AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

STRENGTHENING EDUCATION RESEARCH AND PRIVACY PROTECTIONS TO BETTER SERVE STUDENTS

HEARING

BEFORE THE

COMMITTEE ON EDUCATION
AND THE WORKFORCE
U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED FOURTEENTH CONGRESS

SECOND SESSION

HEARING HELD IN WASHINGTON, DC, MARCH 22, 2016

Serial No. 114–45

Printed for the use of the Committee on Education and the Workforce

Available via the World Wide Web: *www.gpo.gov/fdsys/browse/committee.action?chamber=house&committee=education*
or
Committee address: *http://edworkforce.house.gov*

U.S. GOVERNMENT PUBLISHING OFFICE

99–465 PDF WASHINGTON : 2016

For sale by the Superintendent of Documents, U.S. Government Publishing Office
Internet: bookstore.gpo.gov Phone: toll free (866) 512–1800; DC area (202) 512–1800
Fax: (202) 512–2104 Mail: Stop IDCC, Washington, DC 20402–0001

COMMITTEE ON EDUCATION AND THE WORKFORCE

JOHN KLINE, Minnesota, *Chairman*

Joe Wilson, South Carolina
Virginia Foxx, North Carolina
Duncan Hunter, California
David P. Roe, Tennessee
Glenn Thompson, Pennsylvania
Tim Walberg, Michigan
Matt Salmon, Arizona
Brett Guthrie, Kentucky
Todd Rokita, Indiana
Lou Barletta, Pennsylvania
Joseph J. Heck, Nevada
Luke Messer, Indiana
Bradley Byrne, Alabama
David Brat, Virginia
Buddy Carter, Georgia
Michael D. Bishop, Michigan
Glenn Grothman, Wisconsin
Steve Russell, Oklahoma
Carlos Curbelo, Florida
Elise Stefanik, New York
Rick Allen, Georgia

Robert C. "Bobby" Scott, Virginia
Ranking Member
Rubén Hinojosa, Texas
Susan A. Davis, California
Raúl M. Grijalva, Arizona
Joe Courtney, Connecticut
Marcia L. Fudge, Ohio
Jared Polis, Colorado
Gregorio Kilili Camacho Sablan, Northern Mariana Islands
Frederica S. Wilson, Florida
Suzanne Bonamici, Oregon
Mark Pocan, Wisconsin
Mark Takano, California
Hakeem S. Jeffries, New York
Katherine M. Clark, Massachusetts
Alma S. Adams, North Carolina
Mark DeSaulnier, California

Juliane Sullivan, *Staff Director*
Denise Forte, *Minority Staff Director*

C O N T E N T S

	Page
Hearing held on March 22, 2016	1
Statement of Members:	
Kline, Hon. John, Chairman, Committee on Education and the Workforce	1
Prepared statement of	3
Scott, Hon. Robert C. "Bobby", Ranking Member, Committee on Education and the Workforce	4
Prepared statement of	05
Statement of Witnesses:	
Campbell, Neil, Mr., Director, Next Generation Reforms, Foundation for Excellence in Education, SC	14
Prepared statement of	16
Hannaway, Jane, Ms., Professor, McCourt School, Georgetown University	18
Prepared statement of	20
Stickland, Rachael, Ms., Co-Founder and Co-Chair, Parent Coalition for Student Privacy	07
Prepared statement of	09
Swiggum, Robert, Mr., Deputy Superintendent of Technology Services, Georgia Department of Education	26
Prepared statement of	28

STRENGTHENING EDUCATION RESEARCH AND PRIVACY PROTECTIONS TO BETTER SERVE STUDENTS

Tuesday, March 22, 2016
House of Representatives
Committee on Education and the Workforce
Washington, D.C.

The committee met, pursuant to call, at 10:00 a.m., in Room 2175 Rayburn House Office Building. Hon. John Kline [chairman of the committee] presiding.

Present: Representatives Kline, Wilson, Foxx, Roe, Thompson, Walberg, Salmon, Guthrie, Rokita, Heck, Messer, Byrne, Brat, Carter, Bishop, Grothman, Curbelo, Stefanik, Allen, Scott, Fudge, Polis, Bonamici, Pocan, Takano, Jeffries, Clark, Adams, and DeSaulnier.

Staff Present: Janelle Belland, Coalitions and Members Services Coordinator; Tyler Hernandez, Deputy Communications Director; Amy Raaf Jones, Director of Education and Human Resources Policy; Nancy Locke, Chief Clerk; Dominique McKay, Deputy Press Secretary; Brian Newell, Communications Director; Krisann Pearce, General Counsel; Alex Ricci, Legislative Assistant; Mandy Schaumburg, Education Deputy Director and Senior Counsel; Alissa Strawcutter, Deputy Clerk; Juliane Sullivan, Staff Director; Leslie Tatum, Professional Staff Member; Sheariah Yousefi, Legislative Assistant, Tylease Alli, Minority Clerk/Intern and Fellow Coordinator; Austin Barbera, Minority Staff Assistant; Jacque Chevalier, Minority Senior Education Policy Advisor; Denise Forte, Minority Staff Director; Alexander Payne, Minority Education Policy Advisor; Veronique Pluviose, Minority Civil Rights Counsel; Rayna Reid, Minority Education Policy Counsel; Saloni Sharma, Minority Press Assistant.

Chairman KLINE. A quorum being present, the Committee on Education and the Workforce will come to order. Good morning. I want to extend a warm welcome to our distinguished panel of witnesses. Thank you for joining us to share your thoughts and expertise on a number of complex yet important issues affecting students across the country.

Education research has long played an important role in our Nation's classrooms. States and school districts use research to identify teaching and learning strategies that improve classroom instruction and those that do not.

Education research also provides parents, teachers, school leaders, and policymakers with the information they need to determine if Federal programs are delivering real results for students and taxpayers.

For more than 40 years, the Federal Government has partnered with the private sector and State and local leaders to help facilitate this research. The partnership was reaffirmed in 2002 when Congress passed the Education Sciences Reform Act. The law established the Institute of Education Sciences to take the lead on gathering information about educational progress, conducting research on teacher practices, and evaluating the quality of Federal programs.

The Institute has helped provide greater transparency and accountability and has helped implement successful education practices in countless schools.

That does not mean there are not areas for improvement. In fact, the nonpartisan Government Accountability Office has cited several weaknesses Congress needs to address, including duplicative research and a failure to disseminate key information in a timely manner.

Fortunately, because of the work of this committee, we are well on our way to reforming the law. In the spring of 2014, the committee passed and the House later adopted by voice vote the bipartisan Strengthening Education Through Research Act.

The legislation included a number of important reforms, such as streamlining the Federal education research system, requiring regular evaluations of research programs, and strengthening the autonomy of Federal researchers to ensure they are not subject to political bias and interference.

Many of us were disappointed when the Senate was unable to push the bill across the finish line in the last Congress. However, we are pleased the Senate has taken action on nearly identical legislation this year, and it is my hope we can complete this work this year.

Now, any effort to improve education research should also strengthen student privacy protections. New technology has made it easier to analyze student information and develop new ways to improve learning, but it has also left parents and students more vulnerable to the misuse of student information.

To make matters worse, student privacy protections are woefully outdated. Long before online learning tools and Cloud-based computing systems were the norm, Congress passed the Family Educational Rights and Privacy Act, FERPA. The intent of the law was to safeguard student privacy and give parents the peace of mind that their children's academic records and personal information were safe and secure.

That was 1974, and a lot has changed since then. More student information is being collected and shared than ever before, often without the knowledge of parents and school officials.

A proposal introduced by Republicans and Democrats will bring the law into the 21st century. Among other reforms, the Student Privacy Protection Act will provide greater clarity and transparency over what information schools can use, collect, and share for educational purposes.

The legislation will also strengthen the right of parents to prevent the sharing of their children's information and enhance communication between parents and school leaders.

Both proposals, the Strengthening Education Through Research Act and the Student Privacy Protection Act, reflect the hard work of members on both sides of the aisle, particularly the ranking member of the K–12 Subcommittee, Congresswoman Fudge; a former colleague from New York, Carolyn McCarthy; and last, but certainly not least, Congressman Todd Rokita, the chairman of the K–12 Subcommittee who remains a strong leader on these vital issues.

Improving education remains a leading priority for our committee, and it is my hope we can take additional steps to improve education by enhancing education research and strengthening student privacy protections.

Before I recognize Ranking Member Scott, I want to make sure that I express my condolences, and I am sure our condolences, to those who lost loved ones in the Belgium terrorist attack. Our thoughts and prayers are with the victims and their families during this very difficult time.

I now recognize Ranking Member Bobby Scott for his opening remarks.

[The information follows:]

Prepared Statement of Hon. John Kline, Chairman
Committee on Education and the Workforce

Good morning. I want to extend a warm welcome to our distinguished panel of witnesses. Thank you for joining us to share your thoughts and expertise on a number of complex yet important issues affecting students across the country.

Education research has long played an important role in our nation's classrooms. States and school districts use research to identify teaching and learning strategies that improve classroom instruction and those that don't. Education research also provides parents, teachers, school leaders, and policymakers with the information they need to determine if federal programs are delivering real results for students and taxpayers.

For more than 40 years, the federal government has partnered with the private sector and state and local leaders to help facilitate this research. The partnership was reaffirmed in 2002 when Congress passed the Education Sciences Reform Act. The law established the Institute of Education Sciences to take the lead on gathering information about educational progress, conducting research on teaching practices, and evaluating the quality of federal programs. The institute has helped provide greater transparency and accountability and has helped implement successful education practices in countless schools.

But that doesn't mean there aren't areas for improvement. In fact, the nonpartisan Government Accountability Office has cited several weaknesses Congress needs to address, including duplicative research and a failure to disseminate key information in a timely manner. Fortunately, because of the work of this committee, we are well on our way to reforming the law. In the spring of 2014, the committee passed – and the House later adopted by voice vote – the bipartisan Strengthening Education through Research Act.

The legislation included a number of important reforms, such as streamlining the federal education research system, requiring regular evaluations of research programs, and strengthening the autonomy of federal researchers to ensure they are not subject to political bias and interference. Many of us were disappointed the Senate was unable to push the bill across the finish line in the last Congress. However, we're pleased the Senate has taken action on nearly identical legislation this Congress, and it's my hope we can complete this work this year.

Now, any effort to improve education research should also strengthen student privacy protections. New technology has made it easier to analyze student information and develop new ways to improve learning, but it has also left parents and students

more vulnerable to the misuse of student information. To make matters worse, student privacy protections are woefully outdated.

Long before online learning tools and cloud-based computing systems were the norm, Congress passed the Family Educational Rights and Privacy Act, or FERPA. The intent of the law was to safeguard student privacy and give parents the peace of mind that their children's academic records and personal information were safe and secure. But that was 1974, and a lot has changed since then. More student information is being collected and shared than ever before, often without the knowledge of parents and school officials.

A proposal introduced by Republicans and Democrats will bring the law into the twenty-first century. Among other reforms, the Student Privacy Protection Act will provide greater clarity and transparency over what information schools can use, collect, and share for educational purposes. The legislation will also strengthen the right of parents to prevent the sharing of their children's information and enhance communication between parents and school leaders.

Both proposals – the Strengthening Education through Research Act and the Student Privacy Protection Act – reflect the hard work of members from both sides of the aisle, particularly the ranking member of the K–12 subcommittee, Congresswoman Fudge, our former colleague from New York, Carolyn McCarthy, and last but certainly not least, Congressman Todd Rokita, the chairman of the K–12 subcommittee, who remains a strong leader on these vital issues.

Improving education remains a leading priority for our committee, and it's my hope we can take additional steps to improve education by enhancing education research and strengthening student privacy protections. I look forward to today's discussion, learning more about these issues, and ultimately moving forward with commonsense reforms that will make a positive difference in the lives of our nation's students and families. With that, I will recognize Ranking Member Bobby Scott for his opening remarks.

Mr. SCOTT. Thank you, Mr. Chairman, and thank you for recognizing our friends in Belgium. And I want to thank our panelists for being with us today to testify before the committee.

Mr. Chairman, gone are the days when education was flashcards and workbooks. Today's students use electronic tablets, smartphones, apps, online study tools, and various other technological resources to aid them in their studies.

Teachers have the ability to extend learning beyond the classroom using digital learning platforms to share multimedia resources and engage parents in their children's learning.

Educational technology generates information that can be instrumental in improving a student's learning experience. The data from these tools allow teachers to more accurately assess student progress and provide interventions to ensure the children are learning. Data can also assist schools in making district strategy and curriculum decisions.

Many States now use longitudinal data systems to link student achievement data from pre-K through grade 12, even past college and into the workforce. This enables district and State leaders to make informed data-driven policy choices.

The Institute of Education Sciences, the IES, also helps to provide education practitioners with scientifically sound, relevant, and accessible findings that can inform decision-making and educational practice.

Through the delivery of the National Assessment of Educational Progress and various research projects and surveys, even randomized control trials and provision of technical assistance to States, and dissemination of research, IES provides a novel approach to harnessing data collection and educational technology to improve educational practice and systems management.

While the use of technology in education continues to expand, we must take the necessary steps to protect the privacy and data of students and their families. The Family Educational Rights and Privacy Act was passed 40 years ago to address privacy concerns in a time of paper student records.

Innovative educational technology tools capture large amounts of student data, and many districts now contract with private vendors to use online, Cloud-based storage for students.

With this new technology, Congress must ensure privacy of the new data. Congress must ensure that student data is being used only for defined educational purposes, and cannot be sold or used for private companies' financial gain. Parents should know who has access to student data and how it is being used and protected. Teachers and school leaders need to understand how to properly protect student information while taking advantage of powerful digital learning tools at their disposal.

As we expand the student privacy and improve educational research and data collection, we need to make sure that we do not compromise on privacy. Students, teachers, and parents need to feel comfortable that student data is protected and at the same time, we need to be careful not to limit the advancement of new educational technologies or the breadth of ways data can be used to improve student performance.

I look forward to hearing from our witnesses on how this can be done and other relevant issues on this topic.

Thank you, Mr. Chairman.

[The information follows:]

Prepared Statement of Hon. Robert C. "Bobby" Scott, Ranking Member, Committee on Education and the Workforce

Thank you Chairman Kline for holding this hearing, and thank you to the panelists for taking time out of your day to testify before the Committee.

Gone are the days when education was flashcards and workbooks. Today's students use electronic tablets and smartphones, apps, online study tools, and various other technological resources to aid them in their studies. Teachers have the ability to extend learning beyond the classroom using digital learning platforms to share multimedia resources and engage parents in their children's learning.

Educational technology generates information that can be instrumental in improving a student's learning experience. The data from these tools allow teachers to more accurately assess student progress and provide

interventions to ensure children are learning. Data can also assist schools in making district strategy and curriculum decisions. Many states now use longitudinal data systems to link student achievement data from pre-K through grade 12, or even past college and into the workforce. This enables district and state leaders to make informed, data-driven policy choices.

The Institute of Education Sciences (IES) also helps provide education practitioners with scientifically-sound, relevant, and accessible findings that can inform decision-making and instructional practice. Through the delivery of the National Assessment of Educational Progress, various research projects and surveys, randomized control trials, provision of technical assistance to states, and dissemination of research, IES provides a novel approach to harnessing data collection and educational technology to improve instructional practice and systems management.

While the use of technology in education continues to expand, we must take the necessary steps to protect the privacy and data of students and their families. The Family Educational Rights and Privacy Act was enacted 40 years ago to address privacy concerns in a time of paper student records. Innovative educational technology tools capture large amounts of student data, and many districts now contract with private vendors to use online, cloud-based storage for students.

Congress must ensure student data is being used only for defined educational purposes and cannot be sold or used for private companies' financial gain. Parents

should know who has access to student data and how it is being used and protected. And teachers and school leaders need to understand how to properly protect student information while taking advantage of the powerful digital learning tools at their disposal.

As we examine student privacy and improve education research and data collection, we need to balance privacy with innovation. Students, teachers, and parents need to feel comfortable that student data is protected. At the same time, we need to be careful not to limit the advancement of new educational technologies or the breadth of ways data can be used to improve student performance.

I look forward to hearing from our witnesses on this balancing act and other relevant issues regarding these topics. Mr. Chairman, I yield back.

Chairman KLINE. I thank the gentleman. Pursuant to Committee Rule 7(c), all members will be permitted to submit written statements to be included in the permanent hearing record. Without objection, the hearing record will remain open for 14 days to allow such statements and other extraneous material referenced during the hearing to be submitted to the official hearing record.

Before I introduce our distinguished witnesses, I want to make sure they know and all here in the room that as is usual here in the House of Representatives, we have multiple hearings going on. This is one of those times where there are a number of members of this committee, including myself, who are also members of the House Armed Services Committee, and the Secretary of Defense and the chairman of the Joint Chiefs of Staff are testifying there on the morning of the horrific attack in Brussels.

Even more turmoil than usual as members are moving back and forth between those hearings, and I want to make sure you know that in a little while, I also am going to have to leave and yield the gavel, I think, to Chairman Rokita.

