

## TESTIMONY OF JANE ROBBINS

before the

EDUCATION COMMITTEE of the KANSAS HOUSE OF REPRESENTATIVES

February 14, 2013

Madame Chairman and members of the Committee:

My name is Jane Robbins, and I am a senior fellow with the American Principles Project. APP is dedicated to the restoration of our nation's founding principles regarding respect for state autonomy and, especially in the area of education, parental rights. I appreciate the opportunity to speak to you today about the threat that the Common Core national standards pose to those principles.

I will address two specific areas of concern: first, **the future of Common Core, which will include growing threats to state sovereignty and local control**; and second, the related issue of the **intrusive collection and sharing of personal data on our students and teachers**.

1. **Kansas will have no control over standards and assessments going forward.** The other witnesses have discussed the history of Common Core, the problems with its implementation, and the poor quality of the standards themselves. Looking ahead, the states that have adopted Common Core, including Kansas, will face a difficult battle to prevent further erosion of their sovereignty and their ability to guard the interests of their citizens.

The Common Core initiative, coupled with the federal effort to drive its adoption, has brought about national content standards owned by the private interests that created them – not by any state, not by Kansas, and not even by the federal government. The result is that significant portions of Kansas's educational system now rest in the hands of private organizations that Kansas cannot control.

One particularly troubling aspect of the Common Core initiative is that so much of its funding has come from private entities that are unaccountable to Kansas parents and taxpayers. The Gates Foundation, for example, has poured well over \$100 million into organizations that have an interest, financial or otherwise, in the implementation of Common Core. In particular, since 1999 the Gates Foundation has donated over \$30 million to NGA and over \$70 million to CCSSO. These are the two organizations that own and hold the copyright on the standards. In addition, Gates has financed a host of other organizations, on both sides of the political spectrum, to advance its education agenda. These groups include the Fordham Institute, the American Enterprise Institute, various groups affiliated with the U.S. Chamber of Commerce, and Jeb Bush's Foundation for Excellence in Education.

This beneficence raises serious questions about who, exactly, is controlling education policy – elected officials answerable to the taxpayers, or unaccountable

private groups? Commentators across the political spectrum have already expressed concern about whether elected officials are abdicating their responsibilities and letting wealthy donors run the show. And some of the nonprofit interests are connected to for-profit interests: For example, Microsoft is partnering with such companies as Barnes & Noble to produce Common Core-aligned curriculum, and the Gates Foundation is working with the Pearson Foundation (connected to the British mega-publisher Pearson PLC) to provide online courses.

All this raises questions about how decisions will be made, who will make them, and how – if at all – Kansas will be able to protect the interests of its citizens. Moving forward, decisions will have to be made about numerous issues:

- 1) Researching, evaluating, and validating the standards and the assessments. Who will do this and determine, for example, whether a given set of results is a fair assessment of Kansas students?
- 2) Updating and revising the standards.
- 3) Ensuring that from state to state, assessments are given within the same time frame so that no one state has the advantage of administering its tests after the other states.
- 4) Coordinating state academic calendars so that states do not suffer for having had less instructional time under their belts at the time of the assessments.
- 5) Coordinating and enforcing instructional time so that states do not “game the system” by de-emphasizing other subjects in order to out-perform on ELA and math.
- 6) Coordinating and enforcing test preparations, in contrast to academic instruction, to ensure that students in all states are on equal footing.
- 7) Responding to parental concerns and complaints, especially with respect to issues of bias and testing philosophies.
- 8) Adding new subjects.

No one has yet worked out how all these governance issues will be handled. Various proposals have been put forward, but regardless of which is chosen, the fundamental problem remains that the non-transparent, unaccountable control over the standards and the assessments eviscerates Kansas’s ability to protect its interests and those of its citizens. The Fordham Institute proposed an “executive council” that includes representatives from the NGA, CCSSO, a state legislators’ association, the testing consortia, and the US Department of Education – but not a single representative from Kansas or any other state.

Even if states are allowed to be represented, how will the interests of small states and large states be balanced? By what margins will decisions have to pass? And how will the interests of parents and students in Kansas, and elsewhere, be protected? The answer is . . . no one knows. But by signing on to Common Core, Kansas has submitted itself to whatever decree comes down from the owners of the standards in Washington.

**A note about future subjects:** Currently in development are national standards for science (the Next Generation Science Standards) and social studies. One national group of health educators has already produced a set of national standards for health/sex education. While these subjects are not yet part of Common Core, it can be predicted that – once the structure is built and the

states are accustomed to taking direction from their federal masters – these standards will be imposed just as the ELA and math standards were – through the power of the federal purse.

