



COLORADO
Department of Education

Colorado State Board of Education

TRANSCRIPT OF PROCEEDINGS
BEFORE THE
COLORADO DEPARTMENT OF EDUCATION COMMISSION
DENVER, COLORADO
March 12, 2015, Part 1

BE IT REMEMBERED THAT on March 12, 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 MADAM CHAIR: The meeting of the Colorado
2 State Board will come back into action this morning. Good
3 morning, everyone. We all made the news last night and
4 this morning. We're a hot topic here.

5 The next item on the agenda for today is a
6 study session concerning the CMAS Assessment Data
7 Collection, which we will be focused on data collection,
8 protection, and security of the CMAS data.

9 First, we will receive a brief presentation
10 from CDE staff and Pearson during which they will be
11 answering questions that have been submitted online to the
12 State Board webpage by the public. Joyce Zurkowski will
13 read the questions and Pearson will respond.

14 Second, after the presentation the State
15 Board will engage questions to Pearson.

16 Third, after taking questions from the State
17 Board, I will turn back over to Joyce and Pearson to
18 respond to any remaining questions from the public through
19 the State Board webpage.

20 Fourth, we will take questions from the
21 public through note cards. Note cards have been
22 distributed. Please write your questions on the note card.
23 We will collect those questions. Any questions we do not
24 reach today will be addressed through the frequently



1 answered questions.

2 Please note that this study session is
3 focused on CMAS assessment data collection, security, and
4 privacy. Questions outside this area regarding general
5 data collection and security or general assessment issues
6 will be addressed through the frequently asked questions
7 that will be posted on the website.

8 Commissioner?

9 MR. HAMMOND: Madam Chair, thank you very
10 much and thank you for outlining kind of the process. One
11 of the things we've heard from the Board is we just intend
12 to have this a brief session for not any longer than 30
13 minutes, with Joyce opening it up but also with
14 representatives here from Pearson. They have obtained many
15 of the questions. We have received several questions. We
16 have tried to categorize the ones, some that weren't more
17 appropriate for the session, and those that were. But then
18 it comes back to you for further dialogue and then, as time
19 goes on, back to the public and the audience for further
20 questions.

21 So with that I'll turn it over to Ms.
22 Zurkowski. Thank you.

23 MS. ZURKOWSKI: Madam Chair.

24 MADAM CHAIR: Yes, Joyce.

25 MS. ZURKOWSKI: As the Commissioner pointed



1 out, the purpose of today's presentation is to support CDE
2 in responding to State Board requests for information
3 regarding the data collection for the Colorado Measures of
4 Academic Success, CMAS. That does cover our science and
5 social studies assessments as well as our English language
6 arts and mathematics assessments.

7 Pearson is prepared to talk within the scope
8 of our contract. To my left is Walter Sherwood. He is
9 president of Pearson State Assessment Services. Next to
10 him is Jim Hill, vice president of Pearson State Assessment
11 Services. And next to me, on the right, is Randy
12 Schuessler, vice president, assessment technology services.

13 In terms of the opening part of this
14 presentation, I'm going to talk a little bit about why it
15 is that we do student data collection and how that data
16 will be used. Then Walter will address contract security
17 requirements as well as key statements, and then we will go
18 back and forth addressing the questions that were submitted
19 by the public. As you may recall at your last Board
20 meeting you requested that we open up a website so the
21 public could submit their questions. We have categorized
22 those in broad categories, and we'll address them as
23 appropriate. There are some questions that we will not
24 address that dealt with issues outside of the CMAS data
25 collection, but we do want to let you know that we will be



1 posting an FAQ that will address every question that we
2 received.

3 Broad category number one -- why is student
4 data collected and how will it be used?

5 The questions submitted by the public were
6 why do you need it, the student data? Who decided what
7 data would be collected? Why does Pearson need to collect
8 information beyond the state ID (SASID), student name,
9 grade, and school? Does Pearson really need to know
10 students have IEPs and the specific disability of a
11 student? Why do you feel it's your moral and ethical right
12 to collect information on my child beyond test results?
13 How will the data be disaggregated, i.e., by race, age,
14 gender, school attendance, test scores, et cetera? What
15 purpose is the data collected? How will CDE and Pearson be
16 using the data? Will student data be used to develop any
17 products, including, but not limited to, the PARCC
18 assessment?

19 At a high level, here's our response to
20 those questions. They will also be further addressed
21 throughout the presentation.

22 The assessment data is collected so that we
23 can provide information to parents on their child's
24 attainment of the grade level skills and concepts found in
25 the Colorado Academic Standards. The state assessments



1 serve as an external benchmark used across the state. It
2 is the only consistent assessment that is used across the
3 state. So as we're looking at our students meeting the
4 expectations set by the standards, this is the only
5 assessment that answers that for all of our students.

