The Honorable David Vitter
United States Senate
516 Hart Senate Office Building
Washington, DC 20510

June 9, 2015

Dear Senator Vitter,

As members of the research community and affiliated organizations, dedicated to producing rigorous and relevant evidence for the benefit of education practice and policy and sharing this information broadly, we are writing to express our grave concerns about the potential implications of the *Student Privacy Protection Act* (S. 1341), which you recently introduced. This legislation would have a devastating impact on education research essential to best serving students across the country and improving the quality of teaching and learning in our schools.

We recognize the importance of protecting sensitive education data, and we take our responsibility to comply with the current requirements of FERPA, COPPA, and all other federal, state and local laws very seriously. In conducting research, we follow rigorous, time-tested policies for ensuring the privacy of student data, and we dedicate significant financial and personnel resources to this issue. There is no higher priority for researchers than ensuring student data are protected.

As researchers, we strive to identify what works, what doesn't, and why, with the aim of improving education outcomes for all students, particularly those at risk of failure. We also are committed to sharing those findings with policymakers, practitioners, and the general public. Without the benefit of scientifically valid research and evaluation, it would be impossible for states, districts, or schools to comply with the requirements to use "evidence-based interventions" to improve academic performance —policies called for throughout the House and Senate ESEA reauthorization bills, as well as in many other education laws.

Beyond complying with statute, research has served a crucial role in improving education policy and practice. For example, a recent randomized control trial of 14 preschool curricula determined which of the programs demonstrated the most significant effects on reading and math outcomes. Another recent study, on how to integrate different aspects of instruction into interventions appropriate for readers of different ages and skill levels, found 17 specific practices, programs, or interventions that demonstrably improved reading outcomes. In order to evaluate federal, state, and local programs, and to help local school leaders develop programs most suitable to their own needs, researchers need continued access to student data.

As currently drafted, the *Student Privacy Protection Act* would make it impossible to produce the scientifically valid research and evaluation that educators and policymakers rely on to improve education performance. We have four major concerns:

1. **S. 1341 undermines the scientific validity of representative student data.**

The "opt-in" provision, requiring parents to actively consent to inclusion of student data, will almost certainly compromise the accuracy of the data. The majority of studies using active consent or "opt-in" have reported student participation rates that have ranged from 40 to 60 percent. Furthermore,

we know from multiple studies on this issue that the self-selection of which students opt-in will significantly skew the data; multiple studies have found that opt-in requirements result in the underrepresentation of African American, Hispanic and Asian minority students. A low response rate or an unrepresentative sample presents serious problems for agencies and institutions using that research to improve instruction.

2. S. 1341 eliminates access to data necessary to generate research for educational agencies and institutions.

Current law allows federal funding of agencies or institutions that share personally identifiable student data, in certain instances without parental consent, to organizations conducting research and evaluations on behalf of the agency or institution. The *Student Privacy Protection Act* would eliminate this permissible sharing. For example, it would become impossible to link special education services provided to students with subsequent employment patterns. The proposed language would prohibit awarding federal funds to any educational agency that provides student data to a researcher or organization, unless that data are first "aggregated, anonymized, and de-identified."

This change creates operational barriers to any legitimate research involving the analysis of individual student data. The bill would also create new requirements for agencies and institutions already struggling to balance local, state, and federal regulations, diverting financial and personnel resources away from schools and classrooms.

3. S. 1341 prevents use of district and state administrative data, which have been critical to research and evaluation for more than a decade.

This legislation proposes two changes that would change the use of administrative data by prohibiting: (1) federal funding for any agency or institution that "appends" personally identifiable student data obtained from Federal or State agencies through data matches, and (2) any student data from being included in state longitudinal data sets unless it is first "aggregated, anonymized, and de-identified."

We believe the proposed changes would render administrative data useless for governmental agencies or researchers examining state and district reforms, measuring the progress of students from preschool through the workforce, and identifying areas for improvement. None of the critical research that has been conducted over the past decade using administrative data could have been completed with these restrictions in place. For example, our students never would have benefited from the pioneering work that led to the development of Early Warning Indicator Systems that assist districts in monitoring the performance of students at risk of dropping out, enabling them to intervene.

Moreover, as a result of these changes, it would be impossible to conduct research or compare performance across states and districts, which drives the reporting and accountability systems established by numerous existing and proposed laws established on a bipartisan basis.

4. **S. 1341 drastically curtails the ability to collect information on student learning and teacher performance that informs critical classroom improvements.**

The *Student Privacy Protection Act* would prohibit federal funding for research or assessments that allow for the collection of "any type of psychological data, including assessment of non-cognitive skills or attributes." It would also prohibit "video monitoring of classrooms in the school, for any purpose, including for teacher evaluation," unless the agency or institution holds a public hearing and receives consent from the teacher and every student in the classroom.

The proposed prohibition against the collection of "psychological data" would severely limit important studies on a number of key factors that research has proven significantly impact student learning. The rules against video monitoring would create enormous operational barriers for schools or districts wishing to use video for evaluation and other important purposes.

The *Student Privacy Protection Act* will have a calamitous effect on research and evaluation if it were to become law. The research community is dedicated to improving teaching and learning in America's schools and protecting the privacy of all of the data that are used in our work. These two goals are not mutually exclusive. Data protection plans have been honed over decades to protect personally identifiable information while allowing rigorous research to proceed. Nonetheless, we continuously work to improve policy protections and would welcome the opportunity to collaborate in these efforts. We look forward to working with you and other Members of Congress on this issue in the months ahead as this important topic makes its way through the legislative process.

We appreciate your consideration of our concerns and if any of the undersigned researchers or organizations can be of any help going forward, please do not hesitate to reach out to us.

Sincerely,

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AdvancED
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American Psychological Association
American Public University System
Association for Public Policy Analysis and Management (APPAM)
Association of University Centers on Disabilities
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California Association for Bilingual Education
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The Cognitive Science Society
The Ohio State University -- College of Education and Human Ecology
The Research Alliance for New York City Schools at New York University
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