



MEMORANDUM OF OPPOSITION TO S.6624/ A.7421

The Parent Coalition for Student Privacy & NY State Allies for Public Education strongly oppose the above bills so as to prohibit the sale of personal student data or its use for marketing purposes.

Parent Coalition for Student Privacy is a national organization formed in 2014 to protect children's personal information from breach or abuse. NY State Allies is a coalition of over 70 parent and educator groups opposed to high stakes testing and the commercialization of student data. We strongly oppose **S.6624/ A. 7421**, which would nullify the intent and language of Education Law §2-d, NY State's landmark student privacy law, which bars schools and their vendors from selling student data or its use for marketing purposes. These bills would amend that law and allow assessment companies such as the College Board and ACT to continue making money by selling student test scores and other personal data, which they acquire in a highly deceptive manner with dubious benefits to the students involved.

Despite claims that it does not sell student data, the College Board markets this information at .47 cents per name, calling it "licensing" and earning an estimated \$100 million annually off this practice. Moreover, the data is collected directly from students via surveys, asking their race, religious interests, and a host of other highly personal questions either online or before the administration of exams, often without making it clear which questions must be answered and which are purely voluntary. As the US Department of Education has pointed out, asking students under 18 questions about their religion affiliation without parental consent is explicitly prohibited by the Protection of Pupil Rights Amendment, passed by Congress in 1978.

The College Board and ACT collect and sell this data to a variety of institutions, organizations, and companies, while refusing to disclose which ones. This practice likely contributes to a thriving and largely unregulated commercial market in personal student information. In 2018, the *New York Times* revealed that the data sold by the College Board had been acquired by an unscrupulous, for-profit company that marketed expensive programs to families of dubious value. The ACT recently settled a class action lawsuit concerning their disclosure of data to colleges that flagged students' special education status, without their knowledge or consent or that of their parents.

While the College Board claims on its website that "***we never share...actual student scores,***" the company as well as the ACT actually does sell students' test scores within certain ranges to colleges and other institutions. Even if students choose not to provide their scores to test-optional colleges, the colleges to which they have applied may have already purchased their approximate scores.

In addition, as an article in the *Wall Street Journal* recently pointed out, many colleges buy this data primarily to inflate their applicant pools and increase their rejection rates, to enhance their reputation for selectivity. The probability of a student actually enrolling in a college whose data has been purchased from the College Board increases by only by 0.02 percentage points, according to a recent study. According to another study, African American applicants whose data was purchased by Harvard from the College Board and lured into applying have the lowest likelihood of being admitted of any racial or ethnic group whose data is acquired in this manner.

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