Okay, let me introduce our witnesses. Ms. Rachael Stickland serves as the co-founder and co-chair for the Parent Coalition for Student Privacy in Littleton, Colorado. Ms. Stickland is also the founder of School Belongs to the Children, an organization that protects student privacy and advocates for parental rights in Colorado.

Mr. Neil Campbell serves as director for Next Generation Reforms at the Foundation for Excellence in Education here in Washington, D.C. Previous to this, Mr. Campbell served as the director of Strategic Initiatives at Education Elements, an education technology company that helps schools design and implement personalized learning solutions.

Dr. Jane Hannaway serves as professor at McCourt School of Public Policy at Georgetown University here in Washington, D.C. Her work focuses on the effects of education reforms on student outcomes, as well as on school policies and practices.

Mr. Robert Swiggum serves as the deputy superintendent of Technology Services at the Georgia Department of Education. Mr. Swiggum leads the technical services data collections, instructional technology, and virtual school functions for the Department.

Let me now ask our witnesses to stand, and please raise your right hand.

[Witnesses sworn.]

Chairman KLINE. Let the record reflect the witnesses answered in the affirmative, as they always do, I might add.

Before I recognize each of you to provide your testimony, let me remind you of the lighting system. It is pretty straightforward. You get a green light, a yellow light, when you have 1 minute to go, and then a red light. When you get the red light, please try to expeditiously wrap up your testimony.

We have big clocks in the back of the room, so we are watching that from here. I am loath to gavel down a witness when they are giving testimony, but with four witnesses and members who are going to want to ask questions, I would ask that you try to wrap it up at 5 minutes. Then as always, I will try to keep our members very tightly to the 5-minute rule. Because those big clocks are there, we have no excuses. We can see it.

Ms. Stickland, you are recognized.

TESTIMONY OF RACHAEL STICKLAND, CO–FOUNDER AND CO–CHAIR, PARENT COALITION FOR STUDENT PRIVACY

Ms. STICKLAND. Good morning, Chairman Kline, Ranking Member Scott, and distinguished members of the committee. I would like to thank you for the opportunity to testify today on behalf of parents concerned about strengthening privacy protections to better serve students.

My name is Rachael Stickland. I am a parent of two public school children in Colorado, and I am co-founder and co-chair of the Parent Coalition for Student Privacy, which represents a wide coalition of parents from across the Nation, including Democrats, Republicans, and Independents, public school parents and home schoolers, professionals, and stay-at-home mothers.

We receive no funding from special interests, and we are united in our effort to protect our children and their privacy.

I would like to focus my testimony today on the need to strengthen Federal educational law to meet the challenges of our modern educational system and to address current threats to student privacy.

Today's schools collect more information on students than most parents realize. While some was required by No Child Left Behind and State statutes, much of the data today actually appears to transcend from legal requirements. Beyond transcript type data, like student names, addresses, courses taken, and grades earned, schools also collect hundreds of pieces of information, like disabilities and interventions, medical information, disciplinary incidents, scores on standardized exams, and recommendations for grade retention.

Once information is collected at the local level, much of it is pushed up to the State to be maintained in the State unit record system called the Statewide Longitudinal Data System or SLDS, or the P–20W, which stands for Preschool Through Workforce.

These unit record systems have been funded partly through Federal grants. Forty-seven States, in fact, have received at least one SLDS grant. In my State of Colorado, our SLDS has the capability to maintain approximately 400 data elements on each individual child, and will eventually link from the Department of Education to five other State agencies, including Human Services, Corrections, and Public Safety.

Parents find this very troubling because the individually identifiable life information that is so neatly organized in these systems effectively become lifelong dossiers, and if or when compromised, could give away the entire life history of every student in a State.

SLDS's purported benefits are to help States, districts, schools, and educators to make data-informed decisions as well as to facilitate research to increase student achievement and close achievement gaps.

Parents don't disagree with the premise that data can and should be used for purposes to help advance their children's education. However, availability of a dataset as rich as SLDS quickly turns into the go-to data mart for unauthorized as well as authorized access by other institutions, organizations, and State agencies.

While there have been no public reports of large-scale breaches of SLDS, higher education unit record systems are routine targets of hackers. A 2014 breach affected 300,000 current and former students and staff of the University of Maryland, and just last month, 80,000 UC Berkeley students, alumni, and faculty had their information compromised.

Also last month a California organization petitioned the courts for access to information held in the state SLDS. The Federal judge ruled in favor of the plaintiff and ordered the release of records for 10 million California students, dating back to 2008.

According to media reports, highly sensitive information on every child in a State's education system were to be made available to the plaintiff's legal team, including student names, addresses, disciplinary records, grades, test scores, and even details such as pregnancy, addiction, and criminal history.

The judge backtracked on her decision slightly this month but only because of parental backlash. It is also worth nothing that the judge has since suggested modernizing FERPA.

As Congress weighs competing interests in the student privacy debate, parents in our coalition urge you to always first think of the individual child. Allowing or incentivizing the government to track autonomous individuals through most of their lives in the name of research has speculative benefits at best and can lead to profiling, stereotyping, and discrimination that can hinder a child's potential for growth and success.

Should Congress continue supporting a development and expansion of SLDS through Federal grants? And as you contemplate student privacy as a legislative matter, please consider our coalition's recommendations outlined in my written testimony, which includes increased transparency, citizen oversight of SLDS, a ban on commercial uses of student information, strong security protections, increased parental and student rights, and strong enforcement of the law.

Thank you again for the opportunity to participate in this hearing today and for your consideration of my testimony.

[The statement of Ms. Stickland follows:]

Testimony of Rachael Stickland, Co-Founder, Co-Chair
Parent Coalition for Student Privacy

Before the United States House of Representatives
House Committee on Education and the Workforce

Hearing on Strengthening Education Research and Privacy Protections to Better Serve Students

March 22, 2016

Good morning Chairman Kline, Ranking Member Scott and distinguished members of the Committee. I would like to thank you for the opportunity to testify today on behalf of parents concerned about strengthening privacy protections to better serve students.

My name is Rachael Stickland. I am a parent of two public school children in Colorado, and I am co-founder and co-chair of the Parent Coalition for Student Privacy which represents a wide coalition of parents from across the nation, from Florida to Washington, California to New York, including Democrats, Republicans and Independents, public school parents and homeschoolers, professionals and stay-at-home mothers. We receive no funding from special interests, and are united in our effort to protect all children and their privacy. We came together in July 2014 after working together as individuals and groups to defeat the widely criticized inBloom project.[1]

The controversy surrounding this corporation that was designed to collect the personal information from students in nine states and districts sparked a new awareness among parents nationwide about how widely their children's personal data was already being disclosed to third parties beyond the schoolhouse doors, and how few protections existed against its misuse. Though inBloom is now gone, parents continue to seek answers to exactly what information pertaining to their children is being collected, who has access to the information and for what purpose, and when that information will be destroyed.

I would like to focus my testimony today on the need to strengthen federal educational law to meet the challenges of our modern educational ecosystem and to address the current threats to student privacy. Specifically, I will place an emphasis on personal student information collected by schools and school districts that are then disclosed to state education departments and maintained in Statewide Longitudinal Data Systems or SLDS.

Currently, schools collect much more information on students than most parents realize. While some was required by *No Child Left Behind* and individual state mandates, much of the data now collected appears to transcend legal requirements. Beyond standard transcript-type data like student names, addresses, courses taken, grades earned and days absent, schools also collect hundreds of pieces of information like disabilities and interventions, medical information from 504 plans, disciplinary incident reports, scores on standardized exams, school readiness scores and recommendations for grade retention. Additionally, schools or commercial vendors used by schools collect highly personal information from students as they use online education tools such as Google Apps for Education or Khan Academy.

---

[1] *See* Benjamin Herold, inBloom to shut down amid growing privacy concerns, Education Week, Apr. 21, 2014 http://blogs.edweek.org/edweek/DigitalEducation/2014/04/inbloom_to_shut_down_amid_growing_data_privacy_concerns.html

Once this information is collected at the local level, much of it is pushed up to the state to be maintained in the state unit record system called the SLDS or the P-20W (preschool through workforce). These unit record systems have been funded partly through federal grants awarded in five rounds of funding from 2005-2012. Forty seven of fifty states as well as the District of Columbia, Puerto Rico, and the Virgin Islands have received at least one SLDS grant.[2] These systems are intended to match students and teachers for the purpose of teacher evaluation, and to promote interoperability across multiple state agencies, as well as across state lines via multi-state consortia.

Rather than simply collecting standard administrative data, these SLDS systems have the capability to maintain upwards of 400 data elements on each individual child. According to the Colorado State Department of Education, our SLDS project is designed to link information from the education department to five other state agencies, including the Colorado Department of Higher Education (CDHE), Colorado Department of Labor and Employment (CDLE), Colorado Department of Corrections (CDOC), Colorado Department of Public Safety (CDPS) and the Colorado Department of Human Services (CDHS). [3] The individually identifiable life-information that is so neatly organized in these systems effectively become life-long dossiers and, if or when compromised, could give away the entire life history of every student in a state.

Interagency linkages like Colorado's SLDS and even interstate linkages [4] would not have been permissible prior to the unilateral regulatory changes to the federal student privacy law known as FERPA by the Department of Education in 2011. [5] The parents we represent strongly urge Congress to strengthen FERPA and restore the robust protections it originally contained that prohibited the expansion of the SLDS program.

SLDS's purported purpose is to help states, districts, schools, educators, and other stakeholders make data-informed decisions to improve student learning and outcomes; as well as to facilitate research to increase student achievement and close achievement gaps. Parents don't disagree with the premise that data can and should be used for purposes to help advance their children's education. However, parents are concerned about SLDS because of the lack of compelling governmental interest which would justify this level of tracking that serves as an open invitation to mission creep. The availability of a dataset as rich as SLDS quickly turns it into the go-to data mart for authorized or unauthorized use by other institutions, organizations, and state agencies.

For example, earlier this year a California organization filed a lawsuit alleging that the state is failing to ensure districts provide services to all children who need them. The federal judge ruled in favor of the plaintiff and ordered the release of records for 10 million California students dating back to 2008

---

[2] *See* U.S. Department of Education, Institute of Education Sciences, National Center for Education Statistics Statewide Longitudinal Data Systems Grant Program http://nces.ed.gov/programs/slds/stateinfo.asp
[3] *See* Colorado Department of Education's Statewide Longitudinal Data System "RISE" project https://www.cde.state.co.us/rise/connect
[4] *See* Western Interstate Commission for Higher Education report *Beyond Borders: Understanding the Development and Mobility of Human Capital in an Age of Data-Driven Accountability* http://www.wiche.edu/info/longitudinalDataExchange/publications/MLDE_BeyondBorders.pdf
[5] *See* U.S. Department of Education Family Education Rights and Privacy Act, Final Rule Dec. 2, 2011 https://www.gpo.gov/fdsys/pkg/FR-2011-12-02/pdf/2011-30683.pdf

maintained in the state SLDS known as CALPADS.[6] Highly sensitive information on every child in the state's education system were to be made available to the plaintiff's legal team including student "names, addresses, disciplinary records, grades, test scores, and even details such as pregnancy, addiction and criminal history."[7] Since the initial ruling in February, thousands of parents including the California PTA vehemently protested this unprecedented release. Because of the backlash, the judge has since modified her order allowing the plaintiff's legal team to access and query the CALPADS data system rather than receive a full copy of the system. It's worth noting that this disclosure of student information is authorized under current federal law, and as a result of the controversy the judge has since suggested modernizing FERPA.[8]

Another example of the unintended yet currently allowable use of SLDS was the attempt by the New York State Education Department, without public input or comment, to declare that all data in the SLDS should be placed into the state archives for a hundred years or more with no clear restrictions on access. After parent advocates discovered this decision in an obscure memo and protested, the state is now reconsidering this decision, but such a reckless policy without strong citizen oversight should never be allowed.[9] Should children of uniformed parents be any less protected?

Examples of authorized uses of SLDSs such as the California and New York cases are threat enough in their own right, but the high probability of breach or abuse should give advocates of maximal data collection in SLDS considerable pause. There are currently no specific security protections required for the collection and storage of this data unlike those required in HIPPA, for example, even though education records maintained by the SLDS often contain equally sensitive health information.

As Congress weighs competing interests in the student privacy debate, parents in our coalition urge you to always first think of the individual child. Allowing or incentivizing the government to track autonomous individuals through most of their lives in the name of research has speculative benefits at best and can instead lead to profiling, stereotyping and discrimination that can hinder a child's potential for growth and success. We agree with both the testimony provided by National PTA[10] and Microsoft[11] to the House Subcommittee on Early Childhood, Elementary and Secondary Education in February 2015 that an individual owns his or her own data. Parents believe this to mean the right to decide with whom it will be shared and under what conditions.

Recommendations

---

[6] *See* Elizabeth Weise, Calif. judge allows data release on 10M students, USA Today, Feb. 17, 2016 http://www.usatoday.com/story/tech/news/2016/02/16/morgan-hill-kimberly-mueller-california-public-schools-information-disabled-release-10-million/80472900/

[7] *See* Sharon Noguchi, Judge backtracks on release of California student records, San Jose Mercury News, Mar. 4, 2016 http://www.mercurynews.com/bay-area-news/ci_29590794/judge-pulls-back-from-calif-student-records-release?source=infinite-up

[8] *Ibid*

[9] New York Archives, Records Disposition Request rec-3, dated 12/20/13

[10] *See* Ms. Shannon Servier, National PTA, testimony before the U.S. House of Representatives Subcommittee on Early Childhood, Elementary and Secondary Education, Feb. 12, 2015 http://edworkforce.house.gov/uploadedfiles/sevier_testimony_final.pdf

[11] *See* Ms. Allyson Knox, Microsoft, testimony before the U.S. House of Representatives Subcommittee on Early Childhood, Elementary and Secondary Education, Feb. 12, 2015 http://edworkforce.house.gov/uploadedfiles/knox_testimony_final.pdf

Should Congress continue supporting the development and expansion of SLDS through federal grants, and as you contemplate student privacy as a legislative matter, please consider our coalition's recommendations for the SLDS program as well as the use of personal student information by schools and districts:

1. Increased transparency: At minimum, SLDS unit record systems must be subject to the Privacy Act of 1974's code of fair information practices that governs the collection, maintenance, use, and dissemination of information about individuals that is maintained in systems of records by federal agencies.[12] Optimally, parents must be told what student information is collected and by whom, how it is to be used and when it is to be destroyed, and to be notified in advance of any disclosure of personal student information to any persons, companies or organizations outside of the school or district.

2. In addition to increased transparency, parents also advocate for state Institutional Review Boards or IRBs to vet all uses of personal data, to question whether de-identified, anonymized or aggregated data could not be used in its stead, and to ensure that there are strict security standards and requirements for data destruction. We also urge that citizen oversight of the SLDS be required.

3. There should be no commercial uses of personal student information; or use for any marketing purposes should be banned.

4. Security protections: At minimum, there must be encryption of ALL personal data at motion and at rest, required training for all individuals with access to personal student data, audit logs, and security audits by an independent auditor.

5. Increased parent/student rights: Re-disclosures by vendors or any other third parties to additional individuals, sub-contractors, or organizations should be prohibited without parental notification and consent. Parents must be allowed to see any data collected directly from their child by a school or a vendor given access through the school, delete the data if it is in error or is nonessential to the child's transcript, and opt out of further collection, unless that data is part of their child's educational records at

---

[12] The Privacy Act of 1974, 5 U.S.C. § 552a, establishes a code of fair information practices that governs the collection, maintenance, use, and dissemination of information about individuals that is maintained in systems of records by federal agencies. The Privacy Act of 1974 requires each federal agency that maintains a system of records shall publish in the Federal Register upon establishment or revision a notice of the existence and character of the system of records, which notice shall include:
(A) the name and location of the system;
(B) the categories of individuals on whom records are maintained in the system;
(C) the categories of records maintained in the system;
(D) each routine use of the records contained in the system, including the categories of users and the purpose of such use;
(E) the policies and practices of the agency regarding storage, retrievability, access controls, retention, and disposal of the records;
(F) the title and business address of the agency official who is responsible for the system of records;
(G) the agency procedures whereby an individual can be notified at his request if the system of records contains a record pertaining to him;
(H) the agency procedures whereby an individual can be notified at his request how he can gain access to any record pertaining to him contained in the system of records, and how he can contest its content; and;
(I) the categories of sources of records in the system.

school. Any data-mining for purpose of creating student profiles, even for educational purposes, must be done with full parental knowledge. Parental consent must be required for disclosure for highly sensitive information such as their child's disabilities, health and disciplinary information. We also urge that HIPPA be used as a model which requires individual notice and consent before personal health information can be used in research, with few exceptions.

6. Enforcement: Any federal student privacy law should specify fines if the school, district or third party violates the law, their contracts and/or privacy policies; with parents able to seek redress on behalf of their children as well.

Thank you again for the opportunity to participate in this hearing and for your consideration of my testimony.

