



Colorado State Board of Education

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TRANSCRIPT OF PROCEEDINGS  
BEFORE THE  
COLORADO DEPARTMENT OF EDUCATION COMMISSION  
DENVER, COLORADO  
June 10, 2015, Part 1

BE IT REMEMBERED THAT on June 10, 2015, the  
above-entitled meeting was conducted at the Colorado  
Department of Education, before the following Board  
Members:

Marcia Neal (R), Chairman  
Angelika Schroeder (D), Vice Chairman  
Steven Durham (R)  
Valentina (Val) Flores (D)  
Jane Goff (D)  
Pam Mazanec (R)  
Debora Scheffel (R)



1 MS. BURDSALL: All right. Steve Durham?  
2 MR. DURHAM: Here.  
3 MS. BURDSALL: Dr. Flores?  
4 MS. FLORES: Here.  
5 MS. BURDSALL: Jane Goff?  
6 MS. GOFF: Here.  
7 MS. BURDSALL: Pam Mazanec?  
8 MS. MAZANEC: I'm here with a strange  
9 microphone.  
10 MS. BURDSALL: Marcia Neal?  
11 MS. NEAL: Here.  
12 MS. BURDSALL: Dr. Scheffel?  
13 MS. SCHEFFEL: Here.  
14 MS. BURDSALL: Dr. Schroeder?  
15 MS. SCHROEDER: Here.  
16 MADAM CHAIR: Please stand for the Pledge of  
17 Allegiance. Commissioner, would you like to lead us in  
18 the Pledge today?  
19 MR. DURHAM: I would, thank you.  
20 ALL: I pledge allegiance to the Flag of the  
21 United States of America and to the Republic for which it  
22 stands. One Nation under God, indivisible, with liberty  
23 and justice for all.  
24 MR. DURHAM: Thank you.  
25 MS. FLORES: It is so hot and I didn't bring



1 my fan.

2 MR. DURHAM: (Indiscernible) water?

3 MS. FLORES: No. It's too hot.

4 MR. DURHAM: (Indiscernible)?

5 MS. FLORES: No, please don't.

6 MADAM CHAIR: Is there a motion to approve  
7 the agenda?

8 MS. MAZANEC: I'm sorry, what'd she say?

9 MS. FLORES: Is there a motion to approve  
10 the agenda?

11 MS. MAZANEC: I move.

12 MS. SCHROEDER: I'll second to move.

13 MS. FLORES: I move to turn up the air  
14 conditioner.

15 MADAM CHAIR: Any discussion? All in favor?

16 MS. MAZANEC: Aye.

17 MR. DURHAM: Aye.

18 MADAM CHAIR: No items to be added to the  
19 agenda? Where are we with the --

20 MS. SCHROEDER: Consent.

21 MADAM CHAIR: Oh, no, we're okay. Do I have  
22 a motion to approve the agenda as amended?

23 MR. DURHAM: No, it works. It's just it's  
24 turned around, so I can't.

25 MADAM CHAIR: You have to turn your --



1 MS. SCHROEDER: Yeah, they're all turned  
2 around.

3 MR. DURHAM: They're all turned around.

4 MS. SCHROEDER: So we can't see whether  
5 they're on or off.

6 MR. DURHAM: On or off.

7 UNIDENTIFIED VOICE: Okay. Well,  
8 (indiscernible).

9 MADAM CHAIR: I turned mine around, Steve.  
10 Were you able to?

11 MR. DURHAM: Well, you're more technical  
12 than I am.

13 MADAM CHAIR: Were you able to?

14 MS. SCHROEDER: I tried.

15 MR. DURHAM: (Indiscernible).

16 MADAM CHAIR: I didn't look.

17 MR. DURHAM: It's okay. I don't mind it the  
18 way it is.

19 MADAM CHAIR: Do I have a motion to approve  
20 the agenda as amended?

21 MS. SCHROEDER: It's not amended.

22 MADAM CHAIR: It's not amended, right.

23 MS. SCHROEDER: I see it is.

24 MR. DURHAM: I thought we did that.

25 UNIDENTIFIED VOICE: Flip a page, yeah.



1 MS. SCHROEDER: Yeah, back one.

2 MS. BURDSALL: We're on the consent agenda.

3 MR. DURHAM: Oh, thank you.

4 MADAM CHAIR: You're welcome. I'm in IT.

5 MR. DURHAM: Yeah, I can tell.

6 MADAM CHAIR: Moving on to the consent  
7 agenda, do I have a motion to place items on the consent  
8 agenda?

9 MR. DURHAM: So moved.

10 MS. SCHROEDER: But you have to listen to --  
11 list them. You want to list them?

12 MR. DURHAM: Oh, no, you list them. I move  
13 that you list them.

14 MS. SCHROEDER: We'll let you second.

15 MADAM CHAIR: I second it.

16 UNIDENTIFIED VOICE: Five after 9:00.

17 MS. SCHROEDER: I don't know, am I -- is my  
18 thing on?

19 UNIDENTIFIED VOICE: Yes.

20 MS. SCHROEDER: Yes.

21 MS. SCHROEDER: Okay. Good. I move to  
22 place the following matters on the consent agenda:  
23 10.02. Approve the award for projects on  
24 the attached Fiscal Year 2015-16, BEST cash grant list  
25 for the award amounts, matching contribution amounts, and



1 the types of funding set forth in the published agenda  
2 and to direct the division of Public School Capital  
3 Construction Assistance to award the approved Fiscal Year  
4 2015-16, BEST cash grants.

5 10.03. Approve to reappoint Ken Haptonstall  
6 to the Public School Capital Construction Assistance  
7 Board for a two-year term.

8 10.04. Approve funding assistance  
9 allocations to the Boards of Cooperative Education  
10 Services in implementing and meeting state educational  
11 priorities (1 CCR 301-89), as set forth in the published  
12 agenda.

13 10.05. Approve Lisa Humberd as the  
14 replacement with special education expertise for the  
15 vacancy left by a team -- term, sorry -- ending from the  
16 Educational Data Advisory Committee (EDAC).

17 16.01. Regarding disciplinary proceedings  
18 concerning an application, Charge Number 2012EC3241,  
19 direct department staff to issue a notice of denial and  
20 appeal rights to the applicant pursuant to 24-4-104,  
21 C.R.S.

22 16.02. Regarding disciplinary proceedings  
23 concerning a license, Charge Number 2013EC1629, direct  
24 department staff in the state attorney general's office  
25 to prepare the documents necessary to request a formal



1 hearing for the revocation of the license holder's  
2 professional teacher license pursuant to Section 24-4-  
3 104, C.R.S.

4 16.03. Regarding disciplinary proceedings  
5 concerning a license, Charge Number 2014EC1,  
6 significantly -- signify acceptance and approval of the  
7 terms and conditions of the settlement agreement by  
8 directing the commissioner to sign the agreement.

9 16.04. Regarding disciplinary proceedings  
10 concerning a license, Charge Number 2014EC285, signify  
11 acceptance and approval of the terms and conditions of  
12 the settlement agreement by directing the commissioner to  
13 sign the agreement.

14 16.05. Regarding disciplinary proceedings  
15 concerning an application, Charge Number 2014EC1017,  
16 direct department staff and the state attorney general's  
17 office to prepare the documents necessary to require a  
18 formal hearing for the revocation of the credential  
19 holder's professional principal license pursuant to  
20 Section 24-4-104, C.R.S.

21 16.06. Regarding disciplinary proceedings  
22 concerning an application, Charge Number 2014EC2025,  
23 direct department staff to issue a notice of denial and  
24 appeal rights to the applicant pursuant to Section 24-4-  
25 104, C.R.S.



1                   16.07. Approve three initial emergency  
2 authorizations, as set forth in the published agenda.

3                   16.08. Approve two renewal emergency  
4 authorizations, as set forth in the published agenda.

5                   16.09. Approve Colorado State University -  
6 Global Campus request for authorization as a post-  
7 Baccalaureate program and a designated agency for  
8 alternative teacher preparation for mathematics and  
9 science endorsements, as set forth in the published  
10 agenda.

