

Testimony in Support of SB 187/187-1
Lisa A. Shultz, M.S.E.E.
26 February, 2015

Dear Chair Roblan and Members of the Senate Committee on Education:

I am writing today in strong support of SB 187 and proposed amendment SB 187-1. The proliferation of information technology used by students in schools today, combined with the use of third party vendors by school districts, and the lack of clarity on who “owns” student data [7], makes this legislation a vital part of creating a safe and secure environment for student learning.

As a former member of the Beaverton School Board, I have spent the last several years focused on student data privacy issues. I first testified in front of this committee in 2013 on a bill that would have established the position of Chief Privacy Officer for Education as well as basic privacy safeguards for students. [1] I subsequently testified on several House bills that were heard in Committee but failed to pass through for a vote by the legislature as a whole. [2] [3].

It is safe to say, that most parents are largely unaware of the issues involving student data privacy, including the fact that personally identifiable (i.e. not aggregated) student data is stored and/or used outside of their child’s school district by third parties or other governmental agencies. However, when parents do become aware they are overwhelmingly concerned. In a recent survey conducted for nonprofit Common Sense Media, **“89 percent of respondents indicated they are "very or somewhat concerned about advertisers using kids' personal data to market to them."**[4]

Rule changes to the Federal Education Rights and Privacy Act (FERPA) by the U.S. Education Department in 2008 and 2011 that created broader access to student data by private third parties has led to increasing concerns by many legal and technical experts [5],[8]. David Hoffman, Intel’s Global Security Officer rightly states, “Technology will play an important role to help students reach higher levels of collaboration, creation and invention. **Those benefits though will be muted if students have to fear that anything they say, think, or do will be captured forever to be used against them.**”[6]

The requirements outlined in this bill represent a bare minimum of what is needed related to student privacy safeguards. Additional safeguards would involve informing parents and students about information that is gathered and retained by third parties, ensuring the deletion of student data when no longer needed, the ability for students and parents to correct data that is in error, and ensuring parents a clear private right of action to be able to sue agencies or third parties that violate the law and their children’s privacy. Please see the attached letter by the Parent Coalition for Student Privacy, of which I am a signatory, for a recommended comprehensive framework for student data privacy.

I thank Attorney General Rosenblum for her foresight and leadership in protecting our students' privacy rights by putting this important legislation forward. This bill along with HB 2708, 2709, 2710, 2711, 2712, 2715, and 2655 would create the foundation of strong system of data privacy protections for Oregon's students. I urge swift passage of this bill, as amended, out of Committee and onto a full vote by the entire legislature.

Thank you for your consideration of these comments. Please contact me with any questions or concerns.

Sincerely,
Lisa Shultz
Former Beaverton School Board Director, Zone 7
lisa4schools@gmail.com

[1] L. Shultz testimony in support of SB 567 (2013 Regular Session)

<https://olis.leg.state.or.us/liz/2013R1/Downloads/CommitteeMeetingDocument/4965>

[2] L. Shultz Testimony in support of HB 2666 (2013 Regular Session)

<https://olis.leg.state.or.us/liz/2013R1/Downloads/CommitteeMeetingDocument/15310>

[3] L. Shultz testimony in support of HB 4062 (2014 Regular Session)

<https://olis.leg.state.or.us/liz/2014R1/Downloads/CommitteeMeetingDocument/33973>

[4] *Concerns over Student Data Privacy Widespread Among Americans* by David Nagel, The Journal, Transforming Education Through Technology

<http://thejournal.com/articles/2014/01/22/concerns-over-student-data-privacy-widespread-among-americans.aspx>

[5] *Student Privacy in Peril: Massive Data Gathering With Inadequate Privacy and Security* by Daniel J. Solove, John Marshall Research Professor, George Washington University Law School

http://www.huffingtonpost.com/daniel-j-solove/student-privacy-in-peril- b_1156907.html

[6] *Sending FERPA back to School* by David Hoffman, director of security policy and global privacy officer at Intel Corporation.

<http://blogs.intel.com/policy/2014/08/25/sending-ferpa-back-school/>

[7] *Student Data is the New Oil: Moocs, Metaphor and Money* by Audrey Watters

<http://hackeducation.com/2013/10/17/student-data-is-the-new-oil/>

[8] February 12, 2015 testimony from Professor Joel Reidenberg of Fordham University's Center on Law and Information Privacy to the U.S. House of Representatives Committee on Education and Workforce Subcommittee on Early Childhood, Elementary and Secondary Education *Hearing on "How Emerging Technology Affects Student Privacy"*

http://edworkforce.house.gov/uploadedfiles/reidenberg_testimony_final.pdf