6 The data is also used to support the
7 evaluation of schools and districts under both state and
8 federal law. Both state and federal law require that we
9 report out results by subgroups. As an example, gender,
10 race/ethnicity, language proficiency, disability category,
11 accommodations, migrant, et cetera. Every piece of student
12 data that we collect we are required to collect either
13 under state or federal requirements.

14 We report out that information by subgroup
15 to ensure that no subgroup's performance is being masked by
16 another group's performance. Exemplified historically, we did
17 not have accurate information about how students with
18 disabilities were performing because their performance was
19 masked by the overall student group.

20 You can see some of the reports that we put
21 out at the website specified on the slide. We post results
22 on our assessment website that does report out at the state
23 level as well as at the district level by these subgroups.
24 Anyone is welcome to go look at that website and they can
25 see all of the categories. Again, this is very open, very



1 transparent.

2 Demographic information is also used to
3 evaluate the quality of our assessment items, and this
4 helps us to ensure the assessments are indeed fair, valid,
5 and reliable.

6 With that I'm going to pass it on to Walter
7 Sherwood.

8 MR. SHERWOOD: Thank you, Joyce. Madam
9 Chair, good morning, and thank you for the opportunity to
10 speak with you all today. I'm going to make a couple of
11 general overview statements that are, in a lot of ways,
12 guiding principles about our data privacy and data security
13 and data collection efforts around the Colorado contract
14 and our state assessment contracts in general.

15 Before I do that, I know Joyce introduced
16 me. Again, I'm Walter Sherwood, the president of our State
17 Assessment Services. I'm responsible for our student
18 assessment programs.

19 Pearson is the contractor to the State of
20 Colorado and abides by the requirements of that contract.
21 The student information from the Colorado State Assessments
22 is the property of the state. It is not owned by Pearson
23 and cannot be used by Pearson in any manner not authorized
24 by the state.

25 Student data security and privacy is



1 foremost in our execution of the contract requirements.
2 Our policies, our systems, our processes, our controls and
3 monitoring are designed to protect unauthorized use of
4 student data. We continually collaborate with all of our
5 state customers to refine and improve any processes or
6 policies related to student information, security, and
7 privacy.

8 And a couple of things that we don't do. We
9 do not share any student information used in our assessment
10 programs unless requested or authorized by the state. We
11 do not share state assessment information within Pearson or
12 its partners for the purposes of product development or
13 marketing, and we do not sell any state assessment student
14 information to anyone.

15 I wanted to touch on a couple of the key
16 provisions within the contract with Colorado. Pearson is
17 contracted to perform an essential function of the State of
18 Colorado. It is providing services at the direction of CDE
19 and in compliance with state and federal policy and legal
20 requirements. Pearson is bound by contract to comply with
21 the student data protection measures that Colorado has
22 prescribed. The student data protection requirements in
23 Colorado's contract with Pearson are rigorous, detailed,
24 and are thoroughly addressed throughout the hundreds of
25 pages of the contract. CDE's information security and



1 privacy policy and specific contract terms with Pearson can
2 be accessed online at the website provided here.

3 Pearson is also bound by the contract to
4 handle student data within the confines of, and subject to
5 the requirements of the Family Educational Rights and
6 Privacy Act, FERPA, as well as the Student Data Privacy,
7 Accessibility, Transparency, and Accountability Act of
8 2014.

9 Key provisions within the contract with
10 Colorado include confidentiality -- Pearson is bound by
11 comprehensive confidentiality terms which prohibit the
12 sale, distribution, or retention of confidential
13 information, and require Pearson to maintain a secure
14 environment; restricted use -- Pearson may not use any data
15 to generate through the assessments for its own purposes;
16 employee preparation -- Pearson employees who handle
17 student data must undergo background checks, receive
18 training, including a security awareness program, and
19 signed confidentiality agreements; security protocols --
20 Colorado prescribes stringent security protocols for
21 electronic transmission, shipping, accessing, scoring,
22 storing, and destruction of secure materials. And you will
23 note that the references to those provisions within the
24 contract are listed here on the slide.

25 MS. ZURKOWSKI: Going back to some of the



1 questions that were submitted through the online survey, at
2 a broad level these next questions deal with what student
3 data is collected. Questions submitted by the public:
4 Exactly what data are you collecting? What data do you
5 collect? What type of data is actually collected? What
6 data is being collected? What data are you collecting on
7 the PARCC testing? What info will be collected? Complete
8 list, please. I'd like the definitive list of exactly what
9 data is being collected and whether it's being collected
10 anonymously, not tied to my child's PII, or if it will
11 become part of his record in your database. Why it's being
12 collected and with whom it will be sold to and/or shared?
13 Why do they need to identify specific students' ID? What
14 data is collected, including PII, non-PII, metadata,
15 paradata, social, behavioral, and emotional psychometrics,
16 any and all information or data that can be collected
17 online when a child is logged on for a CMAS or a PARCC
18 test?

19 Randy.

20 MR. SCHUESSLER: Good morning. It's a
21 pleasure to be here. My name is Randy Schuessler. I
22 oversee technology delivery for our state large-scale
23 assessment programs. So that includes the configuration,
24 setup, and operation of the technology supporting programs
25 such as CMAS.