- 2. The Common Core scheme threatens student, family, and teacher privacy.** A particularly troubling component of the Common Core Initiative is its connection to the collection and dissemination of personal student data (and certain teacher data as well). Progressive educators and bureaucrats have long advocated sweeping national control over education as (among other things) a means of matching the citizenry to the workforce needs of industry. One prominent Progressive reformer, Marc Tucker (who has been very involved with Common Core) advocates the “remolding of the entire American system for human resource development . . . a seamless system of unending skill development that begins in the home with the very young and continues through school, postsecondary education, and the workplace.”

An essential element of creating this “seamless system of unending skill development” is the construction of massive student data systems, so that individuals can be tracked through school and beyond. But a federal statute prohibits the U.S. Department of Education from maintaining a national student database. The Administration has discovered a way to evade this prohibition: Coerce the states into building the databases, and then change the law so that the data can be shared.

The 2009 Stimulus bill created a fund that could be accessed only by states that agreed to build broad state longitudinal data systems (SLDS) to collect data on public-school students. To be eligible for Stimulus money, all 50 states agreed to build an SLDS. The Department of Education intends these data systems to “capture, analyze, and use student data from preschool, to high school, college, and the workforce.” It’s essentially the lab-rat view of the citizenry – and Kansas students are the rats.

What kinds of data might be included in the SLDS? According to the National Education Data Model, a myriad of information such as health-care history, disciplinary record, family income range, family voting status, and religious affiliation – over 400 data points in all.

Until recently, federal student-privacy law protected personally identifiable student information from disclosure to outside entities. That changed, however, in January 2012, when the US Department issued new regulations eviscerating the protections contained in the Family Educational Rights and Privacy Act (FERPA). The new regulations allow transmission of students’ personal information – without parental consent – to any governmental or private entity designated by the Department and others as an “authorized representative” for the purpose of evaluating an education program. Any personal student information the Department (or any other educational entity) acquires can now be shared with, for example, labor and public-health agencies. The student’s parents would have no right to object; indeed, they would probably never know the disclosure had been made. These other agencies and private companies would then have access to a wealth of personal data.

The federal Department says there is nothing to worry about, at least with respect to the federal government, because the data it acquires from the states and localities are aggregate, not personally identifiable. Bu the assessment scheme aligned with

Common Core is designed to change that. In exchange for federal funding of the Smarter Balanced tests, which Kansas has committed to use, Smarter Balanced has agreed in writing to “develop a strategy to make **student-level data** that results from the assessment system available on an ongoing basis for research, including for prospective linking, validity, and program improvement studies . . . .”

Many state education officials have noticed already a greater aggressiveness on the part of the Department in demanding personally identifiable student data, in conjunction with federal education grants. These demands go beyond assessing the effectiveness of funded programs; in fact, the Department claims the right to use the data – without parental permission – in future research projects. This is in keeping with various initiatives such as the recently announced joint venture between the Departments of Education and Labor. The stated purpose of this joint venture is to conduct more effective research and to better evaluate education and workforce-training programs. The Department of Labor makes no bones about what these agencies are doing with this personal data; it says the two federal departments are “developing or improving state workforce . . . data systems with **individual-level information** [and] enabling workforce data to be matched with education data to create longitudinal data systems. . . .” With access to students’ personal information through the Common Core assessments, and with the new regulations that gut the protections of FERPA, there are very few obstacles in the path of the federal bureaucrats’ knowing -- and sharing -- everything there is to know about our children.

Common Core, then, is an essential component of a broader economic and workforce plan to track and analyze students. It is bad enough that all states are now building data systems in return for Stimulus money; it will be far worse if they adopt national standards and assessments that open up their students’ private information to public and private entities throughout the nation.

**A word about threats to teacher privacy:** Under both Race to the Top and the No Child Left Behind waiver, states are required to revamp their teacher-evaluation systems according to federal mandates. One of these is that teacher evaluations must be tied in part to student performance on the Common Core tests. This new evaluation system will also generate a wealth of information about teachers, which the US Department of Education would also then be able to share for whatever purposes it deems appropriate. The bottom line is this: Common Core and the related components of the entire scheme will result in massive data-collection on both Kansas students and teachers – and the state will have no control over how that data is used.

**In conclusion,** I commend you for taking a closer look at the many ramifications of adopting the Common Core standards and the Smarter Balanced assessments. If legislatures had been given the chance to do this kind of review at the outset, a lot fewer states would have gone down the Common Core path.