

Chair Doherty and members of the House Education Committee,

Please pass HB 2709. This bill directs the State Board of Education to adopt standards for rights of parents, legal guardians and students relating to student education records.

I hope our family's personal story illustrates the problem. In October 2012, my son was a senior in high school. He was to turn 18 in December. I did something unprecedented at the Oregon Department of Education. I requested his education records stored there, inclusive of those entered in the new State Longitudinal Data System (SLDS).

FERPA[1] affords parents the right to review their education records. I referred Jan McComb at the ODE to the electronic code of federal regulations in order to access my son's e-data.[2] She promptly crafted a release form and sent the records by CD in the mail. (I was concerned the data could not be sent in a secure manner by email.)

Then I reviewed the data. This was a cumbersome process since I had to download data maps and code tables[3] to interpret the data.

But I learned that my son was coded a W8 in the SLDS. W 8 = Left to Earn a GED; Left to Earn a General Equivalency Diploma certificate but did not complete." And one year of data was missing.

Without explanation, I was told the W8 metadata could not be fixed. (And what's the big deal anyhow? He graduated!) I assume the reason for this is the computer algorithm didn't have a specific code for intra- (two times) and inter-district (one time) transfers or private school (one time). Thus, my son must have left to earn a GED.

The implications are tremendous both for the individual student and the school that might have that kind of metadata hung around its neck. Hopefully the codes and software have been updated since 2012 to address these flaws.

But that's the big problem with algorithms. Whether an SEA or LEA uses software that is home-grown or is proprietary, experts should be able to look under the hood at the software code to make sure that biases and errors are not inappropriately labeling students.

And what about records held by companies like Pearson/Google/Microsoft/Apple? If state agencies create metadata, we know third party vendors are likely to do so. Education-related internet giants may be repurposing what their computers learn from stored data to benefit the development and marketing of their product lines.

Students who receive special education or 504 accommodations (such as for ADD/ADHD)[4] are afforded confidentiality provisions under IDEA,[5] the Individuals with Disabilities Act. Shouldn't parents be able to see these assessments?

The monopoly on these tests is London-based Pearson, the largest education company and book publisher in the world. Since 2013, Pearson Clinical[6] has been using Q-Global[7] to

score and store tests. This decreased administrative burden is attractive for districts that are increasingly choosing the Q-Global option instead of scoring manually or with software.

Should Pearson Q-Global have the right to glean data for and use “*non-personally identifiable statistically aggregated data raw test data and other information collected in the testing process for our research, quality control, operations management, security and internal marketing purposes and to enhance, develop or improve tests and testing processes*”? Or transfer the data “*in connection with a sale, joint venture or other transfer of some or all of the assets of NCS Pearson, Inc.*” or “*to our contractors or agents who are committed or obliged to protect the privacy of Personal Information in a manner consistent with this Privacy Policy*”?[\[8\]](#)

Is this kind of re-purposing of data even lawful? I realize that experts across the country are wondering how to address this complex issue.

SEAs and LEAs *and their third party vendors* must be accountable for assuring accuracy, validity, and integrity of data collected in education records. Parents and students should have access to this data and to correct it. If system problems exist because of algorithmic errors, the error should be corrected or the data invalidated.

Kris Alman

[\[1\]](#) 20 U.S. Code § 1232g <http://www.law.cornell.edu/uscode/text/20/1232g>

[\[2\]](http://bit.ly/18Y6I2j) <http://bit.ly/18Y6I2j>; “The educational agency or institution, or SEA or its component, shall comply with a request for access to records within a reasonable period of time, but not more than 45 days after it has received the request.”

[\[3\]](https://district.ode.state.or.us/search/page/?id=185) <https://district.ode.state.or.us/search/page/?id=185>
<https://district.ode.state.or.us/search/page/?id=228>

[\[4\]](http://www2.ed.gov/about/offices/list/ocr/504faq.html) <http://www2.ed.gov/about/offices/list/ocr/504faq.html>

[\[5\]](http://www2.ed.gov/policy/gen/guid/ptac/pdf/idea-ferpa.pdf) <http://www2.ed.gov/policy/gen/guid/ptac/pdf/idea-ferpa.pdf>

[6] <http://www.pearsonclinical.com/>

[7] https://mail.google.com/_scs/mail-static/_js/k=gmail.main.en.U-kZtddRM0L.O/m=m_i,t,it/am=nhEG7mTUH8Q4Q7v0Cd2_352SbGzz6v6CRNBslcA_zf7fwCB_bRDhk/rt=h/d=1/t=zcms/rs=AHGWq9AGoAXF0JFxFwdpPufzjoRyimQ7wQ

[8] <http://images.pearsonassessments.com/images/assets/qglobal/Q-global-Privacy-Policy.pdf>