11                  17.01. Approve the appointment of Cindy  
12 Daisley to the State Advisory Council for Parent  
13 Involvement in Education.

14                  17.02. Approve Brian Weaver, Caitlin  
15 Sahimi, Johnna Bronson, Paula McGuire, and Lindsey  
16 Reinert to serve in the Gifted Education State Advisory  
17 Committee.

18                  17.03. Approve the distribution of payments  
19 to administrative units for gifted education under the  
20 Exceptional Children's Education Act, as set forth in the  
21 published agenda.

22                  18.01. Approve Poudre Valley School  
23 District's request on behalf of Liberty Common for waiver  
24 from state statutes, as set forth in the published  
25 agenda.





1                   18.02. Approve St. Vrain Valley School  
2 District's request on behalf of Twin Peaks Charter  
3 Academy for a waiver from state statutes, as set forth in  
4 the published agenda.

5                   18.03. Approve Charter School Institute's  
6 request on behalf of New Legacy Charter High School for a  
7 waiver from state statutes, as set forth in the published  
8 agenda.

9                   18.04. Approve Charter School Institute's  
10 request on behalf of Colorado Springs Charter Academy for  
11 a waiver from state statutes, as set forth in the  
12 published agenda.

13                   18.05. Approve Charter School Institute's  
14 request on behalf of Pikes Peak Prep for a waiver from  
15 state statutes, as set forth in the published agenda.

16                   18.06. Approve Boulder Valley School  
17 District's request on behalf of Peak to Peak Charter  
18 School for a waiver from state statutes, as set forth in  
19 the published agenda.

20                   18.09. Approve Denver Public Schools'  
21 innovation application on behalf of Place Bridge Academy,  
22 as set forth in the published agenda.

23                   It's a different school.

24                   MR. DURHAM: Okay.

25                   MS. SCHROEDER: Approve the 2015 Counselor



1 Corps Grant recipients an amount of grants, as set forth  
2 in the published agenda.

3 Approve the 2015 Expelled and At-Risk  
4 Student Services Grant recipients in amounts of grant  
5 awards, as set forth in the published agenda.

6 18.12. Approve the 2016 School Health  
7 Professional Grant recipients in the amount of grant  
8 awards, as set forth in the published agenda.

9 This is the end of the consent agenda.

10 MADAM CHAIR: That's a proper motion. Is  
11 there a second?

12 MS. GOFF: Second.

13 MADAM CHAIR: Jane seconds. Any discussion?

14 MS. SCHROEDER: Yes.

15 MADAM CHAIR: Any discussion?

16 MS. SCHROEDER: Yes. I would like to  
17 request that when we have request for waivers, such as  
18 we're in the various charter schools, that the items that  
19 are being requested that are not the automatic waivers  
20 are not just the law sections that they're actually  
21 described. A few of them were described and some of them  
22 were just the -- the -- the --

23 MR. DURHAM: Statute.

24 MS. SCHROEDER: Statute, thank you, the  
25 statutes. So that required us to go back, look at the



1 statute, et cetera. It would be a whole lot more user  
2 friendly to me if --

3 UNIDENTIFIED VOICE: Okay.

4 MS. SCHROEDER: -- it said it's this  
5 particular item. And I don't need a big, long  
6 explanation.

7 UNIDENTIFIED VOICE: Yeah.

8 MS. SCHROEDER: Just a sentence that says  
9 what -- what -- what -- which one it is.

10 UNIDENTIFIED VOICE: Okay.

11 UNIDENTIFIED VOICE: Okay.

12 MS. SCHROEDER: Because we'll know which one  
13 it is once you describe in short sentence.

14 MADAM CHAIR: And I got a second from Jane.

15 MS. SCHROEDER: Yeah.

16 MADAM CHAIR: Any objection? All in favor,  
17 say aye.

18 ALL: Aye.

19 MADAM CHAIR: Motion carries. End of  
20 consent agenda. Office of the State Board of Education,  
21 please give us your report (indiscernible).

22 MS. BURDSALL: All right. Good morning,  
23 Chairman Neal, Commissioner Hammond, and Members of the  
24 State Board. Yes.

25 MADAM CHAIR: I'm sorry, Jane needs --



1 MS. BURDSALL: Oh.

2 MADAM CHAIR: -- to get connected.

3 MS. GOFF: I don't need -- no, go ahead,  
4 Bizy.

5 MADAM CHAIR: I was trying -- I was try to  
6 get Michelle's (ph). Then I got Bizy.

7 MS. BURDSALL: It doesn't have to have  
8 (indiscernible).

9 MS. GOFF: I don't have this.

10 MADAM CHAIR: Oh, it's hanging up, facing.

11 MS. BURDSALL: All right. In your Board  
12 packets, you have the following materials: You have the  
13 events calendar, (indiscernible) expense report. You  
14 have a revised copy that I provided on your  
15 (indiscernible) this morning of the data privacy  
16 protection and contracts PowerPoint; a comparison of the  
17 Senate and House versions of Senate Bill 173, which is  
18 the student data security bill; and CDE contracts  
19 involving student PII. You have a copy of Aurora Public  
20 Schools ACTION ZONE one -- for 8.1, ACTION ZONE designed  
21 plan; your memorandum of understanding for Turnaround  
22 Action for Aurora Central High and their implementation  
23 plan.

24 I just want to make note that we received  
25 letters from Aurora Central High School students. And



1 those letters are posted on Board docs. I have also the  
2 rough draft of the letters that they did, as well as the  
3 envelopes that they practiced addressing on, so if you'd  
4 love to see those, those are available.

5 For 10.01, I have copy -- you have copies of  
6 the materials pertaining to the Fiscal Year '16/'17  
7 budget change request.

8 For 10.02, you have a copy of the Fiscal  
9 Year '15/'16 BEST cash grant recommendations.

10 For 10.04, you have a copy of the '15/'16  
11 BOCES allocations for House Bill 12-1345.

12 For 10.05, you have a copy of application  
13 materials in support of the appointment to the Education  
14 Data Advisory Committee.

15 For 11.01, you have a copy of Rural Alliance  
16 Student-Centered -- I'm sorry -- Rural Innovation  
17 Alliance Student-Centered Accountability Project  
18 Resolution, as well as resolutions in support of this  
19 Student-Centered Accountability Project from the  
20 following rural school districts: Bayfield school  
21 district 10 JT-R; Buffalo RE-7J school district; Buena  
22 Vista school district; Dolores County school district RE-  
23 TJ; Elizabeth school district C1; Charlesburg (ph) school  
24 district RE1; Kit Carson school -- Kit Carson R-1 school  
25 district; Mancos school district RE-6; Monte Vista school



1 district 8; South Routt school district RE 3; and  
2 Burlington school district RE-6J, which was provided to  
3 you this morning.

4 17.01, you have a copy of application  
5 materials submitted in support of the appointment to the  
6 State Advisory Council for Parent Involvement in  
7 Education.

8 For 17.03, you have a copy of the Gifted and  
9 Talented education Fiscal Year '15/'16 allocations by  
10 administrative units.

11 For Items 18.01 through 18.06, you have the  
12 charter school waiver request materials, submitted by  
13 Poudre Valley School District, St. Vrain Valley School  
14 District, the Charter School Institute, and Boulder  
15 Valley School District.

16 For 18.07, you have a copy of -- a copy of  
17 the materials pertaining to Holyoke School District RE-1  
18 J's request for its Innovation Zone application.

19 For 18.08, you have a copy of the materials  
20 pertaining to Greeley-Evans School District 6 request for  
21 its Innovation application.

22 For 18.09, you have a copy of the materials  
23 pertaining to Denver -- Denver Public School's request of  
24 Innovation application.

25 For 18.10, you have a copy of the '15/'16



1 School Counselor Crops Grant recommendations.

2 For 18.11, you have a copy of the '15/'16  
3 Expelled and At-Risk Student Services Grant  
4 recommendations.

5 For Item 18.12, you have a copy of the  
6 '15/'16 School Health Professional Grant recommendations.

7 And for 19.01, you have a copy of the  
8 resolution recognizing the contribution that Commissioner  
9 Robert K. Hammond has made to education reform in  
10 Colorado.

