



TESTIMONY

TO THE
ASSEMBLY STANDING COMMITTEE ON EDUCATION
ON
DISCLOSURE OF PERSONALLY IDENTIFIABLE
STUDENT INFORMATION BY SCHOOL DISTRICTS
AND THE STATE EDUCATION DEPARTMENT

DATE:
NOVEMBER 20, 2013
ALBANY

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**TESTIMONY OF
ANDREW PALLOTTA
EXECUTIVE VICE PRESIDENT
NEW YORK STATE UNITED TEACHERS
TO THE
ASSEMBLY STANDING COMMITTEE ON EDUCATION
ON
DISCLOSURE OF PERSONALLY IDENTIFIABLE STUDENT INFORMATION
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Chairwoman Nolan and members of the Assembly Education Committee, good afternoon and thank you for inviting me to testify on the subject of disclosure of personally identifiable student information by school districts and the State Education Department.

My name is Andrew Pallotta and I am the Executive Vice President of NYSUT. We represent members in all of the state's 695 school districts, and we appreciate the opportunity to discuss with you our shared concerns with parents and advocates on the issue of privacy in regards to student and educator information.

BACKGROUND

When New York was awarded \$700 million dollars in Race to the Top funding, part of the framework of this education initiative required New York to build a data system that intends to measure student success and inform teachers and principals on how they can improve their practices.

NYSUT believes that we can use data effectively to improve teaching and learning while ensuring the privacy, security and confidentiality of students and educators. NYSUT supports the leadership that Chairwoman Nolan and Assemblyman O'Donnell have shown on this issue.

The Education Department has now begun implementation of the Educational Data Portal (<http://usny.nysed.gov/rttt/data/edp-privacy-parent-faq.html>), which has been cause for concern for educators and parents around the state.

CONCERNS

Data and data driven instruction have been used by school districts for years. Districts frequently contract with vendors to assist districts in the complex systems schools need to operate, including transportation, school lunch, college entrance programs, scheduling, individualized education program management, or electronic student record retention.

What is different in this transition is that for the first time ever, vast amounts of student data will be stored in a centralized location with a vendor that is contracted by the State Education Department. Further, the districts themselves will not be directly contracting

with the vendor for data storage, a seeming loss of local control. It will also be the first time ever that a non-governmental organization will have a monopoly on all data in this state.

To host the new Education Data Portal, The State Education Department has contracted with inBloom, Inc., a nonprofit organization whose stated mission is to inform and involve each student and teacher with data and tools designed to personalize learning. inBloom, a 501 (c)(3), began as a collaboration with the Council of Chief State School Officers and continued from the work of the Shared Learning Collaborative.

inBloom itself has generated some of the concern in the field, as educators and advocates question the lack of public oversight with inBloom, since the board is privately selected and not accountable to the public. The use of inBloom, and the Education Data Portal is already being overshadowed by a growing lack of public trust and concerns about security, privacy, sharing and exploitation of data.

Almost every school district in the state uses some form of student management system (SMS) or data portal. As previously noted, vendors and third parties currently have access to varied and complex student and educator information. Because these systems already remain in place, there is concern amongst educators that the new data portal may be a duplication of efforts since school districts, for many years, have already developed sophisticated data systems. Districts will now have to decide to retain their current systems alongside the Data Portal, systems that have been developed and tuned over the years through local decision making, or abandon their current systems. It is our understanding that most student management systems and other systems a school deploys will be kept in most districts, as these locally developed systems will still be necessary for a district to effectively operate.

Further, the continued use of the new educational data portal will force districts to make a difficult financial choice. Although school districts are now able to use inBloom's data portal for free, in two years, beginning in 2015, school districts will be required to pay an annual fee of no more than \$5 per student and over time it could be as low as \$2 per student.

This raises both fiscal and practical concerns, as it is unclear what happens to the data inBloom would have within their system if school districts choose to no longer use them as a vendor. How long will they keep both student and educator data?

inBloom has the following disclaimer on their website "inBloom, Inc. cannot guarantee the security of the information stored in inBloom or that the information will not be intercepted when it is being transmitted." The sensitivity of student and educator data that could be collected is of great concern. The collection points of data are vast, the 400 category data points which will be transmitted to inBloom and third parties include data not previously submitted - disability, religious affiliation, disciplinary and incarceration background.

We must protect the privacy and confidentiality of students and educators.

The use of cloud computing and cloud based security has also come under discussion. We must ensure that whatever policies are set, security of data must be addressed. Just two weeks ago there was a security breach of data in the Sachem Central School District. The

state must continue to have oversight and data systems must be transparent to ensure that our student and educator data is protected - no matter what system the data resides in.

As you are aware, there is an increasing number of school districts that are forgoing future Race to the Top dollars so they can opt-out of the data portal system; we expect this to continue. The concern is so great that in an increasing trend, districts are actually forgoing educational funding from the federal government to opt-out of the data portal system.

To date, seven out of nine states have pulled out of inBloom or put their plans on hold because of concerns over privacy: Louisiana, Georgia, North Carolina, Kentucky, Delaware, Massachusetts, and as of last week Colorado.

In a letter our national affiliate, the AFT, sent to certain board of directors of inBloom, AFT President Randi Weingarten stated "I urge you to consider measures and structures that would build confidence in inBloom's intentions as well as strengthen and inform its efforts. Two examples would be: (1) to hold public forums, initially in the Phase I states where the questions and concerns are most apparent; and (2) to create a committee to establish guidelines related to the use of teacher data and its relationship to student data. Such a committee should, of course, include practicing teachers."

Michele Cahill, Vice President of the National Program of the Carnegie Corporation of New York and Stacey Childress, Deputy Director of Innovation for the Bill and Melinda Gates Foundation responded in writing that they would "advise inBloom to continue to encourage participating states and districts to ensure public engagement and transparency by: 1. Hosting public forums in states that have engaged with inBloom to address community concerns. and 2. create policy committees - including practicing teachers - to develop guidelines and best practices regarding student and teacher data."

However, to date, no such public forums have taken place and no committees have been formed.

Lastly, it is important to again note that we have used data systems in school districts for many years. But many in the field believe this may be too much change, too soon, at a time when school districts are already dealing with a poorly implemented and problematic roll out of Common Core, increased testing of our students, a new evaluation system, and decreased funding, resources and staff.

And now, we have to deal with the implementation of a new data system. It is one more thing that educators have to find the time to do.

We are committed to working with you to ensure student and educator data is protected, and thank you again for the opportunity to address you on this important issue.

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