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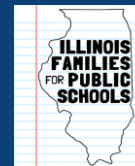
NO MORE STUDENT DATA SALES!

How Test Companies Profit from Illegal Student Data Sales &
How We Can Stop Them
— Like New York State Did!

May 6, 2024



PARENT COALITION FOR
STUDENT PRIVACY



What we'll cover tonight

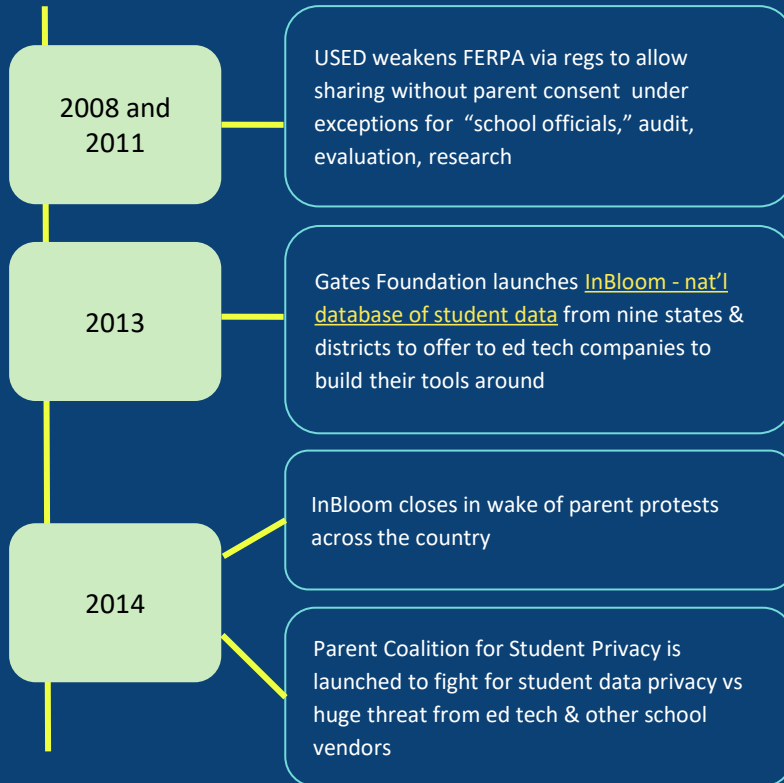
1. Intro: Parent Coalition for Student Privacy
2. Background: Student data business and testing companies
3. How NY State ended data sales and how to organize to stop sales in other states too
4. How you can stop your own child's data from being sold

Disclaimer: We are not lawyers. Nothing in this presentation is *legal* advice!

The information we provide here does not, and is not intended to, constitute legal advice; instead, all information, content, and materials that we are making available are for general informational purposes.

(1) What is the Parent
Coalition for Student
Privacy?

Some history: How states became responsible for protecting student privacy

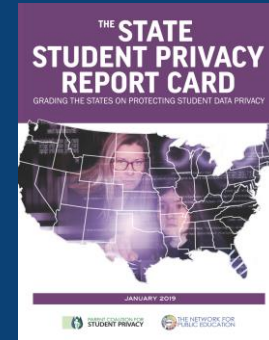
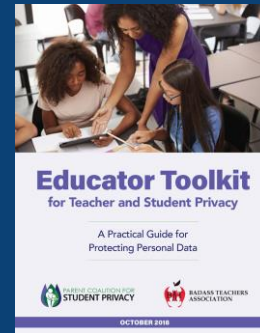
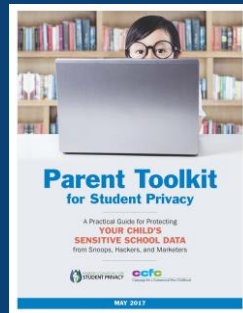


FERPA = federal law, Family Educational Rights and Privacy Act - 1974

New awareness about FERPA weaknesses leads to at least 43 states to pass more than 100 student privacy laws within two years – many banning sale of student data by school contractors

Parent Coalition for Student Privacy work & reports

- ▣ Advocates for better national and state laws and policies (e.g. testify in Congress, submit comments to FTC rulemaking on COPPA)
- ▣ Assists families with individual student data difficulties (e.g. filing FERPA complaints)
- ▣ Creates resources like toolkits and report card in collaboration with other orgs



(2) Why testing
companies are in the
data broker business

Who's selling data, who's buying
data, what's the data being used for,
where is this legal/not legal

What's being sold?

