

# **Testimony in Opposition to SB342**

## **The Massive Collection of Student & Family Data Must Stop**

by  
**Dr. Walt Chappell**

During the 2013 & 2014 legislative sessions, hundreds of parents came to Topeka to demand that their student's data be protected. As a result, the Kansas Student Data Privacy Act was amended and passed into law. K.S.A. 72-6214-72-6223 is the result of those two years of hard work by legislators and parents from across the State. (See photos in the Senate Education Committee Dropbox of the packed hearings in 112-N with overflow crowds into the whole North first floor.)

K.S.A. 72-6214 was first passed into Kansas law in 1977. It protects student and family privacy by *“restricting the accessibility and availability of any personally identifiable records or files of any student or pupil and preventing disclosure thereof unless made upon written consent of such student or parent of such pupil, as the case may be.”* This **PRIOR PARENTAL written consent** is also required in K.S.A. 72-6217, 72-6218 & 72-6219.

Furthermore, K.S.A. 72-6219 makes it clear that student data is not to be stored on “virtual servers.” This means that any “vendor” or “operator” contracted with the student's school district cannot lawfully receive or store any “personally identifiable information”. In addition, K.S.A. 72-6217 requires that data destruction comply with the NISTSP800-88 standards. And, if a data breach does occur, then the entity which had responsibility for the data *“shall immediately notify each affected student, if an adult, or the parent or legal guardian of the student, if a minor, of the breach or unauthorized disclosure and investigate the causes and consequences of the breach or unauthorized disclosure.”*

**SB342 provides none of these protections.** Nowhere does it require that parents provide prior written consent before their student's personally identifiable data is sent to virtual servers owned by private companies each time a student logs into the vendor's software or app. There is no requirement to destroy data or notify the student's parents when their virtual database has been hacked.

Microsoft, Pearson Publishing, McGraw-Hill and other multinational corporations are making billions of dollars of profit at the tax payer's expense from school districts which are being forced to purchase Common Core aligned instructional materials, tests, computers, software, increased bandwidth, data storage and data mining. SB342 is like the camel's nose under the tent. It attempts to circumvent the Kansas Student Privacy Act with vague phrases like **“educational purpose”** to justify their receiving data without prior written parental consent or **“marketing educational products directly to parents”**.

It is time to protect student data. The invasion of privacy and identity theft is growing as more student and family data are leaving school districts to be stored and mined by third party contractors.

I urge you to let SB342 die a natural death. Instead, I recommend that K.S.A. 72-6214 be amended to state that: **“No student-identifiable or survey data shall leave respective school districts, either in written or electronic form, without prior written informed parental consent. Parental informed consent shall detail what data is to be collected, how data is to be collected, how it is to be used, the dates over which the data will be used outside the school district, and with whom the data will be shared.”** This amendment will allow parents to decide whether or not any data about their child or family leaves the district.

Respectfully submitted,

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