11 That is the end of my report.

12 MADAM CHAIR: Thank you.

13 MS. SCHEFFEL: May I just kind of bring to  
14 your attention, on Wednesday, it's an event -- excuse me,  
15 Madam Chair.

16 MADAM CHAIR: Yes, would you go ahead,  
17 please?

18 MS. SCHEFFEL: Thank you. I'm so sorry. I  
19 think we're not having a regular meeting on July, exempt  
20 for a special meeting.

21 MS. BURDSALL: You -- you are correct. You  
22 will not have a regular Board meeting in July, and I  
23 apologize. I didn't pull that off before providing that  
24 to you, so thank you for catching that.

25 MADAM CHAIR: Thank you. Any other



1 questions? Steve?

2 MR. DURHAM: Thank you, Madam Chair. Bizy,  
3 did you say there was a copy of the expense report in  
4 here?

5 MS. BURDSALL: Yes.

6 MR. DURHAM: I didn't -- for some reason, I  
7 don't have it. So later today, if I could get one.

8 MS. BURDSALL: Sure.

9 MR. DURHAM: Thank you.

10 (Overlapping)

11 MS. BURDSALL: -- to you.

12 MADAM CHAIR: Okay. Any other questions?  
13 Thank you. Next item on the agenda is the data privacy  
14 update. Commissioner?

15 MR. DURHAM: Thank you, very much, Madam  
16 Chair. I'd like to call up staff Katie Lananhall (ph).  
17 I'd like to call up Ms. Heidi Dineen, who is a senior  
18 assistant over at the Attorney General's office who has  
19 been helping us on this project, and Marcia Hannam (ph),  
20 who is the chief information officer for the department.

21 As many of you will remember over the last  
22 several weeks, when the legislation was taking place,  
23 there were two particular bills, House Bill 1294 and  
24 Senate Bill 15-173. Quite frankly, they each address --

25 (Overlapping)





1 MR. DURHAM: -- additional security  
2 protocols for particularly school districts and not as  
3 much for the Department. Both of those bills, when in  
4 fact the Senate version was much stricter, and we  
5 supported that and we will all supported that as a group.

6 Well, neither of them passed. So we took,  
7 you know, this device that you've given us. We looked at  
8 that. And how can we take that and put that in reality  
9 as it pertains to our contracts involved personally  
10 identifiable information and even improve our processes  
11 even further? How do we, as we go forth, gain public  
12 input further? And how we eventually approve with  
13 template?

14 So over the last few weeks, staff has worked  
15 very diligently to really put together, I think, a really  
16 comprehensive process that we want to review with you.  
17 And then we're going to get input in that process from  
18 various groups in July. And then we're going to bring  
19 that process back to you in August for your hopeful  
20 approval. Then we'll have a template. And that template  
21 can be everchanging, but we will have a template that we  
22 will begin applying to all contracts. Even if a contract  
23 is brand new, that's one thing. But we're going to go  
24 back to every contract that deals with personally  
25 identifiable information and try to extend, if we can,



1 renegotiate that contract. We believe we can do that.

2 So with that in mind, I am going to turn it  
3 over to Ms. Dineen. That's you starting it off.

4 MS. DINEEN: Good morning. I'm Heidi Dineen  
5 with the Attorney General's office. And for many years  
6 I've been the State's HIPAA privacy expert. That's one  
7 of the reasons that I was appointed to this project. I  
8 also have negotiated some of the state's largest and  
9 complex contracts. So I have been assigned to this  
10 challenge and have been working with the -- the  
11 Department staff to come up with a recommendation for you  
12 this morning to proceed with this project.

13 So as the Commissioner explained, we have  
14 already begun the process of reviewing the contracts,  
15 preparing a list of the contracts, and soliciting input  
16 from parents and stakeholders. We're going to continue  
17 that process in July and then come back to the State  
18 Board in August with a recommended template for your  
19 review and approval, hopefully.

20 We have spent quite a bit of time  
21 identifying all the contracts that involve the disclosure  
22 of retention of student-protected information. We're  
23 going to prioritize those contracts, probably beginning  
24 with the ones that are up for renewal first and the ones  
25 that really involve an extensive disclosure of student



1 PII. And, you know, this is going to be somewhat tricky  
2 and difficult to negotiate this, since it's not a  
3 statutory mandate now and we have an existing contract  
4 with some of these vendors. So we may need to make  
5 exceptions where some of our requirements are  
6 legislatively mandated. For example, you're required to  
7 administer the ACT tests. There's very limited  
8 competition in the vendors that offer that service and so  
9 we're developing a process for the commissioner to  
10 approve exceptions to this template that we come up with.

11 So City has already amended most of their  
12 contracts to require privacy and security provisions. In  
13 general state contracts, we don't allow vendors to use  
14 data provided by the State for any purpose, other than  
15 what's specified in the contract. We have provided a  
16 list of those contracts in your Board packet. And then  
17 there's also a list on this, the Department's data  
18 privacy and security website. We're in the process of  
19 updating that list on the website. And then that website  
20 list also includes data-sharing agreements with other  
21 state agencies, other agencies that we share data with.  
22 So we are kind of still in the process of updating that  
23 list to make sure that it's complete.

24 And the new template will really build upon  
25 these existing privacy and security provisions that we



1 have in our contracts. So in later slides, you'll see  
2 we're going to have a side-by-side comparison of what our  
3 current requirements are and what we're proposing to ramp  
4 up, pursuant to Senate Bill 173. As you know, in --  
5 there were some differences between the House and Senate  
6 versions of 173. We spent a great amount of time  
7 comparing those different versions and listening to the  
8 testimony for those bills. And in all instances, we're  
9 recommending the strictest privacy protections and the  
10 most onerous transparency requirements. That -- that  
11 seemed to be a -- a very loud message from the testimony  
12 on Senate Bill 173. So we'll get -- really get into some  
13 of those specifics here in later slides.

14 So we're proposing a -- a process to solicit  
15 stakeholder input basically from all stakeholders. We  
16 want to hear from parents, we want to hear from some of  
17 the vendors, the school districts and their  
18 representatives, and other members of the public. So  
19 we're proposing to hold a public meeting. It would be  
20 similar to a rulemaking hearing, where we would post it.  
21 I think we're going to create a list serve for all people  
22 who are interested in this topic. They can sign up for  
23 the list serve. They'll have notice of these meetings.  
24 And they could come down and solicit input on the  
25 template language that we come up with. And we'll take



1 those comments all very seriously. And I think we want  
2 to obviously continue that process, because the template  
3 may change over time, as technology changes, as new  
4 concerns are raised. So we're really hoping to open it  
5 up and create a more organized process for people to  
6 solicit input on this topic, because there's a lot of  
7 emotion and passion involved behind some of this. It's  
8 been kind of -- you know, people have very strong  
9 feelings about it.

10           Again, just to review the legislative  
11 history, last year a bill was passed, House Bill 14-1294,  
12 that required the Department to implement additional  
13 privacy and security requirements. And we have  
14 implemented those. The Department supported Senate Bill  
15 15-173, because it really would have provided us with the  
16 statutory mandate to require the vendors to agree to  
17 these provisions in their contracts. It's going to be a  
18 lot more difficult to get them to agree to some of these  
19 provisions. In some instances, we may have to wait until  
20 it's bid out again.

