



STATE REPRESENTATIVE

DON PRIDEMORE

January 15, 2014

Assembly Committee on Education

Chairman Kestell and Members of the Committee:

Thank you for the opportunity to testify today on behalf of AB 618. Recent technological advances have allowed for a more streamlined and efficient system of maintaining data. However, with these advancements come concerns over the intrusion of government, individuals, and other groups in obtaining access to our children's personal information. It is our responsibility to ensure that our children's privacy is protected. This legislation establishes parameters on what personally identifiable information can be collected and who can be granted access to that information.

Currently, there is no comprehensive list of specific data elements collected on our children, nor is there a limit on what personally-identifiable information can be collected by the Department of Public Instruction. AB 618 requires DPI to publish an inventory of all student-level data points collected, as well as the reporting purpose for each item. This transparency is absolutely vital to the trust that parents and the public must have in our government's ability to protect our children's privacy. In addition, this legislation will prohibit any further collections of student-specific information by the DPI beyond what is presently being requested.

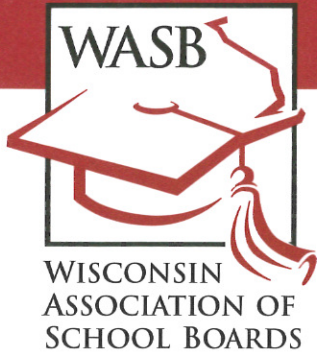
In response to concerns over data-mining, this legislation removes recent expansions of individuals or parties to whom a school can allow access to student-specific information. AB 618 additionally requires a parent to "Opt In" to have their child's personally identifiable information shared with a "public or private research organization" within our state's student information system. Furthermore, this bill allows only aggregate data to be shared with the federal government.

AB 618 does not hinder the positive benefits that technology affords to the education of our kids but provides the necessary safeguards to protect our children's personal information.

I thank you for your time and would be happy to answer any questions you may have.

Sincerely,

Rep. Don Pridemore



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JOHN H. ASHLEY, EXECUTIVE DIRECTOR

TO: Members, Assembly Committee on Education
FROM: Dan Rossmiller, WASB Government Relations Director
RE: OPPOSITION to Assembly Bill 618
DATE: January 15, 2014

The Wisconsin Association of School Boards (WASB) opposes Assembly Bill 618. In particular, we are troubled by the provision in this bill that explicitly excludes from the term “school district official” (as that term is used in the pupil records statute—section 118.125, Stats.), a contractor, consultant or volunteer, or any other persons to whom a school board has outsourced school services or functions.

This provision would effectively prohibit a school district from sharing pupil records with contractors, consultants, volunteers, or other persons to whom the school board has outsourced educational services or functions, including instructional and special education services.

School boards across the state currently and routinely contract with outside entities to provide services, including especially instructional and special education services, but also legal services and others, that cannot be performed properly without access to pupil records.

School board and school districts use contractors, consultants, or volunteers for a variety of reasons including cost savings, lack of expertise in the district, or when the need for services is not full-time work. Examples include a variety of licensed professionals contracted for through a Cooperative Educational Services Agencies (or CESAs) or shared with other school districts, those persons hired as long-term substitute teachers, student teachers who are conducting their required practicums, substitute teachers or paraprofessionals hired through private staffing services.

The bill, as written, would effectively prohibit school boards from contracting for instructional services, resulting in potential higher costs to employ staff to perform the services, or the dropping of the services entirely. We note that one of the significant impacts of the enactment of Act 10 was to free school boards from provisions in many collectively bargained contracts that prohibited districts from contracting out certain services. Those provisions effectively required that certain services, especially instruction, be performed by members of a bargaining unit. By effectively prohibiting contracting out for instruction, this bill would effectively restore this pre-Act 10 situation. While we doubt this was the authors’ intention, it is precisely the impact of this provision.

The bill, as written, could also seriously impair a school district's ability to defend itself in lawsuits or other legal matters, because it would prohibit a school board from sharing pupil records with outside legal counsel hired to defend the district when its treatment of a student is the subject of the lawsuit.