Chairman KLINE. Thank you. Mr. Campbell, you are recognized for 5 minutes.

TESTIMONY OF NEIL CAMPBELL, DIRECTOR, NEXT GENERATION REFORMS, FOUNDATION FOR EXCELLENCE IN EDUCATION

Mr. CAMPBELL. Thank you, Chairman Kline, Ranking Member Scott, and members of the committee. Thank you for inviting me to testify today.

I am the policy director for Next Generation Reforms at the Foundation for Excellence in Education. We are an education reform organization that designs and promotes education policy through the development of model policies, implementation strategies, and public outreach.

My work at the Foundation centers on State policies that encourage and support high-quality personalized and blended learning, from course access policies that ensure students have access to a range of advanced and elective courses their schools may not be able to offer, to supporting States piloting innovative school models, to developing privacy policies that include strong governance, transparency, and security protections.

The model private policy we developed was used as a starting point last year by legislators in Georgia. The resulting bill unanimously passed the House and Senate there before being signed into law.

This new law requires an inventory of data the State collects, accelerates the timing for parents to be able to access and review their child's education record, avoids unnecessary data collection, and requires the development of a data security plan for the State data system.

Effective privacy policies require a delicate balance. Finding an intersection that respects parents' desire to protect information about their children acknowledges the capacity of State and local education agencies and allows for innovative practices in schools.

That third point about allowing for innovation is critical in two ways. First, that teachers and leaders are able to effectively utilize technology in their schools. School systems need to be able to contract with service providers for educational software, online grade books, or parent communication tools that meet their needs and comply with applicable Federal and State privacy laws.

Second, that researchers, after strong review processes and subject to confidentiality and security requirements, are able to access data needed to evaluate the effectiveness of policies and classroom practices.

One of the policies our Foundation has worked on extensively deals with K–3 reading. By the end of third grade, students must make the transition from learning to read to reading to learn. If they are not ready to do that, it becomes continually more difficult to keep up with the science, history, literature, and even math their teachers cover in class.

Longitudinal student level research showed that nearly 90 percent of students who failed to earn a high school diploma were struggling readers in third grade. These and many related research insights served as a basis for efforts like the Annie E. Casey Foun-

dation led Campaign for Grade Level Reading and comprehensive reading policies in States like Florida, Mississippi, and Colorado. These policies required districts to identify struggling readers early, notify parents if children have reading difficulties, and provide intensive interventions and supports.

Without the ability to study student level longitudinal data, it would not have been possible to reach the same conclusions and much harder to build the support for early identification and intervention. Researchers could identify the reading difficulties of dropouts but not that reading in third grade was such a critical gateway for those students.

Without subsequent research, teachers and school leaders would not have critical information needed to improve their reading performance of today's students, what interventions are most likely to succeed, for which students, when do they need to begin, how long do they need to continue.

As important as research is, we know it is even more important to protect students' privacy. We are pleased to see the proposed updates to the Education Sciences Reform Act worked to find this balance and includes strong requirements before researchers can access student level data. Requirements that proposals detail the research intent for data and how the confidentiality of data about students will be protected are valuable improvements.

Thank you again for the opportunity to testify today, and I would be happy to answer any questions after the other speakers.

[The statement of Mr. Campbell follows:]

Testimony for House Education and the Workforce Committee
"Strengthening Education Research and Privacy Protections to Better Serve Students"
March 22, 2016

Testimony from Neil Campbell

Chairman Kline, Ranking Member Scott, and members of the Committee, thank you for inviting me to testify today.

I am the Policy Director for Next Generation Reforms at the Foundation for Excellence in Education. We are an education reform organization that designs and promotes education policy through the development of model policies, implementation strategies, and public outreach.

My work at the Foundation centers on state policies that encourage and support high quality personalized and blended learning. From Course Access policies that help ensure students have access to a range of advanced and elective courses their schools may not be able to offer, to supporting states piloting innovative school models, to developing privacy policies that include strong governance, transparency, and security protections.

The model privacy policy we developed was used as a starting point last year by legislators in Georgia and unanimously passed the state's House and Senate before being signed into law. This new law requires an inventory of data the state collects, accelerates the timing for parents to be able to access and review their child's education record, avoids unnecessary data collection, and requires the development of a data security plan for the state data system.

Effective privacy policies require a delicate balance - finding an intersection that respects parents' desire to protect information about their children, acknowledges the capacity of state and local education agencies, and allows for innovative practices in schools.

That third point about allowing for innovation is critical in two ways:

- First, that teachers and leaders are able to effectively utilize technology in their schools. School systems need to be able to contract with service providers for educational software, online grade books, or parent communications tools that meet their needs and comply with applicable federal and state privacy laws.
- And second, that researchers - after strong review processes and subject to confidentiality and security requirements - are able to access data needed to evaluate the effectiveness of policies and classroom practices.

One of the policies our Foundation has worked on extensively deals with K-3 reading. By the end of third grade, students must make the transition from learning to read to reading to learn. If they aren't ready to do that, it becomes continually more difficult to keep up with the science, history, literature, and even math that their teachers cover in class.

Longitudinal, student level research showed that nearly 90% of students who fail to earn a high school diploma were struggling readers in 3rd grade.

These research based insights served as a basis for efforts like the Annie E. Casey Foundation led Campaign for Grade Level Reading and comprehensive policies in states like Florida, Mississippi, and Colorado to identify struggling readers early, notify parents if children have reading difficulties, and provide intensive interventions and supports.

Without the ability to study student level longitudinal data it would not have been possible to reach the same conclusions and much harder to build the support for early identification and intervention. Researchers could identify the reading difficulties of drop-outs but not that reading in third grade was such a critical gateway for those students.

And without subsequent research, teachers and school leaders would not have critical information needed to improve the reading performance of today's students.

- What interventions are most likely to be successful? For which students?
- When do they need to begin? How long do they need to continue?

As important as research is, we know it is even more important to protect students' privacy. We are pleased to see that proposed updates to the Education Sciences Reform Act (ESRA) work to find this balance and include strong requirements before researchers can access student level data. Requirements that proposals detail the research intent for data and how the confidentiality of data about students will be protected are valuable improvements.

Thank you again for the opportunity to testify today, I'd be happy to answer any questions you may have.

Mr. ROKITA. [Presiding] Thank you for your testimony. Dr. Hannaway, you are recognized for 5 minutes.

TESTIMONY OF JANE HANNAWAY, PROFESSOR, McCOURT SCHOOL, GEORGETOWN UNIVERSITY

Ms. HANNAWAY. Chairman Kline, Ranking Member Scott, and members of the committee, thank you for inviting me to appear today to discuss education research and student privacy concerns.

I would like to make two main points in my comments. First, large-scale education data, especially individual level administrative data, make possible important new insights into policies and practices that promote student learning and later educational and employment outcomes.

Second, provisions that protect the confidentiality of data about individual students are essential. With appropriate strategies, I see no necessarily inherent conflict between research using individual level data and protection of student privacy. Indeed, I would argue that appropriate safeguards foster a healthy environment for research productivity.

My comments today are based on over a decade of experience conducting research using individual level longitudinal State administrative data and leading a highly productive national research center dedicated to working with such data.

First, let me talk about the research advantages, and then I'll talk about student privacy. Almost every State has developed a longitudinal individual level database. These data systems have substantive, technical, and efficiency virtues.

Let me start with the efficiency virtues. Because the data are existing working files, created, maintained, and used by the State for administrative purposes, they are readily available for approved research purposes.

Researchers are thus not required to undertake costly and time-consuming data collection, and because these State data files are used by the State, the data quality is very high. Having data already in hand means that turnaround time for research, giving feedback to policymakers of new policies, is short, allowing decisions to be made about whether to discontinue, modify, or continue particular policies in near real time.

The administrative files also have substantive advantages. They include data on all students, all teachers, in each State over a number of years. Data on students of interest for particular interventions, for particular studies, can easily be pulled out.

Because these longitudinal data systems extend for long periods of time, researchers can capture difficult to study populations, such as highly mobile students, long-term consequences of a program or policy shift, and the effects of students' past experiences on current performance.

For example, an intervention at eighth grade may have relatively short-term advantages in terms of academic results, but longer term effects on, say, high school graduation and college attendance. Collecting this data to answer many of these questions would just be prohibitively expensive.

Longitudinal data also has a number of analytic advantages that strengthen the credibility of research findings. They allow statis-

tical strategies that allow us to come to conclusions that have causal implications.

The advantages of these data are substantively expanded when they are linked with later employment and postsecondary education data. In addition to the technical and substantive policy implications, the availability of these data have led to important human capital effects on the research enterprise.

It's impossible to pick up any economics, public policy, education, or other social science journal without seeing research using such data. The best and the brightest in social science are now working on education issues, something that was not common before.

Privacy protections are important. All researchers agree they are important. States also put on their own filters. We can't just go and access this data. We have to apply to the State to use it. The States review whether the proposed research questions are important, the research plan the researchers have proposed, the credentials of the researchers, and how the data will be protected.

All the data researchers receive are anonymized. There are no birth dates. There are no names. To the best of my knowledge—

Mr. ROKITA. Thank you, Doctor. Your time has expired. Mr. Swiggum, you are recognized for 5 minutes.

Ms. HANNAWAY. I just want to make one more point which ——

Mr. ROKITA. Mr. Swiggum, you are recognized for 5 minutes. We will get to you in questioning.

[The statement of Ms. Hannaway follows:]

Education Research and Student Privacy

Jane Hannaway[1]

McCourt School of Public Policy

Georgetown University

Testimony before the Committee on Education and the Workforce

United States House of Representatives

March 22, 2016

Chairman Kline and Ranking Member Scott, and Members of the Committee. Thank you for inviting me to appear today to discuss education research and student privacy concerns.

I would like to make two main points in my comments. First, large-scale education data, especially individual level administrative data, make possible important new insights into policies and practices that promote student learning and longer term educational and employment outcomes. Second, provisions that protect the confidentiality of data about individual students are essential. With appropriate safeguards, I see no necessarily inherent conflict between research using individual

[1] Professor, McCourt School of Public Policy, Georgetown University; Institute Fellow, American Institutes for Research. Founding Director, National Center for Analysis of Longitudinal Data in Education Research (CALDER). The views expressed here are my own; they do not necessarily represent the views of Georgetown University or the American Institutes for Research, its funders or its Board of Directors. Dan Goldhaber and David Figlio provided helpful comments, but all errors are my own.

administrative data and protection of student privacy. Indeed, I would argue that appropriate safeguards foster a healthy environment for research productivity.

My comments are based on over a decade of experience conducting research using individual level longitudinal state administrative data and leading a highly productive national research center[2], dedicated to working with such data, that includes some of the most accomplished and insightful empirical researchers in the country.

Research Advantages of Individual Level Longitudinal Data Systems

Almost every state has developed an individual student level longitudinal administrative data system. These data systems have substantive and technical research advantages, as well as efficiency virtues.

Let me start with the *efficiency* virtues. Because the data are existing working files – created, maintained and used by the state for administrative purposes – they are readily available for approved research purposes. Researchers are, thus, not required to undertake costly and time-consuming data collection efforts. And, because the data are officially used files, data quality is high. Having data already in hand means the turnaround time for getting feedback on the results of new policies is short, allowing informed decision making about whether to discontinue, modify or continue particular policies and practices. Indeed, some decisions of interest can be made almost in real time.

The administrative files are also 'census' files that provide a wide range of possibilities in terms of *substantive* questions that can be addressed. The files include data on all students and all teachers in the state over a number of years. So data on students of interest for a particular intervention or for a particular study, say 8th graders, or high performing students, or disadvantaged students can be easily

[2] Using large-scale administrative data, CALDER has produced over 150 original studies, most of which have been published in peer-reviewed journals. www.caldercenter.org

selected. Similarly, subgroups of teachers, for example - teachers in high and low poverty schools or inexperienced and experienced teachers - can be compared in terms of a number of dimensions, such as their credentials and experience. Indeed, because teachers can be linked in the data to their students and students' test scores, teachers can also be compared in terms of their performance. Indeed, some of the most important finding from studies using longitudinal data have focused on teacher effectiveness.

Because longitudinal data systems extend for long periods of time, researchers can capture: difficult to study populations, such as highly mobile students; long term consequences of program or policy shifts, and the effect of students' past experiences on current performance. For example, an intervention at 8th grade may have relatively small short term academic results, but longer term large effects on, say, high school graduation and college attendance. Without these administrative files, conducting research by tracking students for long term outcomes would be nearly impossible or prohibitively expensive. And long term outcomes are what is of most central concern for education research. Indeed, a recent study showed that, beyond the immediate test performance of students, highly effective teachers have important longer term effects on students, including college attendance and higher earnings, than otherwise similar students with less effective teachers.[3] Such research was inconceivable a few years ago, and our understanding of the real value of great teachers was greatly underestimated.

The longitudinal nature of the data also provide a number of *analytic* advantages that strengthen the credibility of research findings and even allow identification of causal effects without requiring initial random assignment. For example, regression discontinuity designs can assess the effect of, say, receiving an award on subsequent behavior by comparing results for students just above and below the performance award threshold. Natural experiment effects created by policy shifts can also be assessed.

---

[3] R. Chetty, J. Friedman and J. Rockoff. "Measuring the Impact of Teachers II: Teacher Value-Added and Student Outcomes in Adulthood. **American Economic Review**, 2014.

The advantages in terms of policy insights of individual education data are also substantially expanded when linked to later individual measures in areas beyond education, such as labor market (employment and earnings), justice and health outcomes.

In addition to technical advantages and substantive policy contributions, the availability of individual level administrative education data has had important human capital effects on the research enterprise itself. Some of the most talented and technically well trained researchers in the country have been drawn into education research. The quality and versatility of the data, and the recognized importance of education outcomes for the economic well-being and social fabric of the country, have made education a "hot" area for research. It is rare to pick up a public policy, economics or other social science peer-reviewed journal without seeing the centrality of education to current evidence-based scientific inquiry.

Privacy Protections

Student level data is considered private information protected by both state and federal laws. States also impose filters on requests for data for research purposes. For example, states review whether the proposed research questions are of interest to the state, whether the research plans and the proposed analytic strategies are appropriate, and whether the credentials of the researchers meet standards. All individuals working with the data, including research assistants, must be identified and sign data use agreements along with their home institution. If the data request is approved, the data must be only used by identified researchers and address only the research questions identified in the request. The data must also be destroyed at the end of the study period. In short, researchers use administrative data files under strict constraints, and individual researchers and their institutions are held accountable.

While researchers (including me) might complain about going through the necessary bureaucratic hoops to gain permission to use these valuable large-scale individual data files, I would argue that strong data security provisions are good, especially in the long run, for the field. Researchers want states and other data providers to trust us with the data that we value so highly for our work, and we are willing to do what is necessary to maintain that trust so that we may contribute analytically to the development of well-grounded and meaningful insights for education policy and practice.

I suspect that some of the public assumes that data on individuals in administrative education data files is easily available to clever data analysts -- for example, the kind who know how to target me after I shop for shoes on the internet. This is not the case. These administrative data files are highly restricted in terms of allowable users, data items, terms of use, and period of use. In fact, the data that researchers receive contain no individually identifiable information. The state anonymizes the data before researchers receive them. Each student is assigned a state-constructed unique student id (USI) that is used by researchers to link data for each student across years and schools. Identifying information, such as name, birthdate and social security number are stripped from the files before researchers receive them.

Unfounded public fears of disclosure of individual student level information, researchers worry, may lead to data restrictions that result in harmful effects for the research enterprise and, as a consequence, for the informed development of educational policy and practice . "Opting-out" provisions are a particular area of concern. Consider this theoretical possibility: Middle class parents, who consider the test scores of their adolescent sons to be low, attempt to restrict information on their sons in administrative data files. Excluding them from the data would result in a biased data set, one that under represents low performing middle class adolescent males and thereby limits our understanding of how policies and practices may (or may not) benefit those students.

To the best of my knowledge - as someone who has personally worked with these large individual level data sets, led a center of researchers focused on analyzing these data for over a decade, been in editorial positions for major journals and leadership positions in research associations - there has never been a violation of confidentiality by any researcher.

It is important that policy makers and the public understand the restricted conditions under which researchers work and the tremendous value these data hold for examining the effects education policies. I believe the research community is willing to work with policymakers to satisfy data confidentiality concerns but do not compromise the contribution of research to important national education efforts.

TESTIMONY OF ROBERT SWIGGUM, DEPUTY SUPERINTENDENT OF TECHNOLOGY SERVICES, GEORGIA DEPARTMENT OF EDUCATION

Mr. SWIGGUM. Thank you, Chairman Rokita, Ranking Member Scott, and members of the committee for the opportunity to be here today.

I am here to share with you the journey that Georgia has been on implementing and developing SLDS. The first question I would like to talk about is why does Georgia need an SLDS.

To understand that, you really need to understand the make-up of Georgia. There are 190 school districts in Georgia. Each one of those districts have its own student information system, and what people do not understand is at the end of the year, most of those districts delete all the information in that electronic system, and they refer to a "cum file," which is a file that is kept in a file cabinet, typically in the basement or a file room of that school.

