

Cheryl Hill, New Milford United for Kids

Before the CT Education Committee on March 19, 2015

Support HB 7017: An Act Concerning Student Data Privacy

and

Support HB 1100: An Act Concerning The Elimination of the Reporting and Collection of Certain Student and Teacher Data

Good afternoon Representative Fleischmann, Senator Slossberg, and Distinguished Members of the Education Committee. My name is Cheryl Hill. I am here on behalf of New Milford United for Kids. We would like to thank the Education Committee for raising HB 7017 and HB 1100. We support both bills and offer additions.

New Milford United for Kids recognizes that there is merit to collecting data and doing research via our schools. But, we are at a crossroads; where the safety of children and teachers is being compromised. Balance needs to be restored. Filling these bills, begins to accomplish this.

The need for parameters around data collection are prompted in part by:

- use of “tagged” curriculum and adaptive assessments
- use of *affective* instruments and psychometrics
- loosening of FERPA in 2011 (Family Educational Rights and Privacy Act), giving the private sector access to confidential and personally identifiable student information without first, obtaining student or parental consent
- having no HIPAA (Health Insurance Portability and Accountability Act) protection for data collected by or within the schools, including medical records
- formation of the SLDS (state longitudinal data system) identical to databases of other states, to form a *de facto* national data base
- formation of CT’s P20 WIN (preschool to 20 workforce Information Network)- the ‘catch-all’ system for this data

We are collecting more data than ever before on students and teachers. The nature of the data has changed, too. Biometric data, that can include things like facial expressions, galvanic skin response, and eye tracking. Non cognitive and predicative modeling data, including attributes, dispositions and psychological resources. Other data, including student and family political, religious and sexual beliefs and practices are also being collected.

A *known* minimum of 400 data points are collected. But, Ed tech companies (Knewton- White House 2009) boast that as many as 10,000 data points are collected per student daily. Most data, falls under FERPA “exclusions” and, none is protected by HIPAA. The data is accessible, to agencies, third parties and vendors. Once collected, all data is vulnerable. We learned; just last week, of data being stolen from *within* the US DOE. Breeches, misuses and child endangerment are inherent.

With these facts in hand, other states have already passed corresponding legislation...with a whopping 133 more bills proposed this year. CT, has none passed and 2 raised.

Shouldn’t our CT children and teachers have  
*at least* the same protections as children in other states?

Today, the Education Committee has that opportunity. HB 7017 and HB 1100 are the vehicles; if you will, ready to be filled. The content, from other states would mean amending CT's WIN with these 5 points:

- 1) Ban biometric data collection
- 2) Collect PPRA-(Protection of Pupil Rights Amendment) covered items *only* with informed, written parental consent
- 3) Provide an annual parent notification of P20 WIN
- 4) Grant parental access to their children's data and have a policy for correcting and expunging data  
(While third parties have access, parental access is currently, specifically denied)
- 5) Create an effective and enforceable data breach policy

We are not reinventing the wheel. Other states, having had the same preexisting conditions as CT, have accomplished this. Attached to my testimony, are links to those states' bills and sample language. Please review and consider adding them to our bills. Because, we can, *and should*, protect our CT children and teachers equitably, too.

We thank the education committee for recognizing the critical need and opportunity to regulate the P20 WIN system *with law* and, for your commitment to the safety of our CT students and teachers.

Respectfully,  
Cheryl Hill  
New Milford United For Kids

The following are (passed) privacy bills from other states. We have provided them in hopes that the attorneys for the Education Committee would include their language in CT's HB 7017 and HB 1100. If you look at nothing else, please review and consider the first-

**Missouri:**

<http://www.house.mo.gov/billtracking/bills141/billpdf/intro/HB1873I.PDF>

Missouri

<http://www.moga.mo.gov/mostatutes/stathtml/16100000961.html>

Colorado

[http://www.leg.state.co.us/clics/clics2014a/csl.nsf/fsbillcont3/5C5145638FE6D9EE87257C5500667C70?open&file=1294\\_enr.pdf](http://www.leg.state.co.us/clics/clics2014a/csl.nsf/fsbillcont3/5C5145638FE6D9EE87257C5500667C70?open&file=1294_enr.pdf)

Florida

<http://www.flsenate.gov/Session/Bill/2014/0195/BillText/c1/PDF>

Louisiana

<http://www.legis.la.gov/legis/ViewDocument.aspx?d=911995>

New Hampshire

<http://www.gencourt.state.nh.us/legislation/2014/HB1587.html>

New York; Establishes a Chief Privacy Officer and a Parent Bill of Rights

<http://public.leginfo.state.ny.us/lawssrch.cgi?NVLWO>:

States that have a breach response law that applies to State Agencies that collect personal Information: Alaska, Delaware, Florida, Idaho, Illinois. Hawaii, Kansas, Louisiana, Maine, Missouri, Nebraska, Nevada, New Hampshire, New Jersey, Ohio, Oklahoma, Oregon, Penn, RI, South Carolina, West Virginia, Tennessee, Texas, Utah, Vermont, Virginia.....Not CT

### Excerpts from other state data privacy bills:

#### Missouri:

It shall be unlawful for any public education agency or educational institution to collect without the informed written consent of a parent or guardian of a student, or in the case of an emancipated minor the informed written consent of the student, any of the following information: Student or family workforce information as defined in this section, except as provided in subdivision of subsection 3 of this section; HB 1873 Student biometric records, as defined in this section; Any data collected through affective computing as defined in this section, including analysis of facial expressions, EEG brain wave patterns, skin conductance, galvanic skin response, heart rate variability, pulse, blood volume, posture, and eye tracking; Any data, including any resulting from state or national assessments, that measure psychological resources, mindsets, learning strategies, effortful control, attributes, dispositions, social skills, attitudes, or intrapersonal resources; Any data collected through predictive modeling, as defined in this section; Information about student or family religious affiliation; Medical, health, and mental health records . . . family Social Security numbers.

#### New Hampshire:

I. The department shall **not** collect or maintain the following data in the SLDS:

... Student birth information, other than birth date and town of birth, Student social security number, Student biometric information, Student postsecondary workforce information including the employer's name, and the name of a college attended outside of New Hampshire, Height and weight, Body mass index (BMI), Political affiliations or beliefs of student or parents... Mother's maiden name, Parent's social security number, Mental and psychological problems of the student or the student's family, Sex behavior or attitudes, Indication of a student pregnancy, Religious or ethical practices, affiliations, or beliefs of the student or the student's parents.

II. No school shall require a student to use an identification device that uses radio frequency identification, or similar technology, to identify the student, transmit information regarding the student, or monitor or track the student without approval of the school board, after a public hearing, and without the written consent of a parent of legal guardian of an affected student which may be withheld without consequence.

III. No school shall install remote surveillance software on a school supplied computing device provided to a student without the approval of the school board, after a public hearing and without the written consent of a parent, foster parent, or legal guardian of the affected student which may be withheld without consequence. In this paragraph, "surveillance" means observing, capturing images, listening, or recording and shall not include locating equipment when there is reason to believe the equipment is about to be or has been stolen or damaged.

#### Idaho:

juvenile delinquency records and criminal records unless required in 11 paragraph (k) of this subsection; medical and health records; student social security number; student biometric information; gun ownership records; sexual orientation; religious affiliation; except for special needs and exceptional students, any data collected pursuant to a statewide assessment via affective computing, including analysis of facial expressions, EEG brain wave patterns, skin conductance, galvanic skin response, heart rate variability, pulse, blood volume, posture and eye tracking, any data that measures psychological resources, mind sets, effortful control, attributes, dispositions, social skills, attitudes or intrapersonal resources.

North Carolina,

- 1) Student biometric information.
- (2) Student political affiliation.
- (3) Student religion."

South Dakota:

No elementary school or secondary school student shall be required to submit to a survey, analysis, or evaluation that reveals information concerning: Political affiliations or beliefs of the student or the student's parent; Mental or psychological problems or aspects of the student or the student's family; Sex behavior or attitudes of the student or the student's family; SB 63 Illegal, anti-social, se 1 lf-incriminating, or demeaning behavior; Critical appraisals of other individuals with whom respondents have close family relationships; Legally recognized privileged or analogous relationships, such as those of lawyers, physicians, and ministers; Religious practices, affiliations, or beliefs of the student or student's parent; Personal or family gun ownership; Income (other than that required by law to determine eligibility for participation in a program or for receiving financial assistance under such program),

Tennessee

Data collected from the use of or testing under educational standards adopted by the state board shall be used for the sole purpose of tracking the academic progress and needs of students. No personally identifiable data on students or their families' religion, political party affiliation, voting history, biometric information or psychometric data shall be collected, tracked, housed with, reported to or shared with the federal government. No student data shall be collected for the purpose of the development of commercial products or services or for political use or purposes.

West Virginia

Data Inventory – District Responsibilities. — A school district shall not report to the state the following individual student data: Juvenile delinquency records; Criminal records; Medical and health records; and Student biometric information. Data Inventory – School Responsibilities. — Schools shall not collect the following individual student data: Political affiliation and beliefs; Religion and religious beliefs and affiliations; Any data collected through affective computing; Any data concerning the sexual orientation or beliefs about sexual orientation of the student or any student's family member; and Any data concerning firearm's ownership by any member of a student family