We are concerned that the provisions in the bill that would require a school board, upon request, to provide a copy of all of a student's records to an adult pupil or the parent or guardian of a minor pupil, could be potentially costly. Fulfilling such requests could involve compiling records kept by various individuals (teachers, counselors, school psychologists, etc.) over a period of 13 or more years. These records are likely not to be located in one place but could be stored in a variety of physical locations in many districts. Retrieving all these records and providing a copy could be a costly and time-consuming process.

Further, it is not clear from the bill whether the request must come from a custodial parent or not. In most, but not all cases, parents who are divorced or were never married (e.g., a paternity judgment has been entered) will have joint custody. In some cases, a parent may be a biological parent but not have custody of the child. It is not clear from the bill whether a school board would have to turn over all records to a non-custodial parent or whether a parent with custody rights would have any rights to object to the release of all records to a non-custodial parent.

Finally, we are troubled by a provision in this bill prohibiting the Department of Public Instruction (DPI) from collecting for the state's student information system (SIS), from public schools, independent charter schools and private schools receiving taxpayer funding from any of the state's three private school voucher programs, any information that is not required to be submitted to the DPI on the bill's effective date. We are concerned that this provision could have the impact of thwarting attempts to establish a state accountability system for all schools in the state that receive public funding.

We note for the record that the WASB participated constructively and collaboratively in the Accountability Task Force Governor Walker convened in 2011. That task force helped to develop the accountability system, including school and district report cards, that is currently in place for public schools, but that task force was meant to develop an accountability framework for *all* schools that receive public funding.

At the time that Accountability Task Force was convened, WASB Executive Director John Ashley joined Governor Walker and School Choice Wisconsin President Jim Bender, among others, as signatories to an Op-Ed piece in the *Milwaukee Journal Sentinel* (posted July 9, 2011), which stated, "We believe that every school enrolling publicly-funded students – traditional public schools, charter schools, or private schools in choice programs – should be part of this new accountability system." Two and half years have passed since that Op-Ed letter was written. We believe it is time to make good on that pledge.



School District of
West Allis-West Milwaukee, et al.
EDUCATIONAL ADMINISTRATION CENTER

January 15, 2014

Dear Assembly Education Committee Members,

On behalf of Kurt Wachholz, the Superintendent of Schools in the West Allis-West Milwaukee School District, I am providing testimony on Assembly Bill 618.

The West Allis-West Milwaukee School District believes any bill that is advanced with regard to a state-wide data system must include all students who participate in schools and programs that are funded in-part or completely by public funds. Uniform rules should apply to all areas that are supported by public tax dollars. Exempting any entity from this function should then mean that all entities that receive public tax dollars also be exempted. This is what should be appropriate in this era of high accountability.

Therefore, the West Allis-West Milwaukee School District continues advocating for a common uniform Student Information system that advances access and interfacing state-wide. It is our hope that this proposed legislation does not hamper common student data collection in any way.

The West Allis-West Milwaukee School District has some concerns and questions regarding AB-618 including:

- This bill appears to duplicate current State records laws in several ways.
- Does this bill prohibit sharing of student data with contractors, consultants or volunteers? This would be in violation of Federal IDEA Childfind requirements such as autism identification, auditing requirements, etc.
- With increased budget constraints and limited personnel availability in high need market areas many districts need to utilize contracted services. This bill would potentially limit schools and Districts from using contracted services such as nursing, speech and language specialists, occupations and physical therapists for educational functions where student data needs to be shared.
- How does this bill affect a schools or Districts ability to contribute to research utilizing anonymous student records?
- How will this bill affect the use of contractors and consultants used to support student interventions and improve student learning and achievement where individual student data is shared with educational professionals?
- This bill is proposing not to share student data with Federal agencies. That provision would put schools and Districts at risk of not receiving Federal funding because they would not be able to meet the Federal reporting requirements.

Thank you for your attention and consideration of this matter. Please contact my office with any questions.

Sincerely,

Kurt Wachholz,
Superintendent of Schools



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**Testimony in Support of Assembly Bill 618
Assembly Committee on Education
Julaine K. Appling, WFA President
January 15, 2014**

Thank you, Chairman Kestell and committee members, for the opportunity to testify today in support of Assembly Bill 618. I am Julaine Appling, president of Wisconsin Family Action, an organization dedicated to strengthening, preserving and promoting marriage, family, life and liberty in The Badger state. Helping parents ensure that the personal and private information of their children is properly handled and safeguarded is a matter of great importance to us.