Let's say you are an English Language Arts teacher, and you have 100 students coming into your class next year, and you would like to understand their reading comprehension scores. In order to do that without a Statewide Longitudinal Data System, you have to go down to that vault and check out five cum files at a time, you bring them back to your office, and you make notes. You leaf through those files, you make notes, and you return those five files and get another five files.

For a teacher with 100 students, that is 20 trips down to that vault. That is what teachers have to do when you only have a paper-based system. So, longitudinally, we fixed that problem because we give the teachers all that information at the touch of a button.

Why statewide? Statewide is because in Georgia, we have about a 30 percent transient rate. That means about half a million kids are moving around to different parts of the State, and without a system to track those children from district to district to district, what happens is a new child will move to a district and those cum files that are in that paper vault basically have to be copied and either mailed or faxed.

What happens is the student may not get their information about where they are at or what practices they need to be educated, the teacher sits and waits for a long time to get that data.

So what we did in Georgia is we basically solved that problem by putting all the data into one place where all the teachers and all the principals and the parents and the students can have access to it. That's why you have a Statewide Longitudinal Data System.

Our solution six years ago when we started building this system was to take all the information they've sent us over the years and give it back to them, but not give it back to them in the format of a cum file, because that is a very hard file to find and analyze data.

We gave it back to them in the form of dashboards that are drillable, which means you can start at a high level, see the areas you want to focus on, and then drill down into the details, so you can really help the teacher with the analytics. The same thing goes to the parents, the same thing goes to the administrators.

We built this system with engagement from all our constituencies. We had focus groups comprised of teachers, comprised of parents, comprised of students, comprised of administrators, asking them what do you need this to be? We built the system in Georgia to meet the needs of the people in Georgia.

We started off with the initial focus groups and they basically said what do you need us to do, and they did not want to have another set of passwords, another set of IDs, they did not want to set up more security, they sure did not want to send more data.

We built the system around those needs. We delivered to them about 4 years ago, we actually did the first phase, and since then we have implemented another phase every year to what we have today, is 60 million hits on that system. That system has been used 60 million times by teachers, parents, students, educators.

Our governing body is made up of district folks who come and decide what is going to be in that system and how it is going to work. We have a research arm where people can have access to research information, but they have to go through an internal review board, and they do not get that information unless they go through the internal review board.

Last year, we had a privacy bill that was passed that further elevated the sense of security and privacy around students and data.

Our outcomes, people ask me all the time, what kind of impact did it have? Well, in 2009, before we had LDS, we had a 59 percent grad rate. Last year our grad rate was 78 percent. I am not saying SLDS did that all by itself, but I cannot help believe if you fill 60 million requests for information, it is going to have an impact on that.

Thank you very much for this opportunity. I look forward to your questions.

[The statement of Mr. Swiggum follows:]

"Strengthening Education Research and Privacy Protections to Better Serve Students"
House Education and the Workforce Committee
March 22, 2016
Testimony for Robert Swiggum, Deputy Superintendent, Georgia Department of Education

Thank you Chairman Kline, Ranking Member Scott, and members of the Committee for the opportunity to be here today. My name is Bob Swiggum, and I am the Deputy Superintendent of Technology Services for the Georgia Department of Education. Today I am going to share with you Georgia's journey to implement a Statewide Longitudinal Data System (SLDS) and the impact it has had on educating our students.

In Georgia, whether discussing student achievement, program monitoring, education funding, accountability or any other education-related conversation, data is at the center of the discussion. We believe that parents should have access to their child's educational records in order to support their child's growth; that teachers should have access to meaningful data on the students in their classroom to support their instructional practices; and that school leaders should be able to use data to make critical system-level decisions to impact student achievement. We provide access to data with the understanding that student-level information must be respected and protected while also acknowledging that student information is a vital resource for students, parents, and teachers in their educational planning. In Georgia, we have been working diligently to find the proper balance of strong data security policy while also supporting stakeholders.

Thanks to a federal SLDS grant, Georgia began construction on a statewide longitudinal system in 2010 and implemented the first phase in 2011. A state-supported system supports equity across Georgia, allowing districts without the capacity or funding to support a largescale technology investment access to the benefits of a robust data system. The statewide system also allows students and teachers access to the right information when moving between districts and schools. Throughout the initial design, development, and ongoing implementation of the SLDS, we have engaged stakeholders to ensure that the system serves the needs of all Georgia's students and teachers.

What are those needs? Before creating this system, only 8 percent of the school districts in Georgia could afford a student information system at the local level that maintained multiple years of data. In 2009, in the vast majority of our local schools and districts, the school year would end, administrators would submit key data points from the previous year to the state to meet reporting requirements, and then they would delete all information from the system to prepare for the new school year. A clean slate.

While this saves money, it does not help the teachers in our classroom, the principals in our buildings – or the parents working to ensure their child is successful in school year after year. All stakeholders – teachers, principals and parents – need to see how a child is performing over time, not just in a given year, to fully understand how to best meet that child's needs. Some teachers found a workaround: keeping years of paperwork filed away under lock and key. But this system is not sustainable.

That is why Georgia decided to create a statewide longitudinal data system. We as a state have the responsibility to provide our teachers, our principals, our parents with the tools and resources that will help all kids achieve. Today, in Georgia, with the click of a button, a teacher can now analyze data on achievement, attendance and enrollment for every kid in their classroom that year. With another click of a button, they can drill down to see this information for a student over the past six years.

Principals can view this information for students with their school building. Parents can view this information for their individual child.

How? In 2010, Georgia partnered with local schools and districts to create the statewide longitudinal data system we have today. We worked closely with them to ensure the system is meaningful to educators on the ground and that it safeguards student-level information. Early on, we recognized that previous Georgia Department of Education (DOE) projects had not been as successful as they were promised to be. We knew some would be skeptical to collaborate with the state on yet another project.

We spent several months working with district staff, asking them to explain what they would like to see in an SLDS, and we learned a lot about what they did not want us to do. They gave us very clear feedback. First, they did not want their teachers leaving their local student information system to get the data they needed. Second, they did not want any additional IDs or passwords that teachers would have to remember to access information from the DOE. Third, they did not want a complicated state-run security system over which they had no control. And fourth, they did not want to send any new data to the DOE. The list was short but demonstrated their frustration with DOE-led projects and the level of distrust that existed between the state and local districts.

Our solution to these issues was multifaceted. To ensure the system was meaningful to students, educators and parents, we knew we had to get districts' input on the design of the system. To accomplish this, we developed a technical design that allowed teachers to access the necessary information from the SLDS via their local student information system without any additional IDs or passwords. This new tool became known to our districts as the "Georgia Tunnel."

Through the Tunnel, a classroom teacher could then access the information on the students in their classroom – no more, no less. A school principal could access the information on the students in her school building, not the entire district. In this way, we provided easy access for teachers and school leaders, while at the same time maintaining the privacy of the children in our state. The Tunnel allows user authentication to occur at the district level, meaning that the district is in control of security and privacy settings and knowing who is allowed what level of information. This ensures that information is only accessible to those who need it.

This system did not increase the workload on our local schools and districts. Districts did not have to send the state any additional data to populate the system. Instead, we used existing data to ensure there was no additional workload on our local schools and districts. We also ensured there is a purpose behind every piece of information the state is collecting and schools and districts are using through this system.

At the state, we established robust data governance processes that ensure new data collection requirements are in accordance with changes to state law, federal law or rules established by the Georgia State Board of Education. If any new data is required to be collected, we are required by state law to post the purpose of the collection for public comment and to report any new data collections to the Governor's and legislative offices.

We also made the state system completely voluntary. If a district did not see value in the system, they did not have to use it. Many districts were interested in trying this system but skeptical since past projects had failed to meet their needs. So we built a prototype. Each district had the opportunity to try out the system before committing to use it. That's when the real engagement began. For the first time, most teachers, principals and other educators saw how they could use key data and information – most

of it dating back six years – to inform their instruction and make key policy decisions. That is how they realized the power of longitudinal data.

We have expanded the use of this system since it was first made available in 2011. Today, teachers not only can see how a student performed on a test, but also how much growth they have achieved. A teacher also can readily access the state standards and see resources and professional development opportunities aligned with these standards. Teachers also can use the system to build quizzes and tests for their classrooms. The system allows them to develop the tests and grade them online so results are immediate.

Perhaps most importantly, the state introduced the Parent Portal in 2015. Now, a parent can access the information they need to make informed decisions on their child's education, whether it is their test scores over time, the growth they are making, or their attendance records, to name a few.

It is clear that the statewide longitudinal data system has become a critical resource across our state in the past five years. This year, we passed the 60 million page view count and continue to grow exponentially. That is 60 million times a teacher, student, parent or administrator asked for and received information – critical information that was not available before this system was created. It is a true testament to the value of the SLDS and the value of the partnership we forged among the state, local districts, and teachers across our state.

Georgia teachers find benefit from using the SLDS. Tammy Boston, a mathematics teacher at Armuhee High School in Floyd County, Georgia remarked, "I teach 149 students so contacting parents can be a challenge, particularly when you have students who are struggling. One of the things I like to do when I call a parent, is I like to know background information – how did they do in math one and math two before they got to my class – I can do that through LDS." Similarly, Debora Childs a teacher at Cave Spring Elementary, had this to say: "I have a fairly new child and we're still receiving records. And the speech teacher gave me a form to fill out on this child and she needed various data on the child. I went to the office to dig through his files and there was almost nothing there. Then it hit me, you know I had the resource right there at my desk, so when I pulled it up I had access to his records from the previous two schools that he had attended so I could fill the form out and it was ready for her that day."

We continue to partner with our local districts today to make this system as meaningful as possible and to maintain its privacy and security. In 2015, the Georgia state legislature unanimously passed Senate Bill 89, known as the Student Data Privacy, Accessibility and Transparency Act. This bill has been described as one of the most comprehensive laws in the nation, providing strict rules for data collection and use while also increasing the capacity of our agency to implement and strengthen our supports.

In Georgia, we are always interested in the impact our policy decisions have on academic progress. To help understand the impact information access has on academic progress, we work with third-party researchers on evaluation. Data from the SLDS can only be accessed by researchers through a rigorous data request process. Researchers are permitted access to the appropriate level of de-identified data after a thorough evaluation by our internal review board.

While it is difficult to parse out and define the specific impact of the SLDS on academic progress across our state, we know it is a major factor by comparing our results over time. Georgia's graduation rate in 2009 was 59%; last year it was 78%. We know many factors have helped to make that increase possible, but I believe that answering 60 million requests for information from our teachers, students, administrators and parents has helped to improve instruction and achievement for all kids.

Thank you again for inviting me today. I look forward to your questions.

Mr. ROKITA. Thank you, Mr. Swiggum. Again, I thank all the witnesses. We will now move to questioning. I am going to hold my questions to the very end in order to accommodate my fellow colleagues. With that, I recognize the gentlelady from North Carolina for 5 minutes, Ms. Foxx.

Ms. FOXX. Thank you, Mr. Chairman, and thank you to our witnesses for being here today. Mr. Swiggum, I think we all agree protecting student privacy is critically important.

One of the concerns we've heard is that by requiring some aggregated data to be shared with the Federal Government, States and local districts will hand over personally identifiable student data to anyone who requests it without scrutiny in an effort to avoid added burden or duplication.

In your testimony, you mentioned how the State worked with districts to build a State data system in a way that was useful to them, understandable, and not duplicative of what they were already using.

Can you elaborate for us on these discussions and how you addressed concerns about protecting data? In your opinion, is protecting student privacy more important than an increased burden?

I want to pick up on the last comment you made about your graduation rate having so improved. You said you cannot attribute it all to the SDSL, but I would be intrigued to know at the end of your comments if the State itself is doing research to figure out if there is a cause and effect by the use of such data. If you would talk about protecting the data first.

Mr. SWIGGUM. So, when we first started the system, we met with all our districts, and they basically were very concerned about the data being protected, and so what we have is a central repository that is housed in a hardened data center. We have all the security set up so that no one can get into that system. From a physical perspective, the data is very secure.

From an access perspective, the way we do this is districts control access to their data. The district basically says here is my data, here is who I want to have access to the data, they tell us what teachers have what students. They tell us what principals have what schools. They tell us what district people have access.

The districts actually control the security through the data. The State does not. We simply have the data and we follow the directives of the individuals in the districts. That is basically how we manage the security and the access of that data.

As far as research on the grad rate, I am sure there is a lot of research being done around that. I do not have that detail with me right now but I could follow up and find out what research is being done that affects the grad rate. I just know if I would claim it was just LDS, there would be a lot of people who would have other ideas about that.

Ms. FOXX. Well, most of us know it is very difficult to prove a single cause and effect in this world. Ms. Stickland, thank you very much for your testimony. I am very concerned about the ability for any government agency to be able to get individual information and have worked very hard to keep us from having individual student records here at the Federal level.

I wonder if you might talk a little bit more about what should parents know about their students' education data, and how can they be involved in conversations to protect their students' information?

Ms. STICKLAND. Thank you for the question. I would say a great first step is inviting parents to a hearing such as this and allowing our voice to be heard. We are very grateful for the opportunity.

In terms of what parents should know about what's in their education record, I think the term "education record" gives parents a very false sense of assurance that it's low risk information, when in fact information in an education record can include medical information, disability information, in some SLDSs, it includes arrest and criminal type activity.

So I think getting parents educated and involved in the conversation, asking their schools, their school districts, their school boards, and certainly members of their State legislatures about what data is being collected, who has access to it and for what purpose, when that information should be destroyed, and how it can be secured, are questions parents need to be asking, and they are starting to do so now.

Ms. FOXX. Thank you, Mr. Chairman. I yield back.

Mr. ROKITA. I thank the gentlelady. Ranking Member Scott, you are recognized for 5 minutes.

Mr. SCOTT. Thank you, Mr. Chairman. Ms. Hannaway, you were cut off and had one more point to make.

Ms. HANNAWAY. Yes. The point I wanted to make is in the 10 years that I have been involved working with this data with multiple researchers across the country, I do not think there has ever been any violation by researchers on confidentiality.

Mr. SCOTT. Thank you. In your written statement, you make a point about the ability to opt out and the effect that might have on the validity of data.

Ms. HANNAWAY. Yes. Researchers see this as a huge problem. It means the data that we would be receiving would basically look like Swiss cheese, and we would have no idea who was in and who was out, and, therefore, we wouldn't know in what ways and to what extent the data might be biased in terms of who is in the database.

Mr. SCOTT. If data is collected, it is obviously always going to be at risk of compromise. Is there a way to collect data in such a way to reduce the risk of data breaches?

Ms. HANNAWAY. We are on the receiving end of that data, we don't do the collection. The data that we received are already anonymized by the State, and a separate ID is created in order that we can track individual data points over time, but we have no information on who those individuals might actually be.

Mr. SCOTT. Is there any excuse, Ms. Hannaway, for selling the data to the private sector for the purpose of marketing?

Ms. HANNAWAY. I am afraid that is above my grade level. I am very appreciative when I get the data to work with under very controlled situations for research purposes.

Mr. SCOTT. Does anybody have a comment on whether or not any of this data should be sold to private sector marketing firms? Mr. Campbell?

Mr. CAMPBELL. I think it is quite clear in existing Federal and State policies that it should not be, so student data is something that is the property of the local education agency, and if they partner with a service provider, that data remains owned by the local education agency, and has to be returned or deleted as that service is provided. It does not grant authorization to use student data for reasons other than which it was shared.

If a company is providing mathematics educational software for a school, then they can use that student's name to provide information back to the teacher about how the student is doing as they use that product. That does not give them the right to use it for other purposes.

Mr. SCOTT. Mr. Campbell, let me follow up. If the private sector—right now, the penalties for a breach, a violation of the law, only apply to the public school system. Should penalties be appropriate if the private sector by any reason gets the information and violates the provisions of the law?

Mr. CAMPBELL. I think that makes sense. That certainly has been something that was part of the bill that Mr. Rokita and Representative Fudge introduced, and is also in the proposal from Mr. Messer and Mr. Polis.

The model policy we developed for the State level includes that as well, but it takes the approach of directly regulating service providers working with schools and clarifying that all of the data, be it the students' direct identifiers, like their names, or the indirect information generated as they use products, needs to be controlled, and that the identifiable information needs to be deleted at the request of a school when that service is done.

Mr. SCOTT. Dr. Hannaway, as a researcher, can you explain to us how you use the data to improve education?

Ms. HANNAWAY. My center alone has produced over 150 research papers, most of which are published in peer review journals, high productivity rates. Some of the key issues that we have done a lot of work on are teacher effectiveness. I think that would be the dominant topic right now. I think the findings have triggered a lot of thinking about how to improve teacher effectiveness, everything from training to feedback in the classroom.

Mr. ROKITA. I thank the gentleman. The gentleman from Pennsylvania, Mr. Thompson, is recognized for 5 minutes.