21           You know, certainly when I implemented the  
22 HIPAA privacy rule, it was a -- it was a mandate by law,  
23 and so the vendors had to do it. And we had a lot of  
24 negotiating authority around that and they had to do it.  
25 But will report to the Commissioner for those vendors who



1 are balking. An example that we've run into in the  
2 recent month, just the month I've been working on this,  
3 is we require that vendors not only encrypt student PII  
4 when it's in transit, but also when it's at rest. And  
5 we're having some vendors balk at the requirement to have  
6 their data encrypted at rest. And they want the  
7 Department to pay for that. So --

8 MS. MAZANEC: Excuse me, Madam Chair, can we  
9 ask questions now or do we need to wait?

10 MADAM CHAIR: If it's something she can  
11 answer quickly.

12 MS. MAZANEC: Yeah, what -- what does that  
13 mean, "data encrypted at rest versus data" -- I mean,  
14 what's --

15 MS. DINEEN: At transit? So, you know, the  
16 best practices are that when you're sending sensitive  
17 data via email in transit, you encrypt it. But then when  
18 it gets to the recipient and they house it in their data  
19 center, that data itself is encrypted, so that an  
20 external source can't come in and hack it. And it --  
21 that really is the best practice. We've been kind of a  
22 little surprised that a couple of these vendors didn't  
23 have it as part of their standard security processes,  
24 that they would have data encrypted.

25 MS. MAZANEC: Was that before last week?



1 MS. DINEEN: Yeah, but we have come up with  
2 a plan for them to get into compliance. We've given them  
3 I think six months to get into compliance with it. You  
4 know, some of these services, there -- there can't be a  
5 service disruption. They're -- they really are critical  
6 to the testing process, to the Department's revenue  
7 stream, or whatever. So we have to be cognizant of that  
8 too. But we have a really strong security team here at  
9 the Department. They worked with these vendors for many  
10 years and they are, you know, really involved in the  
11 negotiations at that technical level. But, you know,  
12 it's -- it's just been -- we're -- we're keeping track of  
13 these issues of what's common.

14 You know, another common thing that vendors  
15 would object to is our right to come in and audit. Some  
16 of the larger companies have very strict policies on  
17 who's going to come in and audit for what. Because it  
18 costs them time and money.

19 And security breach protocol is usually  
20 another contentious one, because if you're a large  
21 company and you're handling lots of sensitive data, you  
22 already have a breach protocol in place. And we may have  
23 to compromise and go along with their protocol, rather  
24 than what we would like, or demand. So those are just  
25 some instances, but I'm confident that eventually we'll



1 be successful. It just might take some time. We might  
2 have to wait until we bid that out. When -- when we bid  
3 out contracts, we include the model contract. It'll  
4 include this template that we developed and we'll ask  
5 vendors when they submit their proposal to voice their  
6 objections then or forever hold their peace.

7 So we'll get a sense at the time we're  
8 reviewing the bids on how many issues they're going to  
9 have on this -- this issue and other provisions in the  
10 state model contract. They always have a few objections.

11 So anyway, that is where we're going, but in  
12 your packet there is a side-by-side comparison of the  
13 different versions of Senate Bill 173, so if you really  
14 wanted to drill down into the weeds, you can. We've  
15 spent quite a bit of time. It's a long bill. It's a  
16 complicated bill. And we spent a lot of time picking  
17 through it.

18 So under the Department's current contract  
19 provisions, we already require that vendors designate and  
20 authorize representative. They have to specify the  
21 purpose that they're using the PII, what student  
22 information will be disclosed, and why it's necessary.  
23 We're going to go a step above that and prohibit vendors  
24 from using or collecting student PII from any source if  
25 it's related to that student and that student data that





1 we're giving them and hiring them for, to basically  
2 specifically say we're going to give you this data set  
3 and you're going to use it for this purpose and you're  
4 not going to go out on the Internet or some other  
5 database that you have and collate and create a profile  
6 of the student and use it for commercial purposes. So  
7 we're really going a step above and beyond what we  
8 already have.

9 We are also, pursuant to Senate Bill 173,  
10 we're going to provide that the vendor may not target  
11 advertise the students. They may not create a personal  
12 profile of the student based on data that we provide.  
13 And they can't sell any of the student data. And I think  
14 those were some of the provisions of Senate Bill 173 that  
15 people felt very strongly about that needed to be in the  
16 contracts. So what's that the template will provide.

17 Currently the Department in their contracts  
18 again says that can only use it for the purposes  
19 specified in the contract. No other purpose, no  
20 commercial purpose. But there -- there -- there do have  
21 to be a couple exceptions to that. For example, to  
22 protect the integrity of their website, if they're being  
23 hacked, they're going to need to know the identity of  
24 that hacker -- maybe they're going through a student mask  
25 or something like that; to respond to litigation in a



1 judicial process; and then probably the most important  
2 one, to the extent that the disclosure is required by  
3 law. If these vendors get a grand jury subpoena on  
4 certain student PII, because they're investigating a  
5 potential violence against the school, violence against  
6 another student, they will make that disclosure. They're  
7 required to -- by law to do that. And in my experience  
8 working in with the HIPAA privacy law, you know, you have  
9 to allow people to make disclosures that are otherwise  
10 required by law. There are not that many requirements of  
11 law. That's the good news.

12 And then we're also going to ramp up that if  
13 the vendor subcontracts any of these services, they can  
14 only disclose the PII if they obtain reassurances from  
15 that subcontractor that they will not disclose or use or  
16 sell. So we're going to impose these requirements down  
17 the subcontractor chain.

18 We currently requiring the contracts that  
19 the -- the data be destroyed when the information is no  
20 longer needed and the vendor has to provide us with the  
21 certificate that that has been done. We're going to add  
22 to that that they have to agree to delete information at  
23 the request of the school district or local education  
24 association.

25 We already require that vendors adopt



1 appropriate technical, physical, and administrative  
2 safeguards to protect the PII. That includes things like  
3 https and encryption, best practices in that regard. We  
4 require that they have policies and procedures to keep  
5 all of that up to date, to train their staff, to provide  
6 user-based access, et cetera.

7           So and we -- we also require that they have  
8 a sound data security plan. It probably goes on for two  
9 or three pages, our requirements for their security  
10 protocol. And at this time, we're not really  
11 recommending any additional changes to that as a result  
12 of Senate Bill 173. We currently have the -- the -- in  
13 our contract the right to conduct audits and  
14 investigations to see if they're in compliance with these  
15 requirements. And then we also, in the contracts,  
16 require that CDE review and approve any publication of  
17 this student data that's released by the vendor for their  
18 own purpose.

19           Now, in Slide 15, it's probably some of the  
20 more controversial provisions of Senate Bill 173. These  
21 are really the transparency requirements that the vendor  
22 that were in Senate Bill 173. And Senator Pabon's  
23 amendment, he had -- he had proposed and was successful  
24 at deleting and colluding some of these requirements.  
25 But we're recommending that you go ahead and at least



1 initially try to impose the most onerous transparency  
2 requirements on the vendor. And then this is on the  
3 vendor, that the vendor will have -- have to post the type  
4 of information they're collecting and why. They'll have  
5 to post their policies on data retention and provide  
6 notice when they make changes to their privacy policy.  
7 So and facilitate student and parent access to and  
8 correction of the data.

9           So this is really going to be -- it'll be  
10 interesting to see how the vendors react to this, because  
11 it's going to cost them money, time and money, to  
12 implement these requirements. But it is kind of evolving  
13 into a best practice with the data -- with the pledge,  
14 the data privacy pledge that many -- many vendors have  
15 signed onto. We're going to try to shame them into  
16 compliance --

17           MS. MAZANEC: Good.

18           MS. DINEEN: -- saying everybody is going --  
19 everybody else is doing this. We'll -- we'll just have  
20 to see it be -- and some of these require a statutory  
21 mandate, because our experience so far has been that some  
22 of the vendors say fine, but we want the Department to  
23 pay for it. So I think it'll be interesting to see how  
24 that all plays out. And we'll keep you informed. We'll  
25 let you know how it plays out.



1                   We already have provisions in the  
2 Department's contracts about how we're going to respond  
3 to a security breach. We have in our contracts that we  
4 have the right to impose penalties for a non-compliance.  
5 And then we expect vendors to have appropriate  
6 disciplinary policies for their employees who don't  
7 follow these protocols, including termination.

8                   We're going to include in that that any  
9 interested party can report alleged violations to the  
10 Department. And then we'll hear them out. And then  
11 we're going to develop an ongoing public process,  
12 probably twice-a-year meeting with the public, to take --  
13 to advise them of changes to the template, to, when we  
14 bid out vendors, certain contentious vendors, to let them  
15 know this is what we're proposing and how we're going to  
16 do the procurement and seek some public input on that.

