FERPA, the Family Educational Rights and Privacy Act. As of January 2012, FERPA has been gutted, and no longer protects children's data from almost unlimited sharing. Under new regulatory interpretation, the U.S. Department of Education and in fact, NYSED, may disclose PII to literally anyone in the world, so long as the disclosing agency uses the correct language in citing an educational, operational, research or evaluation purpose to justify its action. This is a huge loophole and no parent should be falsely comforted that his or her child's PII will remain private.

Laws specific to New York State also do not adequately protect PII. The Parent Coalition for Student Privacy has outlined minimum requirements for State Student Data Privacy laws. These include:

Transparency: Parents must be notified by the school or district in advance of any disclosure of personal student information.

All disclosures should require contracts and privacy policies, to be made publicly available, that specifies what types of data are to be disclosed for what purposes, and provide a date when the data will be deleted.

Parental rights: NO re-disclosures by vendors or any other third parties to other parties allowed without parental consent.

Whether collected by a school or a private vendor, parents must be able to see the data, and delete the data, if it is in error. They must be able to opt out of any program in which personal data is being collected directly from their child by a vendor.

Any data-mining for purpose of creating student profiles must be done with full parental knowledge and ability to contest the profile. Parental consent must be required, especially for the disclosure of highly sensitive information such as disabilities, health and disciplinary data.

No commercial uses: NO selling of personal student data or use for marketing purposes. NO advertising should be allowed on instructional software or websites assigned to students, since ads are a distraction from learning and serve no legitimate K-12 educational purpose.

Security protections must be robust. At minimum, encryption of data at motion and at rest, required training for all individuals with access to personal data, audit logs, and security audits by independent auditor. Passwords should be included in covered information.

Required breach notification and indemnification.

Enforcement including significant fines for violations of contract/privacy policy, and a private right of action; meaning parents must be able to sue for violations of the law.

No disclosure of de-identified student information without safeguards to ensure data cannot be easily re-identified.

None of these protections are sufficiently afforded to students and parents under current New York law. Student data in New York is still at great risk. In the 2014-2015 New York State budget bill, some privacy legislation was included but suggested language by parents and real student privacy advocates was not included. Instead, the legislation adopted was essentially a bill written by ALEC (the American Legislative Executive Committee) and the tech industry, which profits off our children, and even the provisions of this bill have not been fulfilled.

Specifically, no permanent Chief Privacy Officer has been appointed and the interim CPO has refused to meet me and with other parents. I have been trying to obtain access to my own child's state-held records for nearly a year. The interim CPO has tried to charge me a fee in order to obtain access to my child's data in the state database, which according to the US Department of Education should be afforded to me free of charge. She also refuses to expand upon or correct the Parent Bill of Rights (which is incomplete as to even current law). This has left school districts throughout New York State, in a state of limbo in terms of student privacy protections.

Finally, I am deeply concerned about NYSED and Commissioner Elia's recent push to move toward Computer Based Testing and Competency Based Learning. This will only speed up data collection, making it more seamless and less transparent to parents, all at a time when our student's privacy and security remains at risk.

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Until and unless the student data privacy concerns I have outlined today have been adequately addressed, I encourage all parents to opt-out in opposition to the New York State testing program, the Common Core, and its related data collection. Thank you.

References:

<http://www.studentprivacymatters.org/>

<http://www2.ed.gov/programs/racetothetop/performance/new-york-year-2.pdf>

<https://nces.ed.gov/programs/slids/state.asp?stateabbr=NY>

<http://nces.ed.gov/programs/ceds/>

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Notes on FERPA & NYS Personal Privacy Protection Law:

An agency that holds a child's data must make it available to a parent to see if it is in error and/or should be corrected. This includes state agencies such as NYSED. See the language of the PPPL:

<http://www.dos.ny.gov/coog/pppl.html>

(2) In order to carry out the provisions of this article each agency that maintains a system of records shall promulgate rules which shall set forth the following:

(a) procedures by which a data subject can learn if a system of records contains any records pertaining to him or her;

(b) reasonable times, places and means for verifying the identity of a data subject who requests access to his or her record;

(c) procedures for providing access, upon the data subject's request, to the data subject's record;

(d) procedures for reviewing a request from a data subject for access to, and for correction or amendment of his or her record, for making a determination on such request, and for an appeal within the agency of an initial adverse agency determination.

They are not permitted to charge for this service.

For FERPA, see this article:

<http://nevadajournal.com/2014/12/30/federal-education-officials-nevada-cant-charge-dad-look-childrens-records/>

Student information warehoused in the Nevada State Longitudinal Data System, said federal officials, constitutes education records under the Family Education Rights and Privacy Act and therefore must be open to inspection by parents.

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See also this 2014 letter from Dale King, Director of the Family Policy Compliance Office in the US Ed Gov, confirming this determination:

<http://nevadajournal.com/assets/uploads/2014/12/letter-from-usdoe-to-nde-re-ferpa.pdf>

Attachments:

August 25, 2014 Letter from New York State Allies for Public Education to
Commissioner King & Board of Regents attached

Letter from Tina Sciocchetti to Allison White 9/25/2015