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## **Attorney and Parents Send Letter to NYS Attorney General & Education Officials Questioning Legality of Providing Confidential Student Data to Limited Corporation and Demanding Parental Right to Consent**

On Sunday, October 14, at a press conference held at the midtown law offices of Siegel Teitelbaum & Evans LLP, attorney Norman Siegel and New York parents released a letter sent Friday to Attorney General Eric Schneiderman and the New York State Board of Regents, demanding that the agreement between the NY State Education Department and the “Shared Learning Collaborative” be released, setting out the conditions and restrictions on the use of confidential student and teacher data to be provided to this limited corporation. The letter asked that parents be informed exactly what information concerning their children will be shared with this corporation, why the transfer of this data does not violate federal privacy protections, and demanding that the parents have the right to withhold their children’s information from being shared. The letter is posted at <http://bit.ly/W6H2qV>

**Background:** In Aug. 25, 2011, NY State Comptroller Thomas DiNapoli informed the NY State Education Department that he was rejecting its proposed no-bid contract with Wireless Generation to build a state data system, composed of confidential student and teacher information because of privacy concerns. Wireless Generation is a subsidiary of News Corporation. Several high-ranking former executives and employees of the News Corporation in the UK were being investigated for violations of privacy and bribing public officials. As the State Comptroller wrote, *“in light of the significant ongoing investigations and continuing revelations with respect to News Corporation, we are returning the contract with Wireless Generation unapproved.”* Since then, the scandal has continued to grow, with the number of indicted News Corporation officials expanding in number.

Yet four months later, in December, the NY Board of Regents approved NYSED’s plan to provide this confidential student and teacher data to a limited corporation, called the Shared Learning Collaborative LLC (SLC). The Gates Foundation awarded \$76.5 million to form this LLC, with \$44 million going to Wireless Generation, to design and operate the system. According to the SLC’s website, New York is one of five states – along with Colorado, Illinois, Massachusetts, and North Carolina – participating in Phase I of this project, starting in late 2012. The pilot districts are Jefferson County School District (CO); Unit 5 (Normal, IL); District 87 (Bloomington, IL); Everett (MA); Guilford County Schools (NC), and NYC. Four more states – Delaware, Georgia, Kentucky and Louisiana – have committed to join Phase II in 2013. Though New York City is one of the pilot districts, the city’s parents have been told nothing about this project, and the state has not shared its agreement with the SLC about the use and protection of this data, despite several requests to do so.

Apart from the lack of parental disclosure and privacy concerns, the SLC website makes it clear that this student data will be used to help companies develop and market educational products. However FERPA, or the Family Educational Rights and Privacy Act, appears not to allow the sharing of confidential student information for commercial purposes.

Leonie Haimson, the Executive Director of Class Size Matters, said: “Just this week in Washington the Federal Trade Commission announced sweeping new protections for children’s privacy data. The reason is simple: abuses are rampant, and once a child’s identity is in the marketplace it cannot be called back or protected. We stand with the FTC, every major privacy advocacy group, and all concerned parents in opposing any action to relax child privacy protections, including this plan by the NY State Education Department and the NYC Department of Education, to share confidential information about our public school students without their parents’ knowledge or consent.”

Janice Bloom, a member of ParentVoicesNY and a parent of a kindergarten student and a 3<sup>rd</sup> grader in a Brooklyn public school, said, “I am outraged that the state and the city would have agreed to share our children’s confidential data with a private corporation, without telling us anything about it. I am even more upset that this data is apparently being made available to companies for the purpose of marketing commercial products to the public school system. Parents need to be fully informed of the purpose and ramifications of this project, and provided with the right to opt out. I do not believe that public schools should be in the business of exploiting children for profit.”

Karen Sprowal, the mother of a 4<sup>th</sup> grader, added: "As a parent of a special needs child, I need to be especially vigilant as to where my child's information ends up, who gains access to it and for what reason. I think that the State and the City owe a detailed explanation to me and other NYC parents what the purpose of this project is, as well as an apology for having decided to go forward without telling us a word about it in advance."

As Nancy Cauthen, a member of the organization Change the Stakes and the mother of a 6<sup>th</sup> and a 10<sup>th</sup> grader in NYC public schools said: "The erosion of privacy that this project represents is part and parcel of the pillaging of public education for private gain. The fact that Rupert Murdoch's News Corporation is involved makes me even more fearful that my child's privacy will be violated and abused."

Julie Cavanagh, a special education teacher in Brooklyn, explained: "As a public school teacher I am concerned not only for the privacy of my students, and the way this data will be provided to for-profit enterprises, but I am also worried that this national database may be used to blacklist members of the teaching profession. Though the National Academy of Sciences and other expert groups have concluded that teacher evaluation systems based on student test scores are not to be trusted, the Gates Foundation seems intent on foisting these systems on the nation. When the DOE's unreliable teacher data reports were released, Murdoch's NY Post not only published them in the paper, but tracked down and harassed teachers who had received low ratings. "

Tracy Pyper, the Advocacy Chair of the Westchester/East Putnam Region PTA, said: "I was extremely troubled to learn that NY State has decided to hand over student personal information to Rupert Murdoch's Wireless Generation, without asking or even telling their parents about this. And while I realize that at this point, only NYC data is being provided, it is just a matter of time before all of our children in NY State may have their confidential information shared. Once parents are made aware of how the state is making critical decisions about our children's private information, without parental consent, they will be very concerned. I strongly urge the State Education Department to halt all further action until they can explain exactly what personal information will be provided to Wireless Generation, what safeguards they are taking to protect the information, and most importantly, give parents the right to opt out."

Norman Siegel, attorney, concluded: "The risks are real and immediate. The State Education Department has a fundamental responsibility to protect the privacy rights of public school children and their families. Before a single child's information is turned over to the Shared Learning Collaborative (a joint venture of the Gates Foundation and Wireless Generation LLC), our education officials must guarantee that no harm will come to New York school children by meeting the following requirements:

- Publish the agreement with SLC in printed and electronic form, include a thorough explanation of its purpose and provisions, and make it available to parents and local school authorities statewide;
- Hold hearings throughout the state to explain the agreement, answer questions from the public, obtain informed comment, and gauge public reaction;
- Notify all parents of the impending disclosure, and provide them with a right to consent;
- Define what rights families or individuals will have to obtain relief if harmed by improper use or release of their private information, including how claims can be made;
- Agree to allow no disclosure of public school records until the State Education Department and the NYC Department of Education meets all of its ethical, security, and statutory obligations to the parents and public school children of the city and state;
- Ensure that the privacy interest of public school children and their families are put above the interests of the Shared Learning Collaborative, News Corporation and its agents and subsidiaries."