17                   One of the biggest changes that we're  
18 proposing and in working with administrative law that --  
19 that the definitions are everything. Right now we define  
20 PII consistent with FERPA and also the Student Data  
21 Privacy Act that was passed last year. And it includes  
22 the typical data fields that you would normally associate  
23 with protected information, including name, attendance,  
24 that type of what we would traditionally think of as  
25 protected information.



1                   On Slide 19 though, you'll see that we're  
2                   proposing to add to the definition of protected data.  
3                   Some of the elements identified under Senate Bill 173,  
4                   such as your email address, your cell phone number,  
5                   photos -- interestingly enough, a lot of people find  
6                   photos to be protected information -- biometric  
7                   information, such as your eyeball and fingerprints, these  
8                   types of things, these are more recently developed  
9                   technologies. You know, the law takes a while to catch  
10                  up to some of this technology. And we're going to lead  
11                  the forefront and expand the definition of protected  
12                  information.

13                  So we're hoping that this -- that the  
14                  Department can serve in a leadership role to the local  
15                  school districts in providing this template and our  
16                  experience in dealing with certain vendors, helping them  
17                  negotiate their contracts with the vendors, and really  
18                  kind of demonstrating a commitment to protecting student  
19                  privacy and vendor transparency.

20                  MADAM CHAIR: Questions?

21                  MS. DINEEN: Any questions?

22                  MR. DURHAM: Thank you. Thank you, Madam  
23                  Chair. It's more of a statement, if I could. I had the  
24                  opportunity yesterday to meet with staff to discuss this  
25                  particular initiative. And I think the objective that I



1 had in raising this initially was to try and restore  
2 confidence in parents in the -- that their children would  
3 not be exploited or in some way permanently damaged or  
4 restrained by data that was accumulated under the guise  
5 of testing or some other purpose.

6 And I think -- and I think -- I really think  
7 there's no excuse in -- in what went on in the Senate  
8 Bill 173. There's really no excuse for any vendor  
9 objecting to posting what they're doing. And I think we  
10 -- we need to have that bill introduced and go back at  
11 that. And there's absolutely nothing wrong with  
12 disclosure.

13 And I think furthermore, that, I mean, we're  
14 all aware of -- of the concern about parents of records  
15 following children. I mean, we've seen the -- the  
16 expulsion of kids whose parents sent a couple of aspirin  
17 with them to school because they have drugs, of those  
18 zero-tolerance policy things. The -- the famous case  
19 with the paring knife for the child that had braces, so  
20 he could cut his apple. Those kinds of things, I think  
21 parents have a right to be concerned about the conduct of  
22 districts and their vendors and what's collected.

23 And so I think that -- I think imposing --  
24 imposing standards through contracts is a good way to go.  
25 I think it should be part of the bid criteria. When --



1 when -- and I also think information that should be  
2 accumulated for submission to the legislature when  
3 they're considering bills are exactly what it is, what  
4 specific things vendors object to, because I think they  
5 have an obligation to justify why they need disciplinary  
6 records. There may be some instances where that's  
7 justifiable. And I think by allowing an appeal process  
8 or having an appeal process, where the commissioner can  
9 grant waivers to these -- some of these requirements  
10 makes a lot of sense, provided the fact that those  
11 waivers have been granted or -- or well public.

12 And then I think the -- the parents who have  
13 been most concerned about this can have some confidence  
14 that we're not collecting data unnecessarily, which I  
15 think is the more important of the -- of the issues.  
16 There's no reason to collect data just for the sake of  
17 collecting. And that that -- that data that is collected  
18 is properly handled, stored, and hopefully destroyed,  
19 although I'm somewhat convinced that you can't really  
20 destroy data in today's world.

21 So I think I -- I very much appreciate the  
22 staff's serious approach to this. And I also think the  
23 idea of having a quarterly or semi-annual meeting in  
24 which you review progress with all interested parties,  
25 listen to concerns and complaints, see what needs to be





1 updated, disclosed at those meetings, what vendors have  
2 agreed to and what they have objected to will do a lot to  
3 eliminate, I think stay it say staff time in trying to  
4 deal with as many of these individually as I know you  
5 have to deal with.

6 So I think this is a step in the right  
7 direction and in the long run should restore some  
8 confidence in the system and hopefully will free, in the  
9 long run, free up staff time then to -- to go back and  
10 deal with the -- the more -- with the major issues that  
11 surrounding privacy and -- and data security. So I just  
12 want to thank the staff and I want to encourage them to  
13 start those quarterly or semi-annual meetings as soon as  
14 you have this -- this in the specific form and you can  
15 move forward with it. So thank you.

16 MADAM CHAIR: Yeah. Were you done with your  
17 presentation?

18 MS. DINEEN: Uh-huh.

19 MADAM CHAIR: I wanted to make sure that.  
20 Yeah, thank you very much for this, very informative.  
21 And I -- I'm really pleased to see the efforts going  
22 forward. And I -- I do think Colorado, we have the  
23 opportunity to be a leader in this and other states will  
24 be looking at this model. So let's stay the course.

25 A couple of questions I have though is the -



1 - the -- the way you're -- you're soliciting input from  
2 parents. You're going to have a public meeting, one  
3 public meeting, or is that going to be like a town hall  
4 kind of thing? Or are you planning on having it here,  
5 where people could listen live? Or how -- how will  
6 parents be able to participate?

7 MS. DINEEN: Well, I think we did envision  
8 that, yes, it would be a public meeting, similar to a  
9 rulemaking hearing, that we would have it here at the  
10 Department. We will have the ability for people to  
11 listen online and call in and submit written comments,  
12 also (indiscernible).

13 You know, if -- if the interest is  
14 overwhelming, we can certainly have more than one  
15 meeting. Or if we get feedback that we need to have it  
16 in a different location or something like that, we're  
17 willing to facilitate all of that. But the -- the  
18 thought was to kind of really open it up, let everybody  
19 know about it, and then have it on as an ongoing basis.  
20 You know, the BEST program, I'm the legal counsel for  
21 them and they have a list served where they keep anyone  
22 who's interested informed about what their -- their  
23 program is doing, what the deadlines are, when the Board  
24 is meeting, on what. You know, so --

25 MS. MAZANEC: That sounds like a good idea.



1 MS. DINEEN: Yeah. And we're -- you know, I  
2 was thinking that some of these parents in particular,  
3 you know, they're on the Internet venting about these  
4 issues. And maybe we need to provide them with the forum  
5 to do that, in that format, because that's -- they're  
6 high-tech people and they're on the Internet a lot of  
7 times. And so we're going to talk about that, what that  
8 would look like, a blog or something.

9 MS. MAZANEC: Just -- just one follow up.

10 MADAM CHAIR: Yes.

11 MS. MAZANEC: Which I already forgot, sorry.  
12 Oh, I know. This may be for you, but I know we've talked  
13 about this in the past, but remind me. Examples of a  
14 legitimate educational purpose for personally  
15 identifiable information? How many times are we going to  
16 see that request and why -- why it's so important to have  
17 PII?

18 MS. DINEEN: It's usually essential to  
19 perform the service, such as the testing vendors.

20 MS. MAZANEC: Oh.

21 MS. DINEEN: They have to know who the  
22 student is, their student ID, their test score. And then  
23 they also -- Katie has just given me, on the -- on the  
24 Department's website, pursuant to the statutory  
25 requirements, the Department has a list of the data it



1 collects and why and what purpose it is used. And then  
2 if you click on this hyperlink, it'll actually take you  
3 to an spreadsheet-type document, where it shows the  
4 specific data elements that are collected and why. So --

5 MS. MAZANEC: Bizy, could we get a -- that -  
6 - could I get that list?

7 MS. BURDSALL: Uh-huh, sure, I think yeah.

8 MS. DINEEN: And it's on the website.

9 MS. MAZANEC: I have a little trouble  
10 finding things on the website sometimes.

11 MS. DINEEN: Yeah, we're going to -- we're  
12 going to ramp it up, but, you know, we'll get there.  
13 It's -- it's always challenging to keep your website up.