This list at a minimum, but we don't *really* know... IP address? web history?

Info like *address* or *high school* actually contains far more!

Test scores are available *even if you are applying as a test-optional student*

Name (including your preferred first name)

Address

Gender

Date of Birth

High School (or that you're homeschooled)

Graduation Year

Email Address

Your score range on completed SAT, AP, or PSAT10 and PSAT/NMSQT exams

Colleges that you're interested in

Ethnicity

Parents' highest level of education

High School GPA

High School Courses and Activities

Academics

Art & Music

Athletics

Activities

ROTC History

College Plans & Preferences

Educational Aspirations

Financial Aid Plans

College Preferences

ROTC Plans

Religious Interest

Intended Major

National Recognition Program Award

AP Exam Participation

High School Address

Indicator added that a student's SAT score falls somewhere above the 75th percentile of SAT scores from the student's high school

[List from bigfuture.collegeboard.org website](http://bigfuture.collegeboard.org)

How much does it cost to buy student data?

[2023-2024 Price list from College Board:](#)

CB makes >\$100M per year selling data to higher ed & other orgs which pay up to **\$540K** each for the data

[More here](#)

ACT, Inc's Encoura: [less public info on business](#)

Search records included:	5,000	20,000	50,000	100,000	200,000	400,000	600,000	Unlimited
Connections Audiences** included:	3	6	15	30	60	120	190	290
Included in all Access Plans:								
Essential Information <i>(includes Interest in My College and National Recognition Programs)</i>	•	•	•	•	•	•	•	•
Landscape® Context	•	•	•	•	•	•	•	•
Connections*** - <i>New!</i>	•	•	•	•	•	•	•	•
Additional Search features:								
Enrollment Planning Service**			•	•	•	•	•	•
Segment Analysis Service**				•	•	•	•	•
Interest in My Peers				•	•	•	•	•
Parent Contacts					•	•	•	•
Living Record						•	•	•
Student Plans and Preferences						•	•	•
	\$2,575	\$10,300	\$25,875	\$52,000	\$105,000	\$213,000	\$322,500	\$540,000

Why do colleges buy this data?

Efficient recruiting -- filter students' by demographic, geographic, academic, extracurricular data.

Data from College Board & ACT, Inc is available early (9th/10th grade) and clean (more complete and accurate than other sources)

Can combine with other data sources - e.g. online search engine info that students enter themselves, online behavioral data (what sites does student visit) via IP address

Now other ed tech software companies (e.g. Naviance) are monetizing access to student data as well via targeted ads

Exaggerated benefits, lots of drawbacks

Test vendors claim sales improve college access for students. *But* actually **does not affect** **“broad college enrollment patterns”**

- **Tiny effects:** Stats like “23% more likely to apply” or “22% more likely to enroll” actually mean only 0.1 percentage point and .02 percentage point increases in probability of applying and enrolling
- **Mostly a “substitution effect”:** Apply/enroll at College X that did outreach vs College Y that didn't

Issues:

No transparency for students (even for *public* universities)

Potential for discriminating on class, race and test scores

Used for “recruit to reject” - *not* expanding access to raise rankings

Commercial exploitation of data including sold to for-profit orgs

And now it's *illegal* in many states!

“Knowledge about the use and efficacy of student lists is largely based on market research by consultancies.”

Data sales: from unethical to illegal...

- **1970s:** College Board & ACT, Inc begin selling student lists
- **2001:** No Child Left Behind Act requires annual high school tests in ELA & math. Some states start giving SAT/ACT *during the school day* to comply which makes scores and surveys subject to FERPA etc.
- **2014:** States start passing student privacy laws that *prohibit sale of student data* ⇒ College Board, ACT, Inc., Hobsons (prev owner of Naviance) push for exceptions to state laws--in some places successfully

However, for the most part, state laws are **NOT** being enforced! No private right of action (= individual right to sue if law is violated) so depends on state AGs

(3) Ending student data sales in NY—and beyond!