Mr. THOMPSON. Mr. Chairman, thank you. Members of the panel, thank you for being here. My first question is for Mr. Swiggum. In your experience, what is the best way to facilitate valuable conversations between parents and stakeholders on student privacy and educational research?

Mr. SWIGGUM. What I think is the best thing is face-to-face meetings. I mean we started with our focus groups and we talked about if we are going to build something, how is it going to help everybody? Those face-to-face meetings are the most effective for what we did in Georgia because you really get people's opinions and then you can start designing what they are going to see, so rather than some abstract term, they actually can start seeing what will this look like, how will this work.

Mr. THOMPSON. I assume that helps to build trust in this process as well.

Mr. SWIGGUM. And ownership.

Mr. THOMPSON. And ownership. Ms. Stickland and Mr. Campbell, there is no denying the importance of privacy, especially with the vulnerabilities that we have seen nationwide and internationally in just recent years.

Certainly, the importance of data to improving the educational outcome, the educational process, educational structures. I think it was educational research that obviously tied the link of poverty to learning and led to Title I funding, and through research we hopefully continue to look at how we make a better investment of Title I funds to address poverty.

As I travel around my congressional district, I do educational roundtables. I have teachers and parents and superintendents, and occasionally students that are interested to come or their parents drag them there.

One of the things I have heard about is just some of the hardship of collecting data. I have already made my statement, data collection is important. The question is how much do we need? My question for you are there within the scope of data that is collected, are there data points or information collected by schools or schools are required to collect that are not utilized or not relevant in education research?

Any observations in that area?

Ms. STICKLAND. If I could just comment on a parent perspective, when parents enroll their children into school and they share information about their child, they do so knowing that the purpose of sharing that information is to help their child.

I would say that very few, if any, understand that information is then pushed up to the State and used for research purposes. I think in terms of, you know, parents are not opposed to legitimate research on education, and certainly we all benefit from the products of research, but I think the research loophole in the existing FERPA allows for a lot of research that maybe does not have the purpose or intentionality that parents support necessarily.

Certainly, each SLDS at a State level has different data elements. My State of Colorado has data elements that I would say parents do not feel are necessary for policymaking decisions and research. In fact, just recently, we have a school readiness law in Colorado. We have an assessment for that readiness law. We were able to just send aggregated data from the districts up to the State to show how our children are doing in this readiness assessment.

I think there is a balance between what personal identifiable information can be shared, and then there are also places where we can pull back and just share aggregated data or anonymized the identified as well.

Mr. THOMPSON. Mr. Campbell, any thoughts?

Mr. CAMPBELL. Well, I think a first positive step that States can and in many cases are taking is transparency around what is collected and why. The model policy that we developed requires that, and then also requires if there are any additions to the State data system or proposed additions, those be made publicly available for a comment period with a rationale as to why that information would be collected.

I think there are definitely elements that are collected that are maybe not apparent as to why we would want to collect them, so in terms of things like disability, we want to collect that to make sure students are served appropriately by schools, so States have an oversight role to make sure that students with disabilities are served appropriately. That sensitive information needs to be collected and available.

I think even if there is a potential for being uncomfortable with certain pieces of information, they can still serve valuable educational purposes for parents and to make sure kids are served properly.

Mr. THOMPSON. I think that circles back to Mr. Swiggum's comment about face-to-face and building trust and building ownership. Thank you, panel. Thank you, Chairman.

Mr. ROKITA. I thank the gentleman. The gentleman from Colorado, Mr. Polis, is recognized for 5 minutes.

Mr. POLIS. Thank you, Mr. Chairman. I want to thank our witnesses for taking the time to be part of this hearing today, and I want to express appreciation to the chair and ranking member for holding this hearing.

Student data privacy is a topic that is very important to me and my constituents, and one that I am glad to say is not a partisan issue.

Last year, I introduced the Student Digital Privacy and Parental Rights Act with Mr. Messer. It has been mentioned here during some of the questioning. Which would create new privacy protections for students by prohibiting ed tech vendors from selling student data or using it for commercial gain.

Of course, part of the focus of the testimony was on education research and FERPA. I also want to acknowledge the responsibility of ed tech providers in guaranteeing student data is private and secure.

My first question is for Ms. Stickland, and I wanted to address, in addition to applauding her work in Colorado, the importance of ensuring that Congress does not do anything to preempt States from raising the bar in protecting the privacy of students, and the importance of ensuring that legislation that we consider should allow for the States to go even further.

Ms. STICKLAND. Thank you, Congressman Polis. Yes, there are a lot of parents across the country who are very active in their own communities and their own State level, and as a result, there are some good examples of State bills and actually laws that are now being passed that certainly go above and beyond where our current FERPA resides, in the form of the 1974 version.

Our coalition certainly was very pleased that your bill and Congressman Messer's bill also reaffirms the concern that we do not want to set any limits on States going further and beyond what might happen at the Federal level.

Mr. POLIS. Thank you. Dr. Hannaway, as you know, at the end of last year, we passed and the President signed the Every Student Succeeds Act. One of the important ways that we know whether schools are performing and how they should be held accountable is through data.

I was hoping you could discuss briefly how reliable de-identified data can play a constructive role in identifying gaps in public education, and how longitudinal data can help State and local leaders identify strategies for intervention and improving poorly performing schools.

Ms. HANNAWAY. These State level individual data systems are literally a treasure trove. They are the complete census of kids who are in the State system, a complete census of teachers, and, therefore, there is complete flexibility in terms of developing research questions.

I also want to point out that all the questions that researchers on the outside engage in all have to be approved by the State. So I could apply to Georgia or I could apply to Florida, North Carolina, and ask them to use their data for particular research questions. If the State doesn't think they are policy relevant or practice relevant, they will not provide us with the data. That is another way, a control mechanism that ensures these data are put to good use.

Mr. POLIS. Mr. Campbell, as you know, one of the challenging parts of student data privacy laws is striking a balance between creating the strong privacy protections that parents and families demand, while, of course, encouraging the continued innovations and promise of educational technology and personalized learning.

I wanted you to briefly address how we can protect privacy while also allowing personalized and adaptive learning to continue to provide improved education for our Nation's children.

Mr. CAMPBELL. I believe a strong first step can be to directly regulate those that are receiving student data from school districts. One of the things I mentioned in my testimony—

Mr. POLIS. By that do you mean vendors?

Mr. CAMPBELL. Vendors, be they vendors or be they nonprofit agencies that work with schools and provide tutors. Be they nonprofits, software providers.

Mr. POLIS. Making sure that all of those that receive data are covered under the law?

Mr. CAMPBELL. Yes. I think that an important part of that is that element of balance. We have to understand the range of capacities of school systems across this country. Here in Metro D.C., there are many districts with over 100,000 students and significant staffs, but we have to be careful about policies that would affect a district where the superintendent is also the principal is also the basketball coach, and not put a burden on them that becomes unreasonable for them to be able to provide access to their students as well.

Mr. POLIS. Thank you, and I yield back.

Mr. ROKITA. I thank the gentleman. The gentleman from Georgia, Mr. Carter, is recognized for 5 minutes.

Mr. CARTER. Thank you, Mr. Chairman, and thank all of you for being here. Mr. Swiggum, thank you for your work in the State of Georgia and with the educational system. I am familiar with it. I appreciate the technology that you have put forward, but I am concerned about it.

I wanted to ask you specifically about the SLDS. I know this is designed to help school districts and teachers to make decisions based on data-driven information.

I am also familiar having served in the State Senate in Georgia that just recently there was a Senate bill introduced, Senate Bill 281, that was heard by the Education Committee, that brought forth a number of concerns. I just want to ask you about some of those, if I could.

First of all, there was a concern about this putting more work on teachers as they were having to get more information. The last thing we need to be doing in any State is to put more work on our teachers. They are overworked now and underpaid.

Can you comment briefly about that?

Mr. SWIGGUM. One of the provisions in 281 was if a teacher is going to use any kind of software package, like the Doodle Poll, they had to actually get permission in writing from the parents before they could use that Doodle Poll.

It became where teachers could not use even the simplest technology thing without a laborious process to notify all the parents and then have all the parents agree to participate, and if any parent decided they did not want to participate, then they would be teaching half the class one way, half the class the other. That bill didn't move forward—

Mr. CARTER. I understand. Still, I am concerned about some of the provisions that were brought up in the bill, and that is what I wanted to question you about.

Secondly, transparency. There are a lot of the parents who are feeling like they need to know what the information is that is being collected and they do not know.

Mr. SWIGGUM. Yes. The provision in there was basically pretty much covered by the privacy bill that we have today, with the inventory of all our items. The thing that we have today that was not covered was basically any of these software packages that a teacher would use in the classroom. That was the new thing that was introduced that would provide extra work for the teacher to do, and the transparency for the parents. The other transparency is already covered in the privacy bill that was passed last year.

Mr. CARTER. Okay. Let me ask you, there are a lot of parents who feel like no matter what you do or how hard you try, that you cannot keep this information anonymous. Can you assure me that you can do that?

Mr. SWIGGUM. At the State level, we do not give out any data to anyone unless it is de-identified or aggregated, and only after they go through an internal review board. The data just does not go out from the State.

Once it is de-identified, you cannot reverse engineer that. You can reverse engineer aggregated data.

Mr. CARTER. Speaking of aggregated data, is this something that is kept year after year? Does it build up? Is it wiped clean once a year?

Mr. SWIGGUM. The Statewide Longitudinal Data System has actually eight years in it right now. We add to it every year because that is the whole concept of longitudinal data. If we wiped it out,

we would basically have what the districts do, which is one year's worth of data in their systems.

Mr. CARTER. You can understand the concern of parents who might feel like this is a way to be able to find out learning abilities. I think there are rightful concerns here among the parents.

Mr. SWIGGUM. There are, but when we pull our focus groups together from parents and we ask them what they want, they actually want a history of their kids. I have a shoebox full of report cards in a drawer at home. It would be great if I could actually see my child's transcripts for the past six years, his attendance rate, where he has been enrolled, and parents can see that now. They can see all that data.

They are the ones who asked for the data. Of course, with 3 million parents, there is always going to be some parents who do not want that. The majority of the people that talk to us, they want to see that data, and they want to see the longitudinal—

Mr. CARTER. All right. Let me ask you, you had mentioned in your testimony about Georgia Tunnel. Can you tell me about that? As I understand it, it is designed to streamline information submittal and access for teachers.

Mr. SWIGGUM. The Tunnel is a technical concept. The districts wanted the teachers to stay in their local student information system. They did not want them to leave that system, but they wanted all the longitudinal data.

The Tunnel basically is a connection from the local student information system into the State system. It is an electronic connection. That is all the Tunnel is.

Mr. CARTER. Okay. What about the parent portal that you introduced? What was the intent there?

Mr. SWIGGUM. The intent of the parent portal is to let the parent see the exact same information that the teacher sees, so there is not the parent has to go and figure it out, they can actually go into the system and look at the data, the same thing the teacher is looking at.

Mr. CARTER. Right, great. You mentioned about higher graduation rates in the State of Georgia. While certainly it can be attributed to a number of proposals that we put forward in the past few years, you know, I am sure this has helped to a certain degree, but we have done quite a bit in the State of Georgia to improve our graduation rates.

Thank you, Mr. Chairman. I yield back.

Mr. ROKITA. I thank the gentleman. The gentleman's time has expired. The gentlelady from Oregon, Ms. Bonamici, is recognized for 5 minutes.

Ms. BONAMICI. Thank you, Mr. Chairman. Thank you to all the witnesses for your testimony.

We are certainly not here debating the value of educational research, and that is a good thing. We are stewards of the taxpayer dollars, and we have an interest in having good research to inform our policies. That is not the question.

At the same time, we are very concerned.

Ms. Stickland, you raised some excellent issues. We are concerned about the sensitivity of the data. In your testimony, for ex-

ample, Ms. Stickland, about how sometimes there is individually identifiable data. How long is it kept? Where does it go?

We certainly do not want a situation where somebody when they are 27 or 28 is applying for a job and their prospective employer finds out they threw a pair of scissors in second grade. I mean it is not the kind of thing that we want in the data.

We want it to inform our policies and we want that balance, and finding that is a task that we are going to have to work on. With the technology changing faster than policy, we really need to have a way to get the balance so that we safeguard privacy and make sure we are getting the research that we need.

Mr. Swiggum, you testified about what Georgia is doing. In addition to the Statewide Longitudinal Data Systems, the Institute of Education Sciences also supports regional educational laboratories, RELs. In my State of Oregon, the school districts and our State partner with our local REL to conduct research, and it helps local communities improve educational outcomes.

For example, a Northwest regional education laboratory has looked at postsecondary persistence among rural Oregonians, discipline rates among different groups of students, and it really has helped develop some research-backed strategies that have improved outcomes.

Our middle school principals in a school district I represent have used practices supported by the regional educational laboratory. They have cut in half suspension and expulsion rates for black and Latino students.

Is Georgia doing any work to bring stakeholders together with researchers to use school system data to evaluate current practices and promote more effective research-supported strategies and do you work with RELs?

Mr. SWIGGUM. I cannot actually attest to the RELs. I can talk about research that we do within the community. We just did a research study on absenteeism in the classroom. As a result of the findings, we have changed our absenteeism policy at the State level, so it does impact State policy.

We also have a program called PBIS, which is a school climate rating system, where we did research on that, and after the research came back from that, we went from 200 schools who adopted it to 900 schools. It does have an impact when we do the research on the data.

Ms. BONAMICI. Terrific. Dr. Hannaway, last year I worked with Senator Wyden from Oregon on a draft bill to close a loophole in FERPA that permits higher education institutions to give their attorneys access to sensitive student records. This came up in connection with treatment records of victims of sexual assault on campus in certain circumstances.

My concern is that the protections that are outlined in FERPA give institutions discretion in determining when their attorneys have legitimate interest in reviewing their student records.

It is a problem because when students and parents are uncertain whether their privacy will be protected, it can discourage them from reporting incidents of abuse or seeking treatment.

What more can policymakers do to guarantee that personally identifiable information will be safeguarded, and what more can

the education research community do to demonstrate that it is protecting student data?

Ms. HANNAWAY. Researchers are on the receiving end of that data, so the data typically always are de-identified prior to our receiving it. There is no way for me—I have data on millions and millions of students in the United States. I cannot identify who is who. They all have a unique ID that is not connected to anything that I could use to identify those individuals.

It would be the State Department. When the State Department gives us data, they approve our research questions. They want to make sure what we are doing will be of use to them. They approve us as researchers. They want to make sure that the people who are handling the data are credible analysts. They also put a time limit on it.

Ms. BONAMICI. I want to follow up in my remaining few seconds, thank you, with Ms. Stickland. Do you agree there is not personally identifiable information accessible?

Ms. STICKLAND. What I will say and what I do know is that the State does collect personally identifiable information. How exactly that transfer happens with researchers, it may be identified and there may be a number attached to that, particularly a unit record, but there is always a key.

Whatever record number is attached to that de-identified data, somewhere there exists a match, a key, a way to be able to identify those students.

Mr. ROKITA. I thank the gentlelady. The gentlelady's time has expired. The gentleman from Michigan, Mr. Walberg, is recognized for 5 minutes.

Mr. WALBERG. Thank you, Mr. Chairman. Thanks to the panel for being here, an important subject, especially when we think of privacy, we think of parents, families, and students, and the best interests of all, and making sure the educators have the capability of using research.

I would like to go back to that research issue, Mr. Campbell. Do you think educational research improves practice, both in the classroom and at the school administrative level? As you answer the question, could you also discuss some specific examples of how you have seen research used to enhance student learning?

Mr. CAMPBELL. Yes, I think that research has a history of impacting classroom behaviors in the programs that are put in place and the interventions that are put in place for students, and the strategies that teachers are taught in their teacher preparation programs, and that they learn about in professional development, and that they then implement in their classrooms.

I mentioned in my testimony an example of K–3 reading policy. In the late 1990s, the National Reading Panel studied the most effective ways to teach reading, the kind of landmark report was then something that impacted how teachers teach children to read. We have seen in the early years that those percentages of students that are reading at proficient levels are going up and those reading at the lowest levels are going down. I think that is a testament to improved practice that was informed by research.

I think there are other examples in mathematics, innovative software that relies on how to help children develop number sense, and

that the activities that children see will help them understand numbers and things like place value before they get into the algorithms of how to carry numbers when they are adding and subtracting.

Mr. WALBERG. Let me jump to the issue of privacy relative to research and the things that promote technology that comes. Mr. Campbell, can you protect student privacy without sacrificing use of technology in the classroom?

Mr. CAMPBELL. I think there are many steps that can be taken—everyone has a role to protect student privacy. In the instance of a school that is partnering with a technology company for mathematic software, that company does not need every data element about a student that exists.

They need to know the student's name. They need to know who the student's teacher is, and they will generate information about how the student does in their math course, or in that content of the software.

Why do they need those things? Well, teachers are not going to be able to make sense of data that comes back to them if it is about student 8567. They are going to want to know that it is Neal who is struggling with two-digit multiplication, and that is how it will become actionable and valuable to the teacher.