14 MADAM CHAIR: Commissioner, you had a  
15 comment?

16 MR. DURHAM: No, I just say, you know, as we  
17 work through this template, we'll go through a process  
18 this month. This is on -- no, July -- where we'll seek  
19 more input into this template, like I said before, you  
20 bring it back to you, then the twice-a-year meetings. If  
21 we feel we need more, we will. But we feel keeping the  
22 template alive and -- and varying, because things change.  
23 And also we're talking about once we start entering into  
24 negotiations on the contract, we post it like a rule for  
25 the public and everybody to see. If they can provide



1 written comments to it, then we'll give feedback to the  
2 negotiators, if you will, on the contract of something  
3 maybe we missed. And so that's on each and every  
4 contract. We post that and solicit that feedback. So  
5 that's something completely (indiscernible). Sorry.

6 MS. MAZANEC: Do you have --

7 MS. SCHEFFEL: Yes, thank you for the  
8 presentation. I appreciate it. So I have a couple of  
9 questions. First of all, the role of Heidi for our  
10 Board. I guess I'm unclear. I know Kerry (ph) was our  
11 data privacy person. Are you our new big-data privacy  
12 person, but you work for the governor's office?

13 MS. DINEEN: I work for the attorney  
14 general, AG. So and -- and we had some discussion about  
15 that in terms of fielding comments from parents. It's  
16 not really the role of the AG's office --

17 MS. SCHEFFEL: Right.

18 MS. DINEEN: -- to review and respond to  
19 those. So Katie has kind of stepped into the role of  
20 being the interim privacy officer. And then I'm there  
21 for technical support. But, you know, the Department  
22 really has to own this. I don't think it's something  
23 that you can hire a vendor to do --

24 MS. SCHEFFEL: I agree.

25 MS. DINEEN: -- that type of thing. So I'm



1 going to be here for the technical support, to draft the  
2 template, to -- to advise them on these various laws,  
3 because there -- there -- there are a bunch of different  
4 laws that have to be applied with. And then to also  
5 negotiate the contracts, to know what we can and cannot  
6 agree to. But the Department has really stepped up to  
7 say, you know, we're -- we're going to step up to the  
8 plate and make sure that this function is performed.  
9 It's not just going to go by the wayside.

10 MS. SCHEFFEL: So Katie's the contact for  
11 parents, it sounds like, right?

12 MR. DURHAM: Correct.

13 MS. SCHEFFEL: Okay. And then a couple  
14 other questions. One of the phrases here is that  
15 collection of data would be minimized and the way it's  
16 shared would be tightened up and minimized, right? So, I  
17 mean, when we get through all this language and all these  
18 contracts and all this template and so forth -- and --  
19 and maybe it's a question for you, Katie -- I mean, can -  
20 - can we be -- are we able -- will we be able to say  
21 there's less data collected and it's protected in these  
22 additional six way? I mean, how will be able to -- I  
23 mean, you know, the feedback I'm getting from parents and  
24 others is just we want less data collected, we want to be  
25 -- assured that there are these X number of ways it's



1 protected. And we want on the back end to know that our  
2 kids aren't being marketed. So we don't want them to  
3 receive these emails. I mean, how will we know this is  
4 working, besides on the front end there's lots of  
5 language to say that we're working on it? But on the  
6 back end, what will parents and others who care expect to  
7 see?

8 MS. DINEEN: Well, I'm hoping that if we  
9 fully implement the transparency requirements, that will  
10 be able to go on that vendor's website and see what  
11 they're collecting. But I think the point you raise is a  
12 good one, that perhaps we need to keep track of our  
13 results. Which vendors agreed to the template, why do we  
14 think that's a good idea, have we audited anyone, how we  
15 impose penalties on anyone, how -- have we checked their  
16 website and made sure that they've done all these things?  
17 You know, I think that's a good point, that we're able to  
18 show some results.

19 MS. SCHEFFEL: I think at the end of the  
20 day, that's what people mostly care about.

21 MADAM CHAIR: Right.

22 MS. SCHEFFEL: This is on the front end.

23 MS. FLORES: Yeah.

24 MS. SCHEFFEL: And obviously this has to be  
25 put in place if the outcomes are going to matter. What



1 people really want to know is I want to know if this is  
2 handled for my kids, you know? So if we could have some  
3 metrics like that, Katie, that would be invaluable.

4 Also, as I look at the agreements on the  
5 website, the CDE website, I think is where it is, I don't  
6 think I see all the contracts there. Is there some other  
7 place?

8 MS. DINEEN: Yeah, we are still in the  
9 process of adding those.

10 MS. SCHEFFEL: So I see Frontline, My  
11 Learning, American Institute for Research. Is that --  
12 that's going to be summative for the -- all the contracts  
13 CDE has?

14 MS. DINEEN: All of -- all the contract --

15 MR. DURHAM: All EII.

16 MS. DINEEN: -- that should be on there,  
17 yes.

18 MS. SCHEFFEL: Okay.

19 MS. DINEEN: Including the data sharing.

20 MR. DURHAM: Right.

21 MS. DINEEN: And then those hyperlinks  
22 actually take you to the actual contracts.

23 MS. SCHEFFEL: Contract document. Yeah,  
24 that's helpful.

25 MS. DINEEN: So, yeah, that is our goals to





1 have them all on the website. They're all public  
2 documents.

3 MS. SCHEFFEL: Right.

4 MS. DINEEN: And we're just facilitating  
5 that transparency.

6 MS. SCHEFFEL: Okay. And then my final  
7 question is "to facilitate accesses" was a phrase from  
8 one of the slides. "Facilitating access to correction of  
9 student" -- "access to and correction of student  
10 information." So I think this is something I've heard a  
11 lot about also, where I think parents feel like they --  
12 it's hard to get succinct answers of what are the data  
13 points that are out there? I mean, I see this slides  
14 here listing the -- the information. What information on  
15 my child's out there? How long does it last? What is it  
16 being used for? Who is it being -- you know. So there's  
17 a lot of language on the slides, but as you pointed out,  
18 it's all in the definitions, right? It -- for somebody  
19 who has access for an educational purpose, there's a host  
20 of phrases like that. How will we facilitate access,  
21 Katie, so that parents can see it exactly what's out  
22 there on their child and they can fix it if it's wrong  
23 and they can have input if they don't want it out there.  
24 I mean, you know, again, I think that's an outcome that  
25 we want, because I think that's the reason there's been



1 so much interest in this. We can put all this in place,  
2 but, I mean, if we don't actually give parents access to  
3 where's my child's information and how can I correct if  
4 it's wrong and how can I pull it if I don't want it out  
5 there?

6 MS. DINEEN: Right.

7 MS. SCHEFFEL: That's got to be the outcome.

8 MS. DINEEN: Well, and then to FERPA, of  
9 course they have that right.

10 MS. SCHEFFEL: Yes.

11 MS. DINEEN: So we'll be relying heavily  
12 upon that law to facilitate their statutory right to make  
13 those changes. And I think that's why the complaint  
14 aspect of this is important.