- How advocacy in NY State ended data sales there
- Steps to take in other states

Decade-long fight to end CB data sales in New York

2014: Responding to parents organizing around student privacy, New York State pulls out of InBloom project, passes [Education §2-d](#) state privacy law that bars the sale of student data by school vendors

2017: PCPS complains to US Dept of Ed about College Board continuing this practice

2018: US Dept of Ed warns states & districts about test vendors' illegal collection and sale of personal data w/o parental consent which violates 2 federal laws- PPRa and FERPA -when they are acting as school vendors

[NY Times story](#) about College Board's data sales to for-profit company that markets expensive over hyped summer programs

NY State Education Dept issues proposed regulations for [Ed. §2-d](#)

2019: **NY State Ed releases revised** regulations that would create a loophole for CB after lobbying behind the scenes. We protest; NYSED holds meeting with CB & PCSP & NYSAPE. ***Final regs do NOT include that loophole.***

2021: Petition to AG and NYSED's chief privacy officer to end practice of selling student data

2022: Zephyr Teachout joins NY AG office; we share our concerns & meet with AG staff over summer.

2024: Consent decree announced Feb. 13. College Board fined \$750,000, all data sales to end (incl from AP test takers)

How to stop data sales in other states

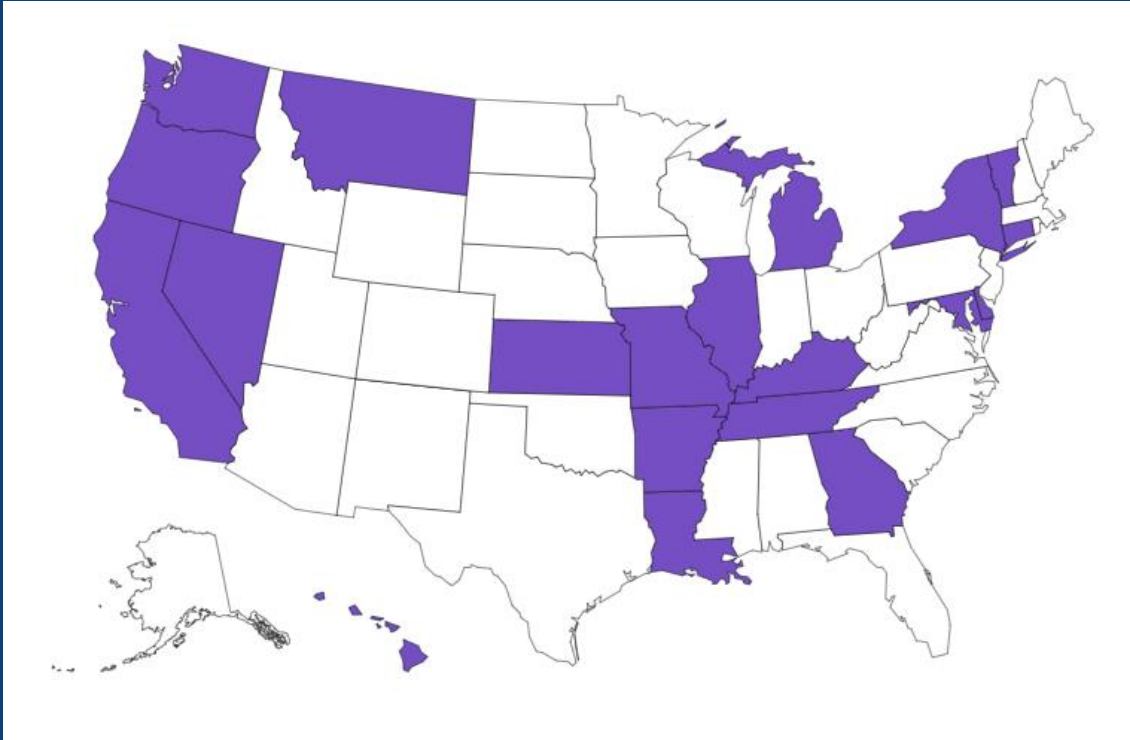
Laws that prohibit sales: 20 states bar any sale of student data by school vendors with or without parent/student consent, as in NY. Helpful because it is easier to fight a clearly illegal practice. [See our spreadsheet.](#)

Contracts that prohibit sales: For **school-day** testing, state or school district will have contract with test vendor; contracts can prohibit sales too!