That mathematical software company does not need information about discipline or the student's test scores in other subjects. The minimum that can accomplish the need is all that should ever be transferred to any service provider of a school.

Mr. WALBERG. Keep it to the basic education issues?

Mr. CAMPBELL. Yes.

Mr. WALBERG. Let me move on. Ms. Stickland, this is the worse designed committee room I have ever been in. I see the backs of my colleagues' heads, and I cannot see the panel, but thank you for moving. I will move as well. Good looking heads I am seeing.

Your testimony largely focuses on the importance of protecting student privacy and transparency around student data. In your opinion, what is the most critical piece of protecting student privacy, and how would you prioritize the suggestions you made?

Ms. STICKLAND. Thank you for the question. What I would say is there is a difference between privacy and security, right. Privacy is keeping your information confidential and security is keeping it safeguarded.

What I would say in order to generate a lot of trust in the parent community is understanding exactly what is going on, what is being collected, with whom it is being disclosed, what are the uses of the data.

Parents really honestly do not understand that more data is being collected on their children than what is on face value, right. It is not just the names. It is just not the two-digit multiplication problems that a child is not interacting with, especially in an online environment. There is a lot of metadata shed while a child is interacting online.

I think understanding the breadth of the problem or the situation or the ecosystem of online learning and communicating exactly what parents need to know, which is what data is being used, how is it being used, with whom is it being shared, and—

Mr. WALBERG. In other words, giving greatest attention to the parent and the student, the child, two key components that make that education opportune.

Thank you. I yield back.

Mr. ROKITA. I thank the gentleman. The gentleman's time has expired. The gentlelady from North Carolina, Ms. Adams, is recognized for 5 minutes.

Ms. ADAMS. Thank you, Mr. Chairman, Ranking Member Scott, thank you as well, and thank you to our witnesses this morning.

As many of you know, I have been an educator for over 40 years, and the first time I was elected as a member of my school board in my city of Greensboro, but needless to say, I have dedicated most of my career to education, and I have observed that a lot of education policy is developed by people with little experience in education. I do not mean this in a derogatory way, but I think it is important to point out as we discuss the importance of education research.

In order to ensure the efficacy of policy making, it should be centered on data and scientific research, and while that is something some of my colleagues have often shied away from, it is crucial for sound education policy.

One of the main roles of the Federal Government in primary and secondary education is to ensure that all students have equal access to a quality education, specifically our most vulnerable student populations, which are often low income and students of color.

As we have seen with previous policies, like No Child Left Behind, no matter how well-intended the policies, there are often unintended consequences.

Dr. Hannaway, can you speak to the impact educational research can have on the work that we do as education policymakers, and specifically how it can remove some of the ideological bias that often dictates policy decisions?

Ms. HANNAWAY. Yes. Let me give you some examples. I mentioned earlier that a big bulk of our work is focused on teachers. What is very clear is the most important factor that affects student achievement is the teacher, number one.

Number two, the question becomes, well, how are the teachers, top teachers, top 15 percentile, getting about a year and a half gain for their kids? The bottom 15 percentile is getting about half a year gain. So if your child is in a classroom with one of these low-performing teachers for a number of years, that child gets so far back that it is hard to catch up.

One of the questions we have addressed is how are these teachers distributed across schools serving different student populations, with the idea being that if they are all with the high-achieving kids to begin with, disadvantaged kids are really being hurt.

What we found is the variation within schools is as great as the variation between schools, so in every school, there are these very high-performing and low-performing teachers. We then ask the question, well, what if school districts want to develop incentive programs where they identify and they can identify those teachers that are extraordinary teachers? Would it make sense to give them bonuses of some sort in order to provide incentives for them to move to schools where they are most needed?

We first had to find out is a teacher's productivity, is a teacher's effectiveness affected by the type of students they teach? Are teachers who are highly effective in schools serving more advantaged kids, if we can provide them incentives to work with more disadvantaged kids, will they be just as effective?

This was a very big study. The answer was yes, which then provides support for incentive programs for moving the most effective teachers to those schools where they are most needed. That would be an example of the sort of research that informs policy.

Ms. ADAMS. Thank you. Mr. Swiggum, let me follow up. Can you speak to the benefit of education research for our practitioners in the classroom and how it can contribute to better outcomes for our students?

Mr. SWIGGUM. Could you repeat? I did not quite hear that.

Ms. ADAMS. Can you speak to the benefit of education research for our practitioners in the classroom and how it can contribute to better outcomes for students?

Mr. SWIGGUM. I will go back to the two that I cited. Our teachers basically found that in Georgia, if you are absent six days or more, it basically affects your whole literacy reading score, and it was a surprise to us, so we actually implemented a different policy that teachers now follow around absenteeism and remediation work. Research does help teachers practice in the classroom much better.

Ms. ADAMS. Thank you. Dr. Hannaway, what would your response be to some of my colleagues who have concerns about the use of student data as it relates to student privacy?

Ms. HANNAWAY. The data that we as researchers receive are completely de-identified, and we work with such a large number of cases. Number one, there are so many disincentives for us to try to probe in that way, I would lose my job, I would lose my access to data. The consequences for researchers in any way trying to identify individuals are severe.

Ms. ADAMS. Thank you. Mr. Chairman, I am out of time. Thank you, I yield back.

Mr. ROKITA. I thank the gentlelady. The gentlelady's time has expired. I now recognize the gentlemen from Virginia, Mr. Brat, for 5 minutes.

Mr. BRAT. Thank you, Mr. C hairman. I would like to start off with Ms. Stickland and then just move down the panel. I was an economist before I got into this business about a year ago. I am very interested and know the absolute necessity of having good data to do research on kids and education policy. I was in the middle of that business.

On the other hand, you are bringing us very real concerns here today on privacy issues, et cetera. One of the things I learned in economics is to always follow the money, right. If something is going wrong, think through some of the most egregious cases that come to mind in terms of violations of privacy, and when you think about that, are there economic incentives, is somebody making a buck off this, or is it just that we have not kept up with the technology over time?

As we are thinking through this, most of the folks on this side of the aisle share kind of a decentralization view of government, right, so when you get up into the billions and trillions up here,

there are huge economic forces that can be at work driving some of the revenues for this, that, and the other thing.

Some of us want to keep things more State level, local level, et cetera. Just help me, in your experience, any egregious cases that are tied to the wrong incentives being in place or is it just a matter we are not keeping up with the emerging technologies?

Ms. STICKLAND. Thank you for the question. What I would say is there is actually not a lot of publicly released data breaches, especially of SLDS. I am aware of a few at a very small scale in our own State. I think what affects parents most is there is no informed consent. There is no knowledge that information that they are sharing with their school district is headed up to the State.

I think approaching it from that perspective, that will gain the trust. Then there is the whole online education spectrum or the vendor community. I think what we are seeing is some good actors and some bad actors, and that is fair, and I think certainly addressing and modernizing FERPA, if we can place some safeguards around the use, not just commercial use in marketing and selling of data, but also monetizing in other ways, there are ways to monetize data that is outside the direct sale.

Those are things that I think we should be very concerned about. And getting the vendor community on board and helping us lead the charge, I think it will help a lot.

Mr. BRAT. Very helpful, thank you. Mr. Campbell?

Mr. CAMPBELL. To my knowledge, the issues that have happened around improper disclosure, breaches, are most often people-related issues, inadvertent disclosures or maybe not, having settings done properly, which speaks to the importance of having more policies in place around audits of systems, something that our model policy requires of a State, that they have a security audit of their system to prevent situations like that from occurring.

We think it is important that the ESSA bill that just passed allows school districts to use some of their Title II funding for training around privacy, which we think is a great step to have that knowledge base built, that everyone has a role to protect it.

I think it is also a great step from industry that there have been almost 250 companies in the education technology space that have signed on to the pledge that they will protect student data, that it will not be used or sold for advertising purposes, that we think that shows they take this seriously, and just as Dr. Hannaway mentioned, the brand risk for her as a researcher encourages her to protect data.

I think that pledge creates that same brand risk and they recognize bad practices around data are not good for districts wanting to work with them.

Mr. BRAT. Thank you very much. We have 58 seconds left, so divided by 2, 30 and 30. Dr. Hannaway?

Ms. HANNAWAY. You are an economist, let me give you a question that we would be very happy to do some good research, and that is the extent to which all of us talk about technology. One thing we really do not know is the extent to which technology is a substitute for the human capital that is in the classroom for teachers, and the extent to which it is a facilitator, to the extent

to which it is another add-on, these are important questions. They are important substantive questions.

My experience is individuals can be protected, if you have legitimate people doing good analysis, individual privacy will be protected. We want it protected. We want the data providers to trust us.

There are some very important questions out there, and I think technology is one of them. We really do not know yet the extent to which and the ways in which and the conditions under which technology can really improve—

Mr. ROKITA. The gentleman's time has expired.

Mr. BRAT. Thank you.

Mr. ROKITA. I thank the gentleman. The gentleman from New York, Mr. Jeffries, is recognized for 5 minutes.

Mr. JEFFRIES. Thank you, Mr. Chairman, and let me thank the witnesses for your presence here today. Let me start with Ms. Stickland. You mentioned in your testimony that there is an absence of informed consent as it relates to the transmission of student data and academic information.

In your view, what would sort of an informed consent requirement look like, assuming that you believe it is an appropriate step to take as we consider changes to data privacy laws?

Ms. STICKLAND. What I would say is that parents would appreciate the opportunity for informed consent at any practical sort of situation. In the absence of those practical situations, we certainly would appreciate transparency. Again, the transparency is what data is being collected and for what purpose, who it will be shared with, what are the security protections, and when will that information be destroyed?

I think when parents enter the education system, enroll their children, just like FERPA right now requires a directory information notice, an exception, the ability to opt out, I think FERPA should require schools to tell parents how information is being used, and certainly at any point possible, the ability to have consent and to be able to opt out.

Mr. JEFFRIES. Is it your view that many parents or a majority of parents have no understanding as to how their individual child's data is being transmitted and for what purposes it is being used?

Ms. STICKLAND. I would agree with that. I would say not only when school information is being pushed up to the State but also in the online environment. You know, parents are very trusting of their schools, and they believe that information they are sharing with their teachers and their schools will remain within their school walls.

I would agree with that statement, but I would say we are becoming educated on the issue as well.

Mr. JEFFRIES. Thank you. Dr. Hannaway, would an informed consent requirement present an impediment to academic research in your view, or is it a reasonable thing to consider?

Ms. HANNAWAY. I do not think informed consent of individual parents should be required at all for academic research because the data we get are de-identified to begin with.

Mr. JEFFRIES. Who is de-identifying the data? Is that happening at the school level?

Ms. HANNAWAY. State level.

Mr. JEFFRIES. Or at the superintendent level?

Ms. HANNAWAY. State level. We get our data from the State, and Mr. Swiggum is representing Georgia, and any data we get are de-identified, the research questions are approved. We sign our lives away as individuals, even our research assistants, where our institution that we are working at also has to sign on and build in security procedures.

There has just never been an issue when it comes to solid research using these State administrative databases of violation of security.

Mr. JEFFRIES. Mr. Swiggum, could you comment on the notion of an informed consent requirement or ways in which parents could possibly be brought into a more transparent space with respect to how their students' information is being used?

Mr. SWIGGUM. Informed consent is probably one of the more labor-intensive things, depending on how it is implemented. Parents enroll their child in school, and they are consenting to put the records into that school system. Parents may not know what the State does with that data. That is basically up to the district to let the parents know.

We rely on districts to notify parents of what is going to happen to that data because they are the ones collecting it. When you do get very prescriptive about this is what a district has to do to notify a parent, it can put a burden on the district.

Mr. JEFFRIES. Do you think when a parent enrolls their student in a school, you indicated that they are consenting to that information being part of the school system, but do you think they are consenting to that information being distributed in a variety of different ways to researchers that they may be unfamiliar with, separate and apart from the question as to whether that research is producing information that is valuable ultimately to school instruction?

In your view, what do you think parents are actually impliedly consenting to?

Mr. SWIGGUM. I think parents are consenting to enrolling that child in that school system and having the records in that school system. I think that is what parents basically feel. I do not think parents really know about the research part. I do not think they know about that unless someone talks to them about it. That is just not something that parents are thinking about when they are enrolling their child in that school system. That is just my personal opinion.

Mr. JEFFRIES. Thank you. My time has almost expired. I yield back.

Mr. ROKITA. I thank the gentleman. The gentleman's time has expired. The gentleman from Alabama, Mr. Byrne, is recognized for 5 minutes.

Mr. BYRNE. Thank you, Mr. Chairman. Ms. Stickland, thank you for your time on this. I started out in education policy as a parent, and there is no greater advocate for our children than parents, and I appreciate what you do.

Mr. Campbell, Dr. Hannaway, I spent eight years in a State school board in Alabama, several years in our legislature in the

policy committees. The data you collect is absolutely essential to policymakers, including those of us on this committee, so thank you for what you do.

Mr. Swiggum, I was chancellor of postsecondary education for the State of Alabama, so I have been in your position, so I have sort of covered all of these.

I think Ms. Stickland raised a couple of questions in my mind. Mr. Swiggum, they kind of come to you, unfortunately, because of your position. She raised the issue about not necessarily informed consent, but just informing parents we are collecting this information on your child, it is going to be shared in this way with these people. Is there a problem doing that?

The second question she raised is what can we do to protect against hacking, and hacking is a problem throughout society. We know that. The third thing I would like you to address, and this is three things for you to remember, is how much does this cost for you to comply with it?

It is pretty easy for us policymakers here at the Federal level to put all of these requirements on you, but at the end of the day, you have to allocate resources or your State Department of Education has to allocate resources to comply with it.

If you could sort of take those one, two, three, if you can remember them that way, and just respond to them.

Mr. SWIGGUM. Number one, parental consent, I believe that what happens—

Mr. BYRNE. Not consent, just notification.

Mr. SWIGGUM. Notification.

Mr. BYRNE. Right, not necessarily expecting them to say yes, just we are telling you now we are going to share this information in this way with these people.

Mr. SWIGGUM. It is to the degree and to what topics they need to be notified of. If the State of Georgia has gotten a request from a research firm to pull data, de-identify, and give it to them for research, to try to notify all the parents in Georgia that we are going to do a research project would be next to impossible.

Mr. BYRNE. Is there a way to say, not that you know these particular people are going to get it, but tell parents in advance we are collecting this information on your child, it is going to be shared in this manner with these types of potential users? Any problem with that?

Mr. SWIGGUM. No, I do not see a problem with that, as long as it is not something which is very prescriptive that says if this happens, you have to do this. If it is a general understanding. I think educating parents how the data is used in any system is a very good idea. That is number one.

Mr. BYRNE. Yeah, Hacking.

Mr. SWIGGUM. Hacking. Hacking—are you talking about a breach or are you talking just people trying to get into the network or getting to the data?

Mr. BYRNE. Well, I think the concern we have been having in Washington is outright hacking that has gotten into some data systems we did not think people should be able to hack into, but with very sensitive personal student data, how can we assure parents

that a hacker cannot get in and get some very personal information about their children?

Mr. SWIGGUM. That is one of my primary roles, I am responsible for the infrastructure, also. That is where the hackers go after, they do not actually come in through the software, they come in through the hardware and the networks.

We have a series of seven or eight steps to make sure our infrastructure is solid, the data is all encrypted in it, so if anybody actually got to it, they could not unencrypt the data.

We do several things to make sure that a hacking attempt, if it even got through our firewalls, which it does not, we would have had about a half a billion attacks a year, that is what happens in a statewide network, because you get attacked constantly, but they do not get through because they are not able to penetrate our security.

Hacking is something that we deal with every single day, and to this point in time, we have been very successful keeping those things at bay.

Mr. BYRNE. I would think your colleagues around the country are doing the same things. If we had some very general statement that required school systems to do it around the country, this is requiring you to do what you are already doing.

Let's get to the costs. It is real easy for us to put together these Federal statutes up here. You have to live with them. Is there something you want to tell us as we go through this, hey, be careful of this because it adds an unnecessary cost?

Mr. SWIGGUM. The more prescriptive you get with technology, the most costly it is going to be because the chances of what you decide today that I should do tomorrow will be outmoded and I will have to redo it again. I would caution people just not to get prescriptive saying when you install security, do it this way, or when you are doing something, do it this way, because technology evolves so quickly, I will have to replace it in another year.

Mr. BYRNE. You would not have a problem with the general requirement to do it, because that is going to change over time with technology?

Mr. SWIGGUM. Yes.

Mr. BYRNE. Thank you very much. I appreciate everybody's testimony. I yield back.

Mr. ROKITA. I thank the gentleman. The gentleman yields back. The gentlelady from Ohio, Ms. Fudge, is recognized for 5 minutes.

Ms. FUDGE. Thank you so much, Mr. Chairman, and thank you all for being here today. Mr. Swiggum, the Student Data Privacy Accessibility and Transportation Act passed the Georgia State legislature in 2015. That same year, Mr. Rokita and I introduced H.R. 3157, the Student Privacy Protection Act, which will modernize privacy protections, improve communications between parents and school officials, and hold parties accountable for their use of student information.