15 MS. SCHEFFEL: Yeah.

16 MS. DINEEN: That if a parent has a  
17 complaint saying I looked at the vendor's website, I  
18 think they're collecting too much data on my kid, or it's  
19 wrong, I'd like to change, they refused, they can come to  
20 us. And we can try to facilitate that correction.  
21 Because it is really difficult to get a data record  
22 corrected --

23 MS. SCHEFFEL: Very difficult.

24 MS. DINEEN: -- once it goes out there.

25 It's the same in the medical world.



1 MS. SCHEFFEL: That's right.

2 MS. DINEEN: You know, under HIPAA you have  
3 the same rights. Something's wrong in your record, you  
4 have the right to have it corrected everywhere it's been  
5 sent. And it's difficult. It's really difficult. And I  
6 -- I feel bad for people. There was an article in the  
7 paper last week about a woman who -- up in Boulder who  
8 had stolen someone's medical identity and had a heart  
9 transplant with someone else -- using someone else's  
10 insurance. And it will be very difficult to get that  
11 heart transplant --

12 MADAM CHAIR: Yeah.

13 MS. DINEEN: -- off the victim's medical  
14 records.

15 MS. SCHEFFEL: That's right, yeah.

16 MS. DINEEN: You know, it --

17 MS. SCHEFFEL: So in your opinion, when --  
18 when we get these calls from the public who are  
19 concerned, I mean, and they cite experiences and examples  
20 where they called somebody and they couldn't get a  
21 straight answer and then they called somebody else and  
22 they got a different answer, and so forth, in your  
23 opinion, what's the reason for that? Is it bureaucracy,  
24 is it lack of -- I mean, this approach assumes it's  
25 policies and procedures. That's probably one piece of



1 the solution. What else can we -- how else can we think  
2 about the problem in terms of leverage points to fix it?  
3 Is it because we didn't have policies and procedures in  
4 place that we had this public outcry on this issue? Is  
5 it because the way the databases are set up doesn't lend  
6 itself to people getting clear, succinct, linear  
7 information? Is it -- I mean, I'm just asking a why  
8 question --

9 MS. DINEEN: Well, you know, there's --

10 MS. SCHEFFEL: -- so that we're sure we're  
11 targeting the what question properly.

12 MS. DINEEN: There's not a lot of  
13 transparency in the private sector.

14 MADAM CHAIR: That's right.

15 MS. DINEEN: This is my first government  
16 job. And one of the biggest changes that I've had to  
17 deal with is everything I say and do is open to the  
18 public and on the public record. In the private sector,  
19 it is not that way. There is a lot of secrecy, due to  
20 trade secrets, intellectual property rights, also the  
21 technology is really evolving. I think we've all been  
22 the subject of targeted advertising, where you go online  
23 and shop for handbags at Macy's, then you're reading the  
24 news story and all of a sudden up pops a -- an ad for  
25 handbags at Macy's, you know? And you're like, how'd



1 they do that? Where's the cookie? And, you know, my --  
2 you know, that's only happened to me recently here in the  
3 last six months. But they're creating a profile of me,  
4 that she shops for handbags at Macy's and doors at Home  
5 Depot. She's got something going on here.

6 You know, I think that really is the  
7 challenge, is to keep up with all this technology. The  
8 smartphones, the ability to locate someone's location  
9 based on their use of their cell phone, that's all  
10 relatively new. And I -- I think that's part of the  
11 reason that you see sophisticated parents coming to you  
12 with this issues, because they get it. They really  
13 understand how much data is being disseminated and  
14 collected from a variety of sources. So that will be the  
15 challenge, is keeping up with this.

16 (Overlapping)

17 MADAM CHAIR: Yes. Yeah.

18 MR. DURHAM: I think the Board also needs to  
19 keep in mind, one of the challenges as we face when parents  
20 want to the information on the children, we don't keep it  
21 that way. And when the information need to be  
22 (indiscernible), we spit out lots of information -- how we  
23 handle that, how we transmit that information, et cetera.  
24 That has to be governed, and governed well.

25 But what's interesting, we tried to do that,



1 put together a record of a student. It took over 60 hours  
2 and all -- all we had was a pile of numbers. And -- and  
3 you could hardly identify anybody in that number, because  
4 all those numbers had been transmitted, either back to the  
5 school, put in a proper format, so the school could read  
6 it. So that's why we really can't pull out a record. We  
7 can pull lots of numbers on -- on lots of students that are  
8 identified by identifiers, but we really have to work with  
9 that school to get that record together to see if there's  
10 any corrections, because we have no way of doing that. But  
11 how we handle the data, when we are given (indiscernible)  
12 is critical.

13 MS. FLORES: Madam Chair?

14 MADAM CHAIR: Just a minute. I want him to  
15 reply (indiscernible) since you are working so hard to not  
16 identify the students, you get this -- you know, so then  
17 you're just working with numbers. And -- and -- and to  
18 Deb's question, I think sometimes if you call like your  
19 local elementary school to ask them something, you're going  
20 to be talking to a secretary who probably doesn't have the  
21 knowledge, but who will try to answer your question and  
22 they will not answer it well.

23 MR. DURHAM: Exactly.

24 MADAM CHAIR: I think it's very difficult,  
25 as big as this has become, to identify the people who have



1 the knowledge to answer your questions.

2 MR. DURHAM: That's why the central office -  
3 - central or what -- even the small district, a central  
4 source that should be knowledgeable. And that's why some  
5 of these laws that they would've passed would have really  
6 helped with that. Okay?

7 In some of our databases on student tests,  
8 yes, we can (indiscernible) the student with the test data,  
9 right? Others, no. We can't do that. We're a school. We  
10 can't have all that information. So anyway, it's just a  
11 reality that we face, given the 178 school jurisdictions  
12 out there. But it has to be coordinated. And that's why I  
13 think as you go forth next year in legislation, you -- and  
14 Mr. Dermot's (ph) very right about that. You -- we're  
15 going to learn a lot of stuff through this process that  
16 needs to be turned into legislation to empower, where --  
17 instead of somebody just telling us goodbye and we cancel a  
18 contract. So and help districts think of these issues. So  
19 thank you.

20 MADAM CHAIR: Val?

21 MS. FLORES: Well, I want to thank all the  
22 parents and especially Kerry and the attorney general's  
23 office now and also Steve for bringing this up. I was  
24 rather disappointed after the bill didn't pass. And I'm  
25 glad that you kept on top of this and that parents are



1 going to get some satisfaction on this. Thank you.

2 MS. SCHROEDER: Marcia? I'm sorry.

3 MADAM CHAIR: Angelika?

4 MS. SCHROEDER: So if I may, thank you for  
5 the presentation. I'm still a little confused. Is this  
6 about contracts at the state level only?

7 MS. DINEEN: Yes, that -- at -- at the  
8 current time, you know, that's really all we have control  
9 of it -- over, because we don't have a law that mandates  
10 it. Senate Bill 173 imposed these mandates on school  
11 districts and their vendors. They were called operators.  
12 You know, all we can control is the vendors that we  
13 contract with, we can -- we do -- can and hope to serve as  
14 a leader, you know --

15 MS. SCHROEDER: Okay.

16 MS. DINEEN: -- to provide the school  
17 districts with guidance. And I think we do anticipate that  
18 there will be legislation next year and that they will have  
19 to implement these requirements. And so we're hoping to  
20 help them.

21 MS. SCHROEDER: Okay. So this is actually  
22 where -- what I keep hearing is that the problems probably  
23 are not even at the district level very often, but it's at  
24 the school level and a teach who buys a product and puts in  
25 information. So we've --





1 MS. FLORES: What business?

2 MS. SCHROEDER: And they are --

3 (Overlapping)

4 MADAM CHAIR: -- to the statewide testing.

5 MS. SCHROEDER: Well, I -- I'm not negating  
6 any of the work that's been done. I think it's terrific  
7 and does give some more confidence. But it does not assure  
8 me that there aren't going to be parents and kids who are  
9 contacted by a vendor that is -- that a teacher or a school  
10 engaged in a contract with that is actually using that data  
11 for marketing. And so I --

12 MADAM CHAIR: Yeah.

13 MS. SCHROEDER: I certainly don't think  
14 we're anywhere where we want to be. And from what I've  
15 been told by the data people is that that's where the  
16 greatest infractions do occur. And so, number one, I agree  
17 with you that we need legislation, but, number two, I  
18 wonder if we still should -- I'm going to repeat what I  
19 said last time, that we work with Casbee (ph) to help  
20 districts come up with some policies that will guide their  
21 schools and guide their teachers and do that -- I mean, I  
22 don't think there's any reason that we have to wait for the  
23 legislation to happen for that kind of work to begin,  
24 because that's -- that's where I don't think this concern  
25 is going to end on the part of parents and kids about being



1 contacted, because I think Apple and all these other folks  
2 are out there offering some genuine help to teachers in  
3 exchange for information. And I think that's a reason  
4 problem.