We want to thank Rep, Pridemore for introducing this bill that provides a measure of protection for Wisconsin parents and students.

As technology has progressed, so too has its role in our of our day-to-day lives. From our phones to our computers at home, it seems everything we do now in some way or another involves technology. In very many ways, this has been beneficial, allowing us to do things that we never could have imagined, such as communicate instantly with people around the world. From Facebook to Twitter to the next newest technology, our lives are online and out there for all the world to see. As we all well know this can be a good thing and a bad thing. The results and ramifications from our actions are instant, permanent, and cannot be walked back.

As adults we accept this tradeoff, realizing full well that once our information is out there for consumption it cannot be changed. We decide what to post or not to post, what to send or not to send, and then must live our lives going forward with the decisions we have made.

But our children are not yet in a position to make these types of decisions on their own, which is why adults must be careful and use a great deal of discretion when put in a position to make this decision for them. The presumption should always be on the side of protecting any information about children.

Assembly Bill 618 has built in some appropriate safeguards and required disclosures to make sure anyone who wants to know what data is being collected about students can find out. Requiring written parental consent or adult-student written consent for the sharing of data with various entities is critical. In general, we believe this bill appropriately proscribes and prohibits what data about students in Wisconsin schools can be collected and how this data can be used as it relates to sharing said data with other entities both within and without Wisconsin. Providing these protections is right and will definitely help to safeguard our children.

We urge this committee to support AB 618 and move it quickly to the full Assembly for a floor vote.

Thank you for your time today.

**Assembly Committee on Education
January 15, 2014**

**Department of Public Instruction Testimony
on 2013 Assembly Bill 618**

I want to thank Chairman Kestell and members of the committee for the opportunity to testify before you today on behalf of the State Superintendent in opposition to Assembly Bill 618 (AB 618). My name is Mike Thompson and I am the Deputy State Superintendent for the Department of Public Instruction. With me today is Jeff Post, IT Customer Services Team Director to assist in answering any questions.

AB 618 has many policy implications that would make it more challenging for the state to meet both state and federal reporting requirements, ties the hands of locally elected school boards in providing services to the pupils they serve, and raises questions surrounding education reform initiatives based on research.

The bill prohibits the department from collecting information for the student information system that is not required to be submitted on the effective date of this bill. State and federal reporting requirements have changed over time and will continue to change on a regular basis as new and innovative education programs are implemented at both the state and federal levels. At the state level, this bill would make it more difficult to collect value-added information and implement new initiatives such as educator effectiveness, innovative charter schools, and the school accountability system that is currently being developed through state legislation. The state would not be able to provide any new or modified information for any of these programs. In addition, federal legislation such as ESEA, IDEA, and Carl Perkins consistently change reporting requirements when they are reauthorized. The state runs the risk of losing federal funding by being out of compliance if reauthorization includes information that is not covered when this bill is enacted.

This bill also prohibits a school district from sharing pupil records with contractors, consultants, volunteers, or other persons to whom the school board has outsourced school services or functions. School boards across the state currently contract with outside entities to provide services that cannot be performed properly without access to pupil records. Districts use contractors, consultants, or volunteers for a variety of reasons including cost savings, lack of expertise in the district, or when the need for services is not full time work.

Under this bill school boards could be prohibited from contracting for these services, resulting in potential higher costs to employ staff to perform the services, or the dropping of the services entirely.

- CESA-provided services
- Legal services

- Occupational therapy
- Physical therapy
- Student health services
- Bus service
- Food and nutrition service
- Student information system vendors
- Grade book vendors
- Library management systems
- Parent volunteers for field trips

This bill makes changes to statutes governing data sharing agreements between state agencies and public and private research organizations. This bill doesn't define personally identifiable information, which raises significant questions related to the department's ability to calculate value-added data as required for educator effectiveness and potential school accountability legislation. The department believes that the provisions in this bill related to public and private research organizations are at best unnecessary and at worst potentially harmful due to the potential impact on education reform enacted by this legislature.

Please note that in addition when conducting research, research organizations must submit their design and plan to an Institutional Review Board (IRB). IRBs follow very specific provisions and stringent protections of all state and federal privacy and human subjects' laws including FERPA (Federal privacy law).