While it is commendable that the State legislature in Georgia has taken steps to safeguard student data, what do you believe the Federal role is in ensuring that students in all states are protected?

Mr. SWIGGUM. I am a big fan of the bill that just passed in Georgia, because it really elevates the need for security and privacy. If the Federal Government looks at that bill and adopts a lot of those principles, I think we would be a step ahead as a Nation.

It really does a lot of things that people are concerned about. It talks about what data we can collect, what we cannot collect. It is a very good way of addressing the issues of—

Ms. FUDGE. You do believe the Federal Government has a role in protecting student data?

Mr. SWIGGUM. I think the Federal Government maintains the floor of what is required. I think every State should add on to that—

Ms. FUDGE. So, your answer is yes?

Mr. SWIGGUM. Yes.

Ms. FUDGE. Thank you. Dr. Hannaway, I am concerned about the opt-out that you talked about in your testimony. Could you just go a little further and tell me what the effects are of opt out, and how we could really bias and/or affect data collection?

Ms. HANNAWAY. I think I, and I think most researchers, would be very opposed to opt-out positions, because it means when we get the data, we do not know whether the data we are receiving are actually representative of the population we are trying to see is benefitting or not benefitting from certain programs and policies.

As I mentioned before, it would be as if getting a Swiss cheese pack of data. There could be biases built into that. I said in my testimony it could be that middle-class parents of adolescent boys do not want their student data to be in the file. That means any conclusions we come to could not be applied to that particular subpopulation. There could be significant fractions and bias in the data, and we would be coming to conclusions on faulty data.

Ms. FUDGE. Thank you. Still to you, Dr. Hannaway, is it true that easily accessible education data has become like a hot topic, right, that has attracted some of the Nation's best researchers?

It sounds like a real-life example of if you build it, they will come. What does that mean for the future of education research?

Ms. HANNAWAY. I think it is a tremendously exciting time for education research. We can produce findings quickly. We can produce them reliably. We can use very sophisticated technical strategies in analyzing the data. We can look at subpopulations. All of this can happen in almost real time.

I think education research has moved into a different stratosphere of effect. As I mentioned earlier, if you go to any of the most prestigious journals, you will see education research being done. If you look even 10 years ago, you would not see that happen.

Ms. FUDGE. Thank you. My last question to you as well, Dr. Hannaway. How can the Department of Education make education data and collection more accessible to researchers so researchers can perform a more effective analysis on that information without having to spend too much time cleaning the information or having to use incomplete or inconsistent datasets?

Ms. HANNAWAY. Well, I am a big fan of the State administrative data system. These are generally clean data. We do not have to spend time cleaning them because they are used for administrative

purposes, so they are constantly being updated. They are constantly being cleaned. Errors come to the floor very quickly.

It is these State administrative data systems that the Federal Government has invested heavily in that are a gold mine for researchers.

One thing that is happening, however, is that because of privacy concerns, and I think when you are talking about those data, those privacy concerns are overstated, but because of privacy concerns, States are becoming more and more cautious about giving data to researchers, and that is significantly retarding the progress we could be making in identifying the factors in programs that are promoting student learning.

I might add—

Mr. ROKITA. The gentlelady's time has expired. We will now hear from the gentleman from Georgia for 5 minutes, Mr. Allen.

Mr. ALLEN. Thank you, Mr. Chairman. Mr. Swiggum, you have done a great service to the State of Georgia, and I appreciate your testimony today, and, of course, what you have accomplished in the last few years is pretty remarkable.

Obviously, you have impacted our education system, but then again we have heard a lot of testimony here today about concerns as far as our impact on the education system, the knowledge of what these students are achieving, versus what information out there does not need to be exposed.

What would be a solution, do you have a recommendation as to what we need to do to make sure that everyone's interest here is preserved?

Mr. SWIGGUM. Well, in Georgia, to make sure the data we collect is data that is going to be used, we actually do not collect any data unless it is a State board rule, State law, or Federal law. If it is not one of those three things, we do not collect data. I am responsible for data collection, so if someone comes to me and says I want to collect some data, they have to show me one of those three policies before we even talk about collecting it.

We have procedures in place to make sure that we just do not collect data just because somebody wants to look at it. There has to be a real reason behind it.

Mr. ALLEN. Are there specific ways that this data is helping our teachers do their jobs?

Mr. SWIGGUM. The longitudinal data system? There are countless ways that teachers are helped to do their jobs. It is just a matter of—when I gave my first testimony, a teacher who wants to look at the Lexile levels for 100 kids can now do it with touching one button. They can see all 100 kids' Lexile levels, and then if they see some problems with a couple of the children, they can drill deeper into that child and see all the history of that child up to 9 years' worth to understand where have the Lexile levels been, what has been your enrollment, have you moved from different school systems?

These are all things a teacher needs to understand, and why do we have it in there? Because teachers ask us to put it in there. Same thing that parents ask us to do. We are doing what our constituents are asking us to do with our system.

Mr. ALLEN. This has actually helped parental engagement in the lives of their kids?

Mr. SWIGGUM. Absolutely.

Mr. ALLEN. Ms. Stickland, you obviously are concerned about this information, the way it is used. What is your recommendation for a solution to achieve the results that your organization wants to achieve?

Ms. STICKLAND. Well, if I could just comment briefly on parental engagement with these dashboards and these types of tools. A lot of parents end up using these almost as monitoring their kids. In a lot of ways, that can backfire. Teachers as well. They can use the information to stereotype a child or have a discriminatory perspective on a child before they even enter the classroom. Just as we might see benefit in data being used this way, there is also ways that it can be used for harm or for risks.

In terms of your question, what can parents do?

Mr. ALLEN. How can we reach a compromise, I guess is my question?

Ms. STICKLAND. Reach a compromise?

Mr. ALLEN. Yes.

Ms. STICKLAND. Well, again, I would go back to the transparency piece. Parents—I think a lot of times what happens is this data is being collected for research or policy decision-making purposes, parents do not understand that, and when they find out, then they are rightfully concerned that they were not informed ahead of time.

I think the transparency issue, telling parents what is going on, what is happening with their students' data, how it is being purposed at the school level, at the State level, beyond the school and State walls, I think that would be very helpful moving forward.

Mr. ALLEN. Mr. Swiggum, we do that in Georgia, correct?

Mr. SWIGGUM. We do that.

Mr. ALLEN. Mr. Campbell, your thoughts on the compromise here?

Mr. CAMPBELL. I agree, I think transparency is incredibly important so that parents understand what information and what tools are used by schools and information that is collected. At the State level, to have an inventory of what elements are in the State data system and what purpose they are serving, and there is an opportunity to weigh in if anything new is proposed to be added.

I think at a district or school level, it would be smart practice for districts to talk about what tools and services they use, and why, and to make that available for parents, and to be part of a conversation about what tools are used and why, and what purposes they serve.

I think that step can alleviate a lot of the concerns and fears that may exist. Those fears are not unfounded, but I think good practice from districts can help allay many of those concerns.

Mr. ALLEN. Mr. Swiggum, any idea how many hits we get in Georgia on our site?

Mr. SWIGGUM. Every single one of them.

Mr. ALLEN. No, I am talking about—

Mr. ROKITA. Thank you. The gentleman's time has expired. We will now hear from the gentleman from California for 5 minutes, Mr. DeSaulnier.

Mr. DESAULNIER. Thank you, Mr. Chairman. Thank you to the panel. My questions pertain more to sort of the retail aspect of getting the data and disseminating it, both to the teachers in the classroom and to the parents.

Mr. Campbell, how does data collection and privacy rights impact innovative classrooms? In California, we certainly heard a lot about this in No Child Left Behind, that they were overwhelmed with interpretations of the data, particularly large school districts like L.A., were accumulating.

What are some of the things we have learned about distributing data and making it impactful at the classroom level?

Mr. CAMPBELL. I think the first thing is data on its own is not going to be an answer or address a challenge that a teacher or principal may face. There needs to be smart conversations about why information would be collected at a classroom, school, or district level, and to what use.

I think if there is a disconnect there, it can lead to the sort of fatigue that you are describing, and would lead to information that is not usable. I think the dashboards that Mr. Swiggum has been describing that the Georgia SLDS includes are ways to make data actionable and meaningful for teachers, principals, superintendents, and parents as well.

I think that is a key driver of the goals. Data for data's sake is not valuable data to provide insights to help kids, and open up opportunities is what is important. It is how that data gets turned into insights and activities that really brings value.

Mr. DESAULNIER. Is the research somewhat generational? I know being older, some of this information, explaining to people who have been in the profession a long time what this means and how to translate it in the classroom is a struggle, learning more about how to make sure everyone uses this information in an impactful or positive way.

Mr. CAMPBELL. I think that is definitely a challenge, innovation, in what school experiences look like for kids and teachers takes time, and it should not be viewed as radical massive shifts.

A school needs to be thoughtful in planning what instruction looks like, what the experience for kids looks like, and bring their staff along on that journey, and have the staff actually help lead that journey. That will make buy-in much more long-lasting through the innovations that are being introduced.

Mr. DESAULNIER. Are we putting more resources into that as we learn more about data collection and its usefulness? Any of you? Is that primarily a State role, do you believe?

Mr. CAMPBELL. I think it is, a State and local role. That is the vast majority of funding, there are valuable clauses in ESSA, the Student Opportunity Block Grant allows districts to invest in innovative personalized and blending learning models, and really puts an emphasis on the professional development of staff to do that well. We think that would be something that would be a very smart use of funds for many districts and States.

Mr. DESAULNIER. Dr. Hannaway, in regard to the parents, a study by the Future of Privacy Forum in 2015 found a majority of parents were unaware of existing privacy protections, but a similar majority proportionately believe there should be more.

This goes to similar—what I am trying to get to is getting both as we learn more about data, getting both the teachers in the classroom and the parents to understand the balances we are trying to do.

Do you have any comments about the irony that they want more protection but they are unaware of what is available now?

Ms. HANNAWAY. I think that is probably an accurate statement. I am sure it is an accurate statement. At least from the researcher side, these data are, as far as I have been able to make out over 10 years working with them constantly, completely protect privacy.

That said, as a researcher, these data, we think, are so important, not only for our own careers, but also important in order to understand how to make education better in the U.S. and maybe get back to the level that our economic competitors are. Using these data are critical to that end.

Mr. DESAULNIER. Since you mentioned our international competitors, do you know if that scenario is similar in other countries where parents are unaware of the privacy protections but want more? Are any of you aware?

Ms. HANNAWAY. I really cannot talk about that from other countries, not knowledgeably. I do think the case here, there are many administrators, there are many teachers, there are many researchers who really do not understand the nature of the data. Many people think that we have identifiable data, and we just do not.

Mr. ROKITA. The gentleman's time has expired.

Mr. DESAULNIER. Thank you.

Mr. ROKITA. We will now hear from the gentleman from Kentucky, Mr. Guthrie, for 5 minutes.

Mr. GUTHRIE. Thank you, Mr. Chairman. Thank you for that, I appreciate it. It is hard to believe that it has been over 40 years since we have updated our privacy laws. In fact, 40 years ago, I think I was in sixth grade. We certainly did not have any of the technology we have now.

As a matter of fact, when I stepped out I was meeting with a friend I knew in graduate school, that was the 1990s. We were switching cell numbers. We did not have cell phones really even then when we were in grad school. She is here for another meeting. A lot has changed.

Ms. Stickland, I want to ask you first, in your experience with the coalition, can you describe how you have seen parents participate in the student privacy discussion at the local school and school district level, and how parents can become a bigger part of the student privacy discussion?

Ms. STICKLAND. Yes, thank you for the question. I would say as soon as one parent sort of understands the current landscape about student privacy, understands that FERPA is 40 years old, and when they ask questions about FERPA and they are told that everything within their school district complies with FERPA, but then later understand FERPA has been eroded over the years, and it certainly has not been modernized to keep up with current condi-

tions. I think as soon as one parent, really just one parent, begins to understand that and begins talking to other parents, it is the kind of conversation that ignites, because it is very dear to all parents.

I mean, we are the ultimate stakeholders. We trust our schools with our children and with their information. Certainly, as soon as someone has a concern and shares it with others, it ignites, just like I said.

We have had a very good opportunity to get a lot of information to parents, give them some practical tips. In fact, we are coming out with a student privacy toolkit this fall, with the intention of having practical tips and best practices for parents and teachers to really advocate for good policy at the local district level, certainly. And certainly when parents get more confident about their concerns and their issues, then we have seen them take the issue up with their State legislatures, and we are seeing some good progress in some States across the country.

Mr. GUTHRIE. Thank you. I have three kids, and my third one is in her senior year of high school. I will tell you, no matter what level or what school, whatever, it is always that one parent. It is always somebody that takes that and moves forward, and thank goodness for that one parent who led on the issue and brought us all moving forward on whatever the issue is moving forward.

Mr. Swiggum and Mr. Campbell, I have a question. I actually want to follow up on an earlier discussion that you guys were having, and looking at technology in the classroom. The question is how can we help ensure teachers can use helpful technology but are aware of what data is being used, created by using that technology, and how can we limit the burden on teachers in determining that for the app, using technology for the app and the data within each app?

Mr. Swiggum?

Mr. SWIGGUM. To me, the best way to help teachers use the technology is training, training and education. There is so much technology out there now that is being aimed at the teachers to try to help them, but the training is not always there for them to understand it, so a lot of them go out on their own, find these things themselves, but they are not always well-versed in privacy and security because the technology looks harmless, and they do not see it as a problem, so they start using it, but there may be a problem.

It is really about education and helping people understand what are you responsible for and how technology should be used appropriately. So, training.

Mr. CAMPBELL. I will second that. I think also districts have an important role in vetting tools that are used and reaching agreements where appropriate with their partners that clarify information about students remains the property of the district, and at the end of terms and services, needs to be returned or deleted.

I think that is something that you are not realistically going to get 3 million teachers across the country up to high levels of expertise. I think there are important roles for districts to play in that.

On top of that, I think the sort of direct regulation that was something in the model policy that we developed at the State level and has been included in proposals at the Federal level is some-

thing that clarifies that it is not just the information and transcript level data about students that is protected, it is the data generated as students use tools and technology in the classroom that deserves protection and protection is required of that information as well.

Mr. GUTHRIE. Thank you very much. My time is expiring, so I yield back.

Mr. ROKITA. I thank the gentleman for yielding back. The gentlelady from Massachusetts, Ms. Clark, is recognized for 5 minutes.

Ms. CLARK. Thank you, Mr. Chairman, and thank you to all the panelists for being here today on this important topic.

My first question is for you, Ms. Stickland. Several of the suggestions that you have made have broad support, restricting student data from being used for marketing purposes, and ensuring that we have robust security protections.

I wanted to ask you about one of your recommendations for citizen oversight for the institutional review boards. My concern would be that if we have citizen oversight, how do you balance that with maintaining the independence that board needs, and how do we make sure that oversight would be representative of a broad cross section of American parents?

Ms. STICKLAND. Thank you for the question. I am not sure I understand your question specifically, but what I will say is that we recommend citizen oversight of the SLDS, development of the SLDS. We really believe there should be a parental voice as these are developed and maintained and expanded.

In terms of IRBs, we think these should also be implemented. In the State of Colorado, our State Board of Education is going to dissolve our IRB and rely on all outside institutions' or organizations' IRB process.

When we see efforts like this happening, we think IRBs are very important. They should be implemented at all State levels, and we believe also a citizen oversight of the SLDS, some sort of parental involvement.

Ms. CLARK. I have sort of a tangential question for you, too, but one that has been of concern for me. Some of the activity we are seeing around asking our students who are research assistants at the university level, having their specific names and student information revealed based on the research they are conducting, have you thought about that at all in the protection for privacy for students who are conducting research?

Ms. STICKLAND. To be honest, this is the first time I have heard about it. I think any student in any institution, whether it is in K–12 or higher ed, should have their personal information protected under a Federal law like FERPA. I believe that should not be released to the public unless there is student or parental consent when it is applicable.

Ms. CLARK. Thank you. Dr. Hannaway, sort of along the same vein, I wondered if you had thought about that at all as a researcher yourself, sort of the role of student researchers and their privacy concerns? I realize this is a little off topic.

Ms. HANNAWAY. Yes, and I am not—with the research that they conduct independently or with them as research assistants—

Ms. CLARK. Research assistants tied to professors and their research.

Ms. HANNAWAY. Working with data?

Ms. CLARK. Working with data, and really my question is we have seen some interest in having students who are conducting research that may be controversial to some, you know, having their personal data exposed and put into the public because of the research they are conducting, which seems to me a real privacy issue for some of our students. I just wondered if you had any thoughts on that, and feel free to say you had not thought about that.

Ms. HANNAWAY. I had not really thought about that, but I do know when I am working, say, with State data, I am responsible for my students, and my students have also signed the same nondisclosure and confidentiality statements that I have signed.

