

Testimony on House Bill No. 2588

Mr. Chairman and members of the committee, thank you for the opportunity to provide testimony in support of this bill.

A student's use of online products results in the creation and gathering of student information and persistent unique identifiers.

The main goal appears to be to ensure data being gathered is more adequately safe-guarded by

- (1) Requiring that it be encrypted when sharing, and
- (2) More specifically delineating training and who has access to data.

Both of these support the adoption of industry good practices.

However, it has and continues to be erroneously stated that the Kansas Data Privacy Act ensures that parents are informed and must provide prior written consent before data is sent.

I have not been able to find support for this statement.

On page 2, line 36, the sentence beginning, "An educational agency shall provide annual written notice to each student's parent or legal guardian that student data may be disclosed in accordance with this section. Such notice shall be signed by the student's parent or legal guardian and maintained on file with the district."

As a parent with children in both public elementary and high schools in Kansas during this law being in effect, I have never been provided this notice.

The real question, however, is why are we content with student data being created and acquired by everyone but the parent/student without full disclosure to and consent by the parent?

- It's been previously presented that companies are willing to pay \$124 per person to get personal information.
- Using just seven data variables, users can achieve an exact match to a specific person over 85% of the time. (None of these variables has to include name, address, phone number, ssn, parent name, or grade level.)
- The State of Kansas maintains a student specific database, with hundreds of data points being collected under a state student id. In school, students – even Kindergarteners – are assigned IDs and passwords.
- Providers of technology based education products have stated, they can record every second of a child's learning experience and adapt as the child is using the product.
- Data present on student surveys, tests, technology based school work, and school district information systems include:
 - Allergies * Diseases * Languages spoken * Non-school activities * Meal type * Maternal last name * Marital status * Child's name * Household income * Religious affiliation * Birthdate * GPA * Physical characteristics * Remedial actions * Attendance * Telephone number * Bus stop times * Behavior characteristics

- On page 3, line 5, “Student data may be disclosed to ... a service provider of a state agency, educational agency or school who is engaged to perform a function of instruction, assessment or longitudinal reporting, provided there is a data-sharing agreement between the education agency and such other state agency or service provider ...”.
Student information may be accessed and amassed as long as it is for “educational purposes.” These service providers can include curriculum companies and companies supplying on-line instructional materials.
- The goals of the Data Quality Campaign of 2005 were to more efficiently transfer and exchange data through the building of better data systems in the form of high-quality State Longitudinal Data Systems (SLDS).
 - Comprised of 10 national organizations: Achieve, Inc, the Alliance for Excellent Education, Council of Chief State School Officers, The Education Trust, National Center for Educational Accountability, National Center for Higher Education Management Systems, National Governors Association Center for Best Practices, Schools Interoperability Framework Association, Standard & Poor's School Evaluation Services, State Higher Education Executive Officers-have signed on as Founding Partners in the campaign and have committed to working together to **build** support and **political will** among policymakers
 - Go take a look at the magnitude of this initiative: <http://www.achieve.org/data-quality-campaign-launched-data-summit>
- Try to get your hands on data-sharing agreements between educational agencies and service providers. Notice anyone missing? The parent.
In the case of purchases, mergers or acquisitions, “student information” is considered an **asset** of the service provider.

Are “educational purposes” determined by the schools or state/federal agencies or companies, OR the parent/student? “Educational purposes” is so broad, practically anything can qualify.

The parent/student is not required to opt in to their student’s data being acquired.

Parents/students are not provided full disclosure of how the service or product gathers or creates information as a result of use of the service or product, with subsequent explicit parent/student permission being required in order for the student to use the service or product. Non-aggregate data should not be used in any circumstances without full disclosure of how it will be used and the express approval of the parent/student.

We’ve gone far beyond educational data.

****Unprotected by HIPPPA***

****Collectible and Sharable WITHOUT parent consent***

Student **personal property** is not being protected. Parents should certainly be required to grant permission for this type of information to be collected.

It's simple. Information like courses, grades, and attendance are expected pieces of data that a school should have. Any communication or use of this information beyond the school building should de-identify the data. Any other types of data collection on a student or data resulting from a student's use of technology should be fully disclosed to the parent, with the parent choosing whether to grant permission for the student to use the technology and the collection and use of the student's data.

Why all the interest and investment in the creation and acquisition of student data?

Are you aware that Pre-K to 12th grade education is a multi-billion dollar business to technology software providers? It hasn't even been proven that student learning is improved through the employment of technology solutions. Perhaps this should also be considered in the mandated data collection occurring as a result of states implementing Common Core standards, known in Kansas as Kansas College and Career Ready Standards.

Companies want to unlock student data creating applications that can interface with the data and leverage it to create education tools. Standardized, open-source data architectures are critical to facilitating growth in this area.