- Contracts with test vendors should **not** permit sale, rental or “license” of student data.
- Students, especially minors, should **not** be asked for permission to have their data sold

*Even if selling student data is not **illegal** in your state, it is **unethical**. So organizing to stop sales is worthwhile - & it is illegal under FERPA without parental consent.*

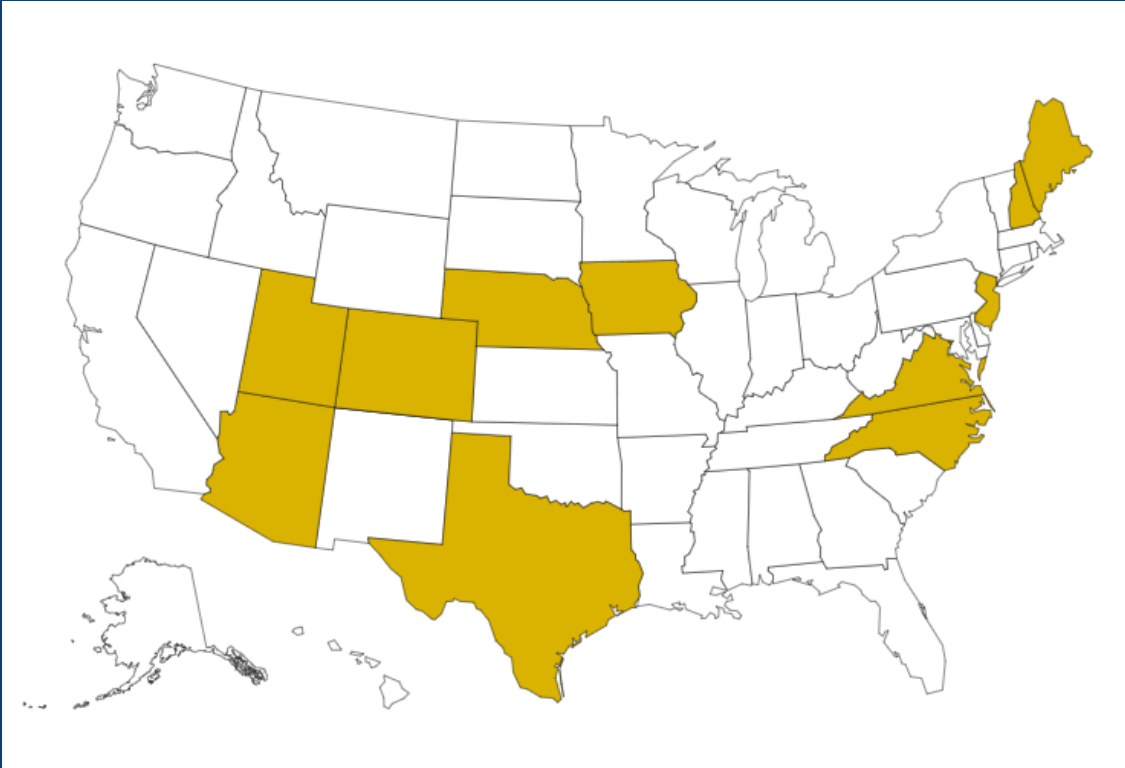
20 states: No student data sales allowed



*No exceptions for test vendors or
parent/student consent*

Arkansas	Kentucky	Oregon
California	Louisiana	Tennessee
Connecticut	Maryland	Vermont
Delaware	Michigan	Washington
Georgia	Missouri	
Hawaii	Montana	
Illinois	New York	
Kansas	Nevada	

12 states: No student data sales, except for test vendors & only w/ parent or student consent



Prohibit sales except for test vendors. All require consent of parent or student for sales, except UT and VA

Arizona
Colorado
District of Columbia **
Iowa
Maine*
Nebraska
New Hampshire
New Jersey
North Carolina
Texas
Utah **(no consent needed)**
Virginia **(no consent needed)**