I would hold the student responsible. The university would hold the student responsible and hold me responsible. If you are working with these State data, you do it under very strict controls by the State. We abide by them to a fault. The students would be held to the same standard.

Ms. CLARK. My concern is not with the students. I do not know of any examples. What we are seeing now are requests for student names based on the research they are doing, so sort of the privacy of that student researcher, which I understand it is not exactly the issue you are looking at.

But I did want to ask you briefly in my time remaining, easily accessible education data has made educational research really a hot topic. How do you see—what does that mean for the future? I am hoping you can comment specifically on how we could reduce or best use our tight resources for education.

Mr. ROKITA. I am sorry, I will give you 5 seconds to respond. She can have some of my time. The gentlelady's time has expired.

Ms. CLARK. Thank you.

Mr. ROKITA. We will now hear from the gentleman from Nevada, Mr. Heck, for 5 minutes.

Mr. HECK. Thank you, Mr. Chairman. Thank you all for being here today. I apologize for missing your oral testimony. As often happens, we have simultaneous hearings going on. I did have the opportunity to read through your written testimony.

Ms. Stickland, certainly you have delved into this issue quite deeply as a parent. In your written testimony, you talk about information that is being collected might have been required previously by No Child Left Behind or individual State mandates, but now much of the data collected appears to transcend legal requirements.

With the design, adoption, and implementation of Common Core, one of the things I have heard from a lot of parents is their concerns that Common Core has required new depths of data mining for their students.

As a parent who has been involved in this issue, have you come across that same issue, and do you have any views on whether or not Common Core itself has actually increased the amount of data mining of student information?

Ms. STICKLAND. I thank you for the question. I would say I have heard the same concerns from parents from across the country. There is a lot of new measurements of student achievement that

does not necessarily have academic purposes, grit, and tenacity, and those sorts of things, sort of emotional factors, and there are a lot of parents who are very, very concerned about this.

I have not experienced it in my own children's education, but I do know that is a growing concern among the parent community.

Mr. HECK. Thank you. Mr. Campbell, in your testimony you talked about the model privacy policy that you developed, saying it avoids unnecessary data collection. How is "unnecessary" defined and who defines it?

Mr. CAMPBELL. Well, that was a summary, there are prohibitions in that law around certain data elements that prohibit a State from collecting things like political affiliation of parents and families or religious beliefs that we termed "unnecessary" in that regard, that the State does not need to collect that, so it is prohibited in that policy.

Mr. HECK. What was it that informed your decision as to what would fall into that category of things determined to be unnecessary?

Mr. CAMPBELL. Well, it is a relatively small list, there may be one or two other things that are not coming to the top of my head. It was things that are not going to directly impact the measurement of a student's educational progress and success, so we did not think it was necessary for the State to collect that. But, you know, there are instances of things about ethnicity or income for reporting purposes that are required by other State or Federal laws, so that we can disaggregate data and report on how students of different ethnicities are succeeding in school.

It was really about things that would not be necessary educationally.

Mr. HECK. Things that would not actually be an indicator of student achievement or success or impact on their education were excluded from the data collection tool?

Mr. CAMPBELL. Correct.

Mr. HECK. Thank you. Mr. Swiggum, in yours, you mention that if any new data is required to be collected, you are required by State law to post the purpose of the collection for public comment and to report any new data collections to the governments and legislative offices.

Have you actually had to do that as yet, where you had to post a new item for public comment? And if so, how did that go and what was the outcome?

Mr. SWIGGUM. So, the law was passed last year, and it is implemented this July. We actually have not formally had to do it, but we have actually had one new data collection that we have actually posted out there just to see how the process is going to work. We have not gotten any feedback from it yet, but it is a relatively new process, but it does go into effect this July.

Mr. HECK. How will the public or the parents know that the new collection is up and available for public comment, so that they have the opportunity to voice their opinion?

Mr. SWIGGUM. It goes out to the DOE website, and then it also goes out to the districts for them to disseminate it however they feel best for their district area.

Mr. HECK. Thank you. Thank you, Mr. Chair. I yield back.

Mr. ROKITA. I thank the gentleman. The gentleman yields back. The gentleman from Tennessee, Dr. Roe, is recognized for 5 minutes.

Mr. ROE. Thank you, Mr. Chairman, and just very quickly, first of all, I can see you, that is wonderful. Everybody has left.

It looks like what we are trying to say is how much privacy do we need to have, and does the data that we collect actually help us get to a different point, a different end? And I guess I will quote one of my favorite philosophers, Yogi Berra, if you do not know where you are going, you might end up someplace else.

To give you an example, I just read more data riding on the airplane, the SCORE Report from Tennessee on education. To Dr. Hannaway's point, if you look at ACT scores, if you look at Massachusetts, they are the highest in the country. You compare them to Tennessee, we do not look very good. The only problem is 100 percent of juniors take it in Tennessee and 23 percent of students, which are obviously the highest performers, take it in Massachusetts. You would draw a wrong conclusion with that data.

I think data is important. We have used it in Tennessee to improve where we are in our outcomes.

The real question is—I guess I will start with Ms. Stickland, from your work with the Parent Coalition for Student Privacy, have you run across any States or even school districts that have actually done this right, informed parents and so forth, or is there a place we do not have to reinvent the wheel?

Ms. STICKLAND. What I would say is there is some good State laws that have been presented in the last couple of years, and there are some good district policies. I do not think we have ever found one that we felt was 100 percent solid, but there are good examples.

For instance, there is the directory information exception that parents can opt out of their children's directory information to be released, and there are some districts who offer a menu approach, right. You do not have to necessarily say—a lot of times directory information includes your child's picture in the yearbook. Most reasonable parents want their children's picture in the yearbook but they may not want it sold to marketers.

There are good examples out there, and I would be happy to follow up with you on some that we have found so far.

Mr. ROE. I do not want in there when Coach Morgan, when I was in ninth grade basketball, bent me over and paddled me for something I did, which he did, and he got my attention with that, but I would not want the world to know about it, and now they do.

The other question I have, and anyone can pick this up, and I guess, Mr. Swiggum, what are the most common concerns you hear from parents about protecting their child's privacy? What do you hear from the public?

Mr. SWIGGUM. Primarily what I hear about protecting a child's privacy is when they read something in a blog and it basically scares them, and it is like are you really doing this with my child?

The latest one that I got was probably six months ago, a letter from a parent who was concerned that we had installed wires in the chairs of where their kids were sitting, and this electronically

transmitted something to the State about how the child was taking a test.

Obviously, we do not do anything like that, but those are the types of questions I typically get, are you really doing this, and the answer is no, we do not do stuff like that.

That is where most of those privacy questions come from.

Mr. ROE. It is a real balancing act. Dr. Hannaway is trying to perform accurate academic research that we can use to improve outcomes. I think that is clearly what we are trying to do, and yet if she does not get the data that she needs, as I pointed out to begin with, the conclusions are erroneous and they are worthless. As a matter of fact, they are worse than that. You may do something that may actually harm what you are doing with bad data.

It is a real challenge what you all have presented today, and I appreciate you coming here to protect people's privacy, which they want, and believe me, I think the government has too much information. If you have ever filled out a Census packet, you certainly understand the information that is in that, that is basically public.

With that, I have no further questions. I yield back.

Mr. ROKITA. I thank the gentleman for yielding. The gentleman from Indiana, Mr. Messer, is recognized for 5 minutes.

Mr. MESSER. I thank the chairman, I thank those testifying, and the committee for the work on this important issue. As has been talked about over and over today, the innovations and improvements to educational outcomes that come from technology are important, and we want to keep them and maintain them, and, at the same time, it is important that we protect our kids and help parents in protecting their kids as we reach the improvements, educational improvements that are coming from technology.

Today, we have talked a lot about the importance of educational research and the role it plays in protecting student privacy. It is an important conversation.

I would like to ask a slightly different question to those on the panel. It is about the role education technology vendors play in protecting student data and our students. I have worked a little with Ms. Stickland on that subject.

I guess I would start with you about any advice or counsel you would have on the important role vendors play in protecting our students. What should we do about them?

Ms. STICKLAND. Thank you for the question. What I would say is we need them to be good partners in this venture together. I think they need to be amenable to adjusting their contract provisions with school districts. We have some vendors out there who simply will not, it is sort of a take it or leave it environment. If you want our services, you can accept our terms or you can walk away.

What that does to school districts is put them in a position of moving forward with these products while not protecting student privacy, and oftentimes, obviously when in circumstances like these, maybe the products are free and then children are paying with their privacy because there is no monetary exchange with the districts.

I think we need them to be good partners, and to do that, I do believe we need strong legislation.

Mr. MESSER. Mr. Swiggum, I saw you nodding or had some feedback, any thoughts or comments?

Mr. SWIGGUM. I think we could learn a lot from looking at how our researchers handle their data. I think the vendor world is the new frontier. It is constantly evolving, constantly changing.

It is very hard to keep up with all that, but if you look at how the researchers—I think Dr. Hannaway has mentioned this many times—they have a very set process on how things are going to be done, how you are going to handle it, the security, the deletion. If we had vendors following some of that same procedures, I think we would be much better off.

Mr. MESSER. Do you think they are likely to do that in the absence of some law or requirement?

Mr. SWIGGUM. I do not think they all do it now.

Mr. MESSER. Yes, I think that is right. Ms. Hannaway or Mr. Campbell, any comments or thoughts?

Ms. HANNAWAY. My only comment, I think this high technology input to education is extremely important, and I think it therefore behooves us to think through how to set up systems, like the systems that are set up for the administrative data, so that these data can be made available to objective researchers, because I am sure that the vendors themselves are doing their own research in order to develop their product.

If public money is going to be spent on this, there should be objective researchers also looking at these data, and that requires that these data become anonymized in some way.

Mr. MESSER. Well, frankly, my fear is that if we have a catastrophic act, something really bad happens, parents all across America will cry out to have this stopped. I think it is very important we get the standards right and we act now before that event occurs, so that we end up keeping technology in the classroom and getting all the positive outcomes that come with that while at the same time protecting our students.

Mr. Campbell, did you want to add anything?

Mr. CAMPBELL. I think everyone has a role to play in protecting privacy, and appreciate the chance to have worked with your staff on the bill that you and Representative Polis introduced, and the leadership that you showed in encouraging industry to take this seriously. I think that contributed to the hard work that was done on creating the student privacy pledge.

I think industry would benefit from clear expectations, and a number of States are moving in that direction, about protecting student data and particularly when it is information that is identifiable. There may be reasons for them to have completely anonymized data that will help them improve their products, but they should be deleting, returning to districts, purging identifiable information on a much shorter time frame, which makes any information they have less valuable and less risky.

Mr. MESSER. Thank you, Mr. Campbell. I see my time is about to expire. I should say I appreciate the vendors that did sign on to the pledge. I think it is important. It is showing there are some out there that are acting very responsibly with this data. Of course, not all vendors have. Many more have not than have. That is why I think we need to work on broader legislation.

I applaud the work of the chairman and others on this bill. It is important that schools and higher education institutions play their role in protecting student data, researchers, too, and then the private industry that works with these kids as well. Important work. I thank the chairman for his time.

Mr. ROKITA. I thank the gentleman. The gentleman's time has expired. I will now take a few minutes to ask some questions as well.

Of course, this is a very important subject. I thank all of you for your testimony. It is going to help us as we move forward with this improvement.

For purposes of the record, I want to follow up on a couple of things, perhaps add to the record, clarify the record, or reiterate the record, depending on the case.

Dr. Foxx asked what parents should know about the education record, and I want to follow up on that by asking what role parents should have in determining how that information is shared. I do not know if that was discussed. Ms. Stickland, I will go with you first.

Ms. STICKLAND. I am sorry. The question is what is the parents' role in deciding how that information—

Mr. ROKITA. Yes, what is the best practice? If transparency is the goal, an informed parent is a good parent to help with the process. And in all the different roles we have to play, Mr. Campbell, what is the best practice for informing parents? What should their role be in determining that practice?

Ms. STICKLAND. Well, I think once parents are educated on what is happening with the transparency piece, so they understand what data is being used, how it is being used, with whom it is being shared. I think then you will have a very supportive stakeholder group who would appreciate the opportunity to be part of the decision-making process.

Mr. ROKITA. So it drives itself.

Ms. STICKLAND. Yes. There is nothing more frustrating than being marginalized as a parent when we have legitimate concerns.

Mr. ROKITA. You would not suggest there is any best practice or model that should be codified in Federal law?

Ms. STICKLAND. I would love to research that for you and get back to you, but I do not have anything off the top of my head.

Mr. ROKITA. Okay. Thanks. Just for the record, you are not aware of data records being sold?

Ms. STICKLAND. From the SLDS?

Mr. ROKITA. Yes.

Ms. STICKLAND. Specifically? I am not aware of any SLDS records being sold, no.

Mr. ROKITA. Thank you. Ms. Bonamici had a question, and I think you answered it perhaps as a researcher or some of the researchers have answered as a researcher, but I want to be sure we get the gist of the question as I took it.

Do you see harm to students, especially at the higher education level, if we cannot guarantee student privacy in seeking medical help or reporting incidents of assault?

Ms. STICKLAND. I think student privacy should be employed in every regard. I think there are no instances where students should

be in control and have ownership of their data, so yes, I believe FERPA should be extended to cover situations such as these and protect students, maximally.

Mr. ROKITA. You mentioned States had a lot of good law and perhaps best practices. Do you want to go on the record and cite any States, whether in regard to student assaults or anything, that we should look at?

Ms. STICKLAND. With regard to student assaults, I am afraid that is just not an area of my expertise.

Mr. ROKITA. Anything else, any other States or policies you want us to focus on?

Ms. STICKLAND. There are certain States that address some of the vendor community issues. California, while I think that could be improved certainly, it is a very, very good start. There is a bill being introduced in Alabama this year that addresses some of our concerns about SLDS. I am not sure where it is in its process right now. Those are two bills that kind of address those two separate issues.

Mr. ROKITA. Thank you. Mr. Campbell, you were nice enough to mention the bill that Ms. Fudge and I filed, the Student Privacy Protection Act, and the additional penalties we include there.

Do you think the requirement for the written agreement to clearly outline the use and access of data will help limit the misuse? If so, how? Does it not depend on the written word?

Mr. CAMPBELL. Yes. The information about the written agreement, I think it is one of those things that in an ideal world, it is yes, of course, there should be a written agreement, but executing that in 15,000 local education agencies and all the requirements in there can introduce the concern of burdening capacity for districts to be able to do that effectively.

We had in our development of the model policy at the State level active discussions with many organizations about approaches that were taken, and actually, California passed both, had contract requirements and direct regulation in separate bills, but each passed. I think there is overlapping and sort of potential redundancy there.

Our eventual approach was to rely on direct regulation to make clear the requirements for the service providers working with schools, and if there is a clause about written agreements, I think it is really important to think about what is required to minimize burden and make sure districts are all able to implement that successfully.

Mr. ROKITA. Thank you. My time has expired. I will recognize Ranking Member Scott for his closing remarks.

Mr. SCOTT. Thank you, Mr. Chairman. Mr. Chairman, we have heard that we can effectively use student data to improve education policy. Of course, any time that you are gathering data, there is a risk that student and family privacy may be compromised.

Today's hearing has exposed several issues we have to consider in legislation, such as the effect of the validity of research, if some students opt out, we heard the gentleman from Tennessee point out that if one State was testing 100 percent, and another State is testing 23 percent, presumably the best 23 percent, obviously, the conclusions would be much different.

We also heard about the issues such as sanctions for privacy violations committed by vendors and the prohibition against the use of student data for marketing. We do know that significant improvements in the quality of education can take place if data is properly used.

Insofar as we have bipartisan legislation already before the committee, I am confident that we will be able to pass legislation to update the Education Science Reform Act and the Family Educational Rights and Privacy Act in such a way that maximizes the available use of student information, to improve education policy, without jeopardizing student and family privacy.

I look forward to working with Chairman Kline and members of the committee as we did with the Every Student Succeeds Act late last year, and the reauthorization of the Older Americans Act, which we did yesterday. I yield back.

Mr. ROKITA. I thank the gentleman for his remarks. In my closing, I would like to reference the fact that I promised 5 or 10 seconds to answer a question that Ms. Clark had when she ran right out of time. I do not know if it was to Dr. Hannaway or who, or if we even remember the question at this point. I do not think we do.

It has been a great hearing. It has been an exhausting hearing. I am going to close us out now, but again, I want to thank our witnesses for your excellent, excellent testimony, for your patriotism, for caring about our best asset, which is our children, for doing it in an objective way, and I have a million of questions on the meaning of the word "objective," and we will get to that at another hearing.

Clearly, I want the record to reflect that the witnesses before us were all here in good faith with expert information, and it gives this particular subcommittee chairman confidence that this is being done, even with the limitations of an old law, being done in the best way humanly possible, and I look forward to working with you all as well as every member of this committee to bring us up to the 21st century.

With that, seeing no further business in front of the committee, we are now adjourned.

[Whereupon, at 12:16 p.m., the committee was adjourned.]

○