No one is begrudging the free market and companies making money. However, companies not fully disclosing to parents how their products and systems work, including how and what student data will be used, is not acceptable. More importantly, parents, not teachers, school administrators or state agencies, should be allowed to determine whether their child is allowed to use school technology and how any resulting data is to be used.

All of this has been a long time in the making. In July, 2009, Bill Gates stated the following in a presentation at the National Conference of State Legislatures, "When the tests are aligned to the common standards, the curriculum will line up as well, and it will unleash a **powerful market** of people providing services for better teaching. For the first time, there will be a large **uniform** base of customers looking at using products that can help every kid learn and every teacher get better." The marketability – profitability – of technology is the overriding reason for Bill Gates' substantial financial investment in promoting common standards, common curriculum, and common assessments. It enables the profitability of technology in the education field. This was fully laid out by an education director with the Gates Foundation in a speech, A Forum on Education, given in 2008 (emphasis added):

"When schools and districts around the country align standards and curriculum and assessment" and "we expand our data systems", we "throw open the doors to innovation".

"Aligning standards and assessments will help us tap **the power of market forces** to create breakthrough tools and next generation models of teaching and learning" (i.e. **curriculums**, computer based learning products, etc.).

“Fragmented standards make it **hard for business to sell** into the education market.” “Let’s say a software genius...develops an amazing tool that teaches” and kids barely notice because “it is so entertaining.”

The software genius “tries to sell it”, but because “everyone has different standards, different assessments”, he has to “repeat the process a thousand times because there’s **no wide scale market.**” He finds it “more advantageous to just sell to another industry.”

“We have to make sure our schools and our students get the benefits of the innovative genius in this country.”

“To drive innovation” in education, “you need some kind of **functioning market.**”

“We will advocate for a new level of **federal involvement** in research and development.”

“We will create incentive funds for products that can develop college-ready competencies.”

“Imagine the competition we could create if all states demanded materials aligned to common standards: we would get better tests, better textbooks, better teaching tools, and ultimately, better student performance”, so says the software genius.

“We will **incubate a next generation**”.

“We have to do it together, district by district, state by state, across the country, by design.”

Children, my children, do not exist to enhance the bottom lines of corporations, or further the goals of state and federal governments’ accountability and workforce agendas, or for the enrichment of education institutions.

About the only thing schools used to purchase were textbooks. Schools paid for them, textbook companies delivered them and left; the transaction was complete. The textbook company received nothing more than compensation for the product purchased. Now, the textbook companies and other education service providers sell on-line textbooks and learning tools, where, not only are they compensated for the on-line product, but they also have a 24/7 link on an individual basis to every student and teacher; gleaning millions or billions of pieces of data for their benefit. And, this type of “data mining” is not just being done by for-profit companies. For example, the KSDE collects hundreds of data points on kids through its KIDS database. And, the KSDE has a process whereby vendors (like Pearson) can be certified to provide records to the KIDS system. ALL of this takes place through agreements between education agencies and providers. Now, kids being educated results in their personal property being take and used by others, without parent knowledge or permission. Parents are excluded from the legal agreements that directly result in the manipulation, benefit, profit, and use by others – the non-owners – the source of the data.

You were elected to your office to protect the rights of the citizens of this state. You were not elected to abandon personal property rights. Agreements that allow for the state or any other interests’ data

mining of student information with the “assurance” that the data will be protected and used wisely should be illegal. Neither elected officials nor state or federal education agencies nor service providers are in a position to come through on either of those assurances. The data – student data – does not belong to any interests other than the parent/student. It belongs to the person of whose it is.

Support the individual right to life, liberty and pursuit of happiness.

All we produce or own, in **any form or fashion, is property.**

Private property is absolutely essential for liberty.

If you don't support private property, you don't support liberty.

“Every man has a property in his own person. This nobody has any right to but himself. The labour of his body, and the work of his hands, (including his own thoughts) we may say, are properly his.” He continues: “The great and chief end therefore, of men uniting into Commonwealths, and putting themselves under Government, is the Preservation of their Property.”

–John Locke

Students ARE their data.

They should own it, to protect their life and liberty and to pursue happiness.

Parent authorization must be explicitly given to collect, use or disseminate anything beyond the school classroom.

- Why don't parents/students own their own data?
- If it's not valuable, then why does everybody want it?
- How are children protected from the theft of their data for manipulation and profit by others?
- Why aren't parents allowed to protect their children's valuable data, and use it for their own profit and improvement in their lives?

The right of parents to direct the upbringing and education of their child to the sole benefit of their child must be upheld over the interests of the state and federal governments, the education establishment and business.

Respectfully,

Lisa Huesers