Finally, the bill prohibits the sharing of personally identifiable information with the federal government. This is consistent with both federal law and with current practice.

The department supports transparency and the protection of personally identifiable information, but not at the expense of meeting state and federal requirements or of local school boards being able to serve their students.

At this time I would be happy to answer any questions you may have.

Ψ Wisconsin School Psychologists Association, Inc.

Testimony on AB 618
January 15, 2014
Esteemed Legislators:

Thank you for this opportunity to provide comments on AB 618.

We are writing on behalf of the Wisconsin School Psychologists Association (WSPA). The primary purposes of WSPA are to serve the mental health and educational needs of all children and youth, and to facilitate and support the effective practice of school psychology. School psychologists are scientists in the field of education. School psychologists understand and implement research-based practices that use student-level and system-level data to improve student academic achievement and mental health outcomes. School psychologists in Wisconsin are required to hold at least an Educational Specialist level of training, with over 30 credit hours of Post-Master's Degree and supervised practice.

1. In addition to implementing state and federal special education laws and practices, **school psychologists provide consultation, assessment and intervention services in schools. Many school districts contract with school psychologists to provide these services, and AB 618 would create a significant barrier to provision of these services by eliminating the free sharing of information with contracted school psychologists.** Clearly, as the state works to ensure that youth have access to disability-related services and mental health care in schools, creating additional barriers to information sharing would be seriously problematic. **WSPA requests that the proposed 118.125 (2) (d) 1 specifically includes contracted and consulting school psychologists and those in training as school psychologists as school officials to whom pupil records can be made available.**

2. The Wisconsin School Psychologists Association believes that student- and system-level data are critical to school improvement. The state's implementation of a SIS along with district data systems will provide the information we need to make good educational decisions. **Prohibiting DPI from collecting any additional data not currently required may have a significant negative effect.** For example, as districts attempt to use PALS data for reading screening in later grades, DPI would be prohibited from collecting this information. With PALS information, it would be possible to identify the most effective interventions and calculate cut scores that predict proficiency on the new Smarter Balanced Assessments. In the future, perhaps we will have a screening tool that is more accurate than PALS, or perhaps we will want to begin screening in writing or math. As you know, going back to change state law at that time may be very challenging.

Wholesale changes such as the proposal deserve more study and a deeper understanding of their implications. WSPA offers to provide expert testimony or participation in a task force on the use of student data as an alternative.

Thank you again for your time and focus on these important issues.

Sincerely,
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School Administrators Alliance

Representing the Interests of Wisconsin School Children

TO: Assembly Committee on Education
FROM: John Forester, Director of Government Relations
DATE: January 15, 2014
RE: Assembly Bill 618 – Disclosure of Student Data

The SAA opposes Assembly Bill 618, relating to the student information system, the disclosure of personally identifiable student data, and the disclosure of pupil records.

Although AB 618 has many policy implications for current education reform initiatives, critical education research and state and federal reporting requirements, I am most concerned about the provisions of the bill that appear to impair the ability of school districts to provide necessary services to the pupils they serve.

AB 618 prohibits a school district from sharing pupil records with contractors, consultants, volunteers, or other persons to whom school boards have outsourced school services or functions. School districts throughout Wisconsin currently contract with outside entities to provide vital services that cannot be performed properly without access to pupil records.

Therefore, let me ask, does the bill essentially prohibit school districts from contracting for legal representation? For a variety of CESA-provided services? Districts throughout Wisconsin, by necessity, contract for a variety of special education services to provide IEP-required services for children with special needs. These services include occupational therapy, speech therapy, physical therapy, vision services, audiology services, transition services and more. In some instances, students require a highly specialized private placement in order to meet his/her needs. Would these practices be prohibited under the bill? Many school districts contract out for student health services, and for student information software systems. Would the bill essentially prohibit these practices as well?

The SAA understands the importance of protecting pupil records and personally identifiable information. But, in the process, please don't impair the ability of school districts to meet the needs of their students.

Thank you for your consideration of our views. If you have any questions regarding the SAA's position on AB 618, please call me at (608) 242-1370.

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An Alliance of:

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School Administrators

Wisconsin Association of
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Wisconsin Association of
School Business Officials

Wisconsin Council for
Administrators of Special Services