5 MADAM CHAIR: Steve?

6 MR. DURHAM: Thank you, Madam Chair. I  
7 think -- I think Dr. Schroeder is correct and this is  
8 really just step one. And if we can make it work here,  
9 hopefully we'll give districts confidence that it can work  
10 for them and perhaps then give us a door open to the  
11 legislature where we may be able to get appropriate  
12 legislation passed once we can demonstrate what's workable  
13 and where the problems are.

14 MS. SCHROEDER: Just one more question:  
15 What kind of panels these -- are you thinking that we can,  
16 because that -- that also is going --

17 MS. DINEEN: Well, they would be monetary.

18 MS. SCHROEDER: Monetary?

19 MS. DINEEN: They would be monetary  
20 penalties. Yeah, it's not uncommon for us to impose  
21 monetary penalties on a vendor if they fail to comply with  
22 X,Y,Z. It's somewhat contentious, because it's not  
23 something that they can budget for.

24 To your point about Casbee though, we were  
25 just talking about the annual conference that's coming up



1 in December. And we're going to reach out and see if  
2 there's some type of presentation that we could do at the  
3 conference on privacy and transparency.

4 MS. SCHROEDER: That's an excellent idea.

5 MS. DINEEN: Because we'll be able to reach  
6 a lot of school districts that way and get input. That's  
7 just another way to kind of get some input.

8 MS. SCHROEDER: Right, right.

9 MADAM CHAIR: And your question leads me to  
10 your question very similar. And you mentioned earlier what  
11 will the reaction of the vendors be as to the costs? You  
12 see this as becoming much more expensive as somebody  
13 (indiscernible). Thank you. Is -- is -- is cost going to  
14 become a -- a big issue as we move along, do you think?

15 MS. DINEEN: You know, certainly when we're  
16 bidding out a new contract, we take that into account. We  
17 obviously compare price to the existing price and take that  
18 into account. We can ask questions about that, but it's --  
19 it's not the only time that a vendor has passed on cost to  
20 us, as you know --

21 MADAM CHAIR: Yeah.

22 MS. DINEEN: -- that the State is  
23 implementing the new accounting system and has been for the  
24 last 12 years. And we've had a lot of pushback on that,  
25 makes it --



1 MADAM CHAIR: That's the way the world  
2 works.

3 MS. DINEEN: I put -- although I put a  
4 clause in the state banking contract that say we're going  
5 to convert to a new accounting system, you're going to help  
6 us and you're not going to charge us extra. And they all  
7 went along with it. So sometimes it's -- it's a matter of  
8 partnering with the vendor and convincing them. I recently  
9 negotiated for -- the State uses Google for their email  
10 account. I recently negotiated the HIPAA privacy contact  
11 with Google and they -- they just kept saying we don't have  
12 any PHI, we don't have a key to the encryption. Finally  
13 someone admitted they do have a key to the encryption, but  
14 it was really the business people and the agencies that  
15 said this is outrageous.

16 (Overlapping)

17 MS. DINEEN: You have access to our PHI and  
18 this is required by law and you've got to do it. And not  
19 only for us, but all of your other clients, Google -- your  
20 hospitals, your medical doctors, all of that.

21 (Overlapping)

22 MS. DINEEN: And they caved. We were the  
23 first ones to get them sign at the business associate  
24 agreement.

25 MADAM CHAIR: Well, I think that they're --



1 the -- when I listen to the stories of (indiscernible) what  
2 they doing with our data, it does make -- you know, I -- I  
3 think --

4 MS. DINEEN: Yeah.

5 MADAM CHAIR: -- there's some general sense  
6 out there that data is not protected as it should be. And  
7 of course with this weekend, I'll take that to the school  
8 level very quickly. Other that I would add, and again,  
9 similar, is that frequently when parents call, they may not  
10 be dealing with the person who really has that information,  
11 you know. And local schools, particularly smaller ones,  
12 tend to -- you know, the secretary in the office tells you  
13 what you want to hear. So that's something we just need to  
14 work on as we move on. But I too thank you for the -- the  
15 very comprehensive, good report. Any other questions for  
16 her?

17 MS. GOFF: Just a quick comment.

18 MADAM CHAIR: Go ahead.

19 MS. GOFF: Yeah.

20 MADAM CHAIR: Jane, I'm sorry, I didn't hear  
21 you speak before you.

22 MS. GOFF: Well, I -- Angelika actually  
23 mentioned my -- what my point would've been, the district  
24 picture in this. Particularly not so much schools,  
25 although it's a -- it's a huge part. The -- I believe I



1 read in here correctly and so I thought about it again  
2 today, the retention, the allowable or permissible  
3 retention period of time. I remember a lot of  
4 conversation, both in committee hearings, all the bills,  
5 and in both chambers, around that and how sometimes -- that  
6 this, the idea of how -- how certain data is all -- as we --  
7 - as it should and does, tangent often to a lot of other  
8 areas of interest and need.

9                   And for example, if we're talking about high  
10 school graduates and our -- our cooperative picture here in  
11 Colorado with higher ed and with post-secondary community  
12 and those kinds of records. And I guess as -- as you say,  
13 as it plays out with -- we'll see how all of this comes  
14 together.

15                   But I guess my basic question is how -- how  
16 do districts -- what is the guidance going to be -- I think  
17 that's our decision -- around if a contract is -- is  
18 written and -- and agreed to and part of that contract  
19 contains language on retention and where's the flexibility  
20 or not for their school districts or schools or this -- or  
21 the department to determine if that's appropriate or not  
22 and can -- if it's a guideline and we have a -- a -- a  
23 requirement basically of vendors to honor and adhere to a  
24 limit in the time data can be retained and district makes  
25 an argument for not.



1 I guess I'm -- I'm thinking too far ahead  
2 probably right now, but as this gets played out within our  
3 -- within our 178 pictures of the data life, I guess the  
4 legislation -- the legislative session could provide us  
5 with some more avenues to pursue. So I -- I really  
6 appreciate this. I think it's very helpful and every since  
7 1294 passed, I've been encouraged and share a lot of the  
8 progress that the State has made in addressing this, and  
9 now enhancing it. So very thankful. Thank you.

10 MS. DINEEN: Well, and to your point, on the  
11 retention, we generally require that the vendors destroy  
12 the data or not retain it after they are -- they are done  
13 with performing their service and provides us a certificate  
14 with that. But there will be exceptions and we were  
15 talking about one in our meeting last week, the ACT score.

16 MS. GOFF: Right.

17 MS. DINEEN: You know, what if you wait ten  
18 years to go to college?

19 MS. GOFF: Right.

20 MS. DINEEN: That -- that is a data field  
21 that probably cannot -- cannot be destroyed. It probably  
22 has to be part of one's permanent educational record,  
23 because you might need it again someday or you might retake  
24 it, or whatever. So I think that there will be exceptions  
25 to that. And that's when we really rely on our program



1 people here at the Department to tell us what data is, why,  
2 how long does it really need to be kept? You know, if  
3 there's a legitimate reason, such as the ACT score, that it  
4 needs to be kept for a longer period of time, we'll allow  
5 that.

6 MS. GOFF: Well, and I would wonder if there  
7 would be conversations with the Rise group and how all of  
8 this interacts with anything related to P20. So if we --  
9 if -- if we operate in a longitudinal collection world,  
10 it's going to have to be discussed and the exemption  
11 conversation should be interesting. Thank you.

12 MADAM CHAIR: Thank you, Jane. Thank you  
13 very much. Really appreciate your very thorough report.  
14 We'll take a five-minute break before we move on.

15 (Meeting adjourned)

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C E R T I F I C A T E

I, Kimberly C. McCright, Certified Vendor and Notary, do hereby certify that the above-mentioned matter occurred as hereinbefore set out.

I FURTHER CERTIFY THAT the proceedings of such were reported by me or under my supervision, later reduced to typewritten form under my supervision and control and that the foregoing pages are a full, true and correct transcription of the original notes.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this 5th day of February, 2019.

/s/ Kimberly C. McCright  
Kimberly C. McCright  
Certified Vendor and Notary Public

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