**Only students over 13 may consent

*Only students over 18 may consent

Steps to organize against data sales

1. *Research:*

- **Check out your state law to see if it** regulates selling student data or school district policy (again ONLY for school/district vendors). ([See our spreadsheet.](#))
- **Check out contracts** state or district has with College Entrance Examination Board or ACT, Inc. May be posted online or may require a FOIA/FOIL request
- **Tests** administered during school day (ACT, SAT, PSAT, AP)

2. *Connect:* Find other concerned families, advocates and organizations

3. *Advocate:* Write, call, petition State Attorney General & education officials

- AG: if you have state privacy law barring sales
- State Superintendent, State Board of Education: Statewide school-day tests
- School board, district superintendent: District-level contract school-day tests

[Template for letter to state attorney general](#) (other sample letters to Board of Ed, etc). Additional research will strengthen your letter, as will more signatures!

If you live in state that allows sale of data w/o consent or with consent of student of unspecified age - this may violate FERPA

See [US ED 2018 guidance here](#): *Technical Assistance on Student Privacy for State and Local Educational Agencies When Administering College Admissions Examinations*

FERPA requires written consent from the parent or eligible student (over 18) before disclosing PII from education records, subject only to certain exceptions: audit/evaluation/study/school official

“Under all three of these exceptions to consent, the testing companies would generally be prohibited from re-disclosing PII from students’ education records under FERPA and IDEA (including redisclosure to IHEs, scholarship organizations, and other organizations) without the prior, written consent of the parent or eligible student.”

We can help you file a FERPA complaint. Email us at info@studentprivacymatters.org

(4) Protecting your own child's data

Tips for families/students to
protect data from being sold and
shared without permission

Tips for limiting sales of student data

- Do **not** complete the “optional” survey given before exam or online & do not sign up for the student search service/educational opportunity service
 - Only provide minimum info necessary before taking the test or online when creating an CB or ACT account (i.e. name, date of birth, gender, address, & sometimes student ID.)
 - Sit with them while making an online account
 - College Board - Do not sign up for Student Search program; do not provide information to bigfuture.collegeboard.org or sign up for the BigFuture School mobile app
 - ACT, Inc. - do not fill out any of the questions in the ACT Student Profile section & do not opt into the Educational Opportunity Service (EOS).
- Do not provide information to other online search sites
- If you've already opted in, you can still opt out (e.g. [CB's opt out page.](#))

Student data market: bigger than test vendor sales

Reality check: Students' digital trails are likely being tracked and possibly sold any time they interact with a college/university website and likely via sites/services they are using at school direction, e.g. Naviance (e.g. See [Consumer Reports 2020 story](#); [Fordham 2018 research](#) on market for student data)

This is a systemic issue that requires collective action!

Enforcing existing student privacy laws and contracts, ensuring new contracts do not permit sales => *Initial* steps to reigning in student data market

5) Quick action to take
right now

Live in Illinois? [Email the IL AG](#) and
ask him to enforce state law and
end illegal data sales

*Other states: We have a [template
letter](#) here.*

We are here to help!
Questions, etc:
info@studentprivacymatters.org

Resources

[Parent Coalition for Student Privacy](#) - [Illinois Families for Public Schools](#) - [Class Size Matters](#)

- [The Student List Business Primer and market dynamics](#). The Institute for College Access & Success. 2022 ([More here.](#))
- [College Prep Software Naviance Is Selling Advertising Access to Millions of Students.](#) - *The Markup*. 2022
- [Attorney General James and NYSED Commissioner Rosa Secure \\$750,000 from College Board for Violating Students' Privacy](#). Press Release, NY Office of the AG, 2024
- [Assurance No. 24-004](#). Assurance of discontinuance document between College Board and New York AG
- [Transparency and the Marketplace for Student Data](#). *Fordham Center on Law and Information Policy*. 2018

More resources

- *US Dept. of Education*, [Technical Assistance on Student Privacy for State and Local Educational Agencies When Administering College Admissions Examinations](#) (2018)
- *NYTimes*, [For Sale: Survey data on millions of HS students](#) (2018)
- *Washington Post*, [Is NY state about to gut its student privacy law?](#) (2019)
- *WSJ*, [For Sale: SAT-Takers' Names; Colleges Buy Student Data and Boost Exclusivity.](#) (2019)
- *Washington Post*, [Student tracking, secret scores: How college admissions offices rank prospects before they apply.](#) (2019)