

Written Testimony: Senate Standing Committee on Education Public Meeting

The Regent's Reform Agenda: "Assessing" Our Progress

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Topic: Student Data Privacy

Thank you honorable Senator John Flanagan and your distinguished Education Committee for holding these very important hearings across the state of New York. My name is Lisa Rudley and I represent tens of thousands of parents across the state. Autism Action Network alone represents 10,000 parents and grandparents of children with autism across NYS. Also, I co-founded the newly formed central organization, NYS Allies for Public Education which has over 40 parent and education organizations as Allies representing more than 15,000 people across the state. Also, worth noting NYS Allies Facebook page recently has been viewed by over 60,000 people across NYS. I am the mother of 3 beautiful children who attend the 2012 Intel National Award Winning Ossining Public Schools, a socio-economic and ethnically diverse district in Westchester County.

I am here today to testify about the egregious disregard for parental rights in relation to an imminent and vast expansion of the collection of sensitive and private student data. Did you know, starting this fall, The New York State Education Department of Education requires schools load sensitive and personally identifiable information about children and their families into a statewide database cloud hosted by Amazon.com and owned by a private vendor, inBloom Inc.? All of this is being done without parental consent. Furthermore, to date, all parental requests to the Commissioner and the Board of Regents to refuse participation in this data collection and sharing have been denied.

It is important for the Senate Education Committee and the public to understand the historical timeline to put this issue into its true context. In 2010, Race to the Top Funds were awarded to NYS requiring a state-wide student database, however at that time FERPA the Family Educational Rights and Protection Act regulations maintained parental rights to prevent the release of personally identifiable student information. Almost two years later FERPA was unilaterally revised by the United States Department of Education Secretary Arne Duncan, which removed parental consent requirements. It has been argued that this change to FERPA, done solely by an appointed, non-elected official, was done unlawfully as Congress is required to vote to expand or change FERPA. EPIC, the Electronic Privacy Information Center is currently suing the US DOE in Federal Court for this very reason.

In 2012, NYSED contracted with inBloom, Inc. to develop a NYS centralized database cloud hosted by amazon.com. Would the people of NY ever applied for Race to the Top funding if parents knew their privacy rights would be eliminated using financial crisis bailout taxes? The urgency of this matter is simply this; NYS public school districts are required by this September 27th to select one of three data dashboard vendors, Pearson/Schoolnet, eScholar and ConnectEDU. One in particular, ConnectEDU, makes it part of its core business model to mine student data and match colleges and employers with students. If my child is profiled and is

deemed unfit for a college before they have a chance to apply, what opportunities will they be shut out of because of a “data point” which as we know is not the whole picture?

Let me just read to you a few of the attributes and categories in this new database: Discipline Information: student violation, victim, witness & reporter. Academic & Disability Information: learning disability type, class track grouping, career path type and even long outdated and stigmatizing references like Mental Retardation. Parental home info: single parent, military parent, pregnant teen mother, displaced homemaker, parent personal and work emails. Collecting and mining student data without parental consent is a complete violation and disregard for parental rights and this leaves the state wide open for many lawsuits using our hard earned tax dollars. Many will argue collecting this information is a civil rights violation, regardless of consent. Moreover, the use of my child’s personal data can ruin and destroy many future opportunities.

It is very important to note, last spring the Assembly passed two bi-partisan bills unanimously that would protect our children’s privacy. This past week, on September 11th, NYS Senator Jack Martins of Long Island and Senator Joseph Robach of Rochester introduced same as Senate versions to the bills that passed the Assembly last spring. I urge the Senate to act immediately in passing these two bills giving parents the ability to assert their fundamental rights to protect their children’s future. As we now have watched 8 of 9 states pull out of this troublesome database contract, we have to ask ourselves this question, why does New York stand alone?

As far back as 1974 with the creation of FERPA by Senator James Buckley of NY, New Yorkers have fought to protect the privacy and futures of their children. We all have an obligation to carry that mantle forward.

After many failed attempts of parents calling upon the Regents and Commissioner to allow them to withhold their children’s data from inBloom, it disappoints me greatly to stand before you today to ask for a legislative solution because of NYSED’s failure to act within its own authority.

Thank you and I welcome your questions.

Thank you,

Lisa Rudley

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