1 So it's an honor to be here. I'd like to
2 provide transparency to the questions that have been asked,
3 specifically about the data we collect. To make this
4 simple we've tried to organize the data into five specific
5 areas. The first two are covered on this slide. The first
6 area is what we consider the identity data that helps us
7 identify a specific student to make sure that a test is
8 being assigned to the individual.

9 So the five key points of identification
10 data are, of course, the name of the student, the SASID,
11 the state-level identifier, optionally, a local student
12 identifier, the date of birth, and the gender. And these
13 criteria together give a high-confidence match that we have
14 the correct student receiving the correct assessment.

15 The second category of identity data that we
16 collect is the registration data associated with a specific
17 assessment, in this case, CMAS, CoAlt, et cetera. This
18 data is required for state and federal reporting of the
19 assessment results for specific administrations, and this
20 is often referred to as the demographic data that we talked
21 about. And all of these data are outlined in our contract
22 as well as the requirement specification for collection.

23 So the data, as shown on the right here, are
24 the testing district and school, which often, or in some
25 cases may differ from where the student will be reporting,



1 at a different district and school; the testing grade; race
2 and ethnicity; and then the federal race, ethnicity, and
3 reporting field; economic status; 504 plan; migrant;
4 immigrant; language background; primarily disability;
5 homeless; language proficiency; bilingual; English as a
6 second language; Colorado continuously; continuous in
7 district; continuous in school; date most recently enrolled
8 in the U.S.; expelled; gifted/talented; IEP; title 1; and
9 October new to a school.

10 And several of those fields are required to
11 be provide before a student can begin an assessment, and,
12 most importantly, those are the testing school and
13 district, the testing grade.

14 So these layouts are available on CDE's
15 website at the address shown at the bottom of the page.

16 The third area where we collect data then is
17 as a student is about to take a test. So we need to
18 identify specific test administration information as well
19 as any accommodations that the student is to receive. So
20 specifically the test being administered; a testing group
21 that the student may be in for testing; and any
22 accommodations. So this may include presentation, such as
23 text-to-speech, color contrast, Spanish audio; response
24 type accommodations, such as providing a written response
25 as an alternative mechanism; and any accommodations around



1 timing or setting, such as extended time that an individual
2 may need.

3 The fourth area for which we collect data is
4 what we call device and response data. So this is data
5 that is collected during the testing for the purposes of
6 scoring, any technical troubleshooting that we need to do,
7 as well as any anomaly analysis around the test delivery.

8 Specifically, the data that we collect are
9 information about the device, so the type of device being
10 used, such as a tablet, Chromebook, a PC a browser, the
11 operating systems the network IP address, as well as any
12 error codes that are encountered during the test delivery.

13 Most importantly, we collect the responses
14 from the students. That includes not only the most recent
15 response but all previous responses that the student
16 selected during the session. We also auto-save any essay
17 responses every two minutes, as a protection, to make sure
18 we have their latest responses.

19 As the student navigates from item to item,
20 certain items have tools which can be used. We are
21 required to maintain that tool state information, so that
22 if a student navigates back to that item, the tools such as
23 a highlighter, a notepad, or item eliminator are still in
24 the same state they were when they previously saw that
25 item, and it doesn't get reset back to an originating



1 state.

2 We collect time stamps at key points
3 throughout the test. So the test start and end, as they
4 navigate through screens, as well as the times of all of
5 their responses. We collect the total time on item. We
6 collect status, then, about the item on whether it was
7 viewed, not viewed, answered, or not answered, and then we
8 collect an overall status of the test itself. Is it ready,
9 is it active, has it already been exited, resume status,
10 and is it completed.

11 And then the fifth area in which we collect
12 student data is the category of post-test data, and this is
13 data that tries to identify why a student might not have
14 fully reportable testing data. So there may be reasons why
15 a student didn't test, a reason to avoid the test, and any
16 associated reporting codes that have been prescribed by the
17 state.

18 So also to answer a little bit to other
19 questions about what information is collected from students
20 online, students, when they sign into our system to take a
21 test, use a randomly generated username and password that
22 is assigned to that specific student's name. The students
23 do not provide any personally identifiable information.
24 And all of the device and response data is collected at the
25 time of testing.



1 Now in addition to the assessment itself we
2 do collect survey data from students, but this is optional
3 and de-identified to the student. So they're given an
4 opportunity to provide feedback on the online testing
5 experience, so that can help inform decisions about how to
6 improve the system. That includes the assessment and the
7 technology. So they are asked questions regarding their
8 testing experience. Were they able to navigate through the
9 system, were the tools helpful, how did the level of
10 difficulty of the test compare to typical classwork, and
11 about the frequency of computer use in the home and at the
12 school. And this open-ended feedback from the students
13 that help us improve the system.

14 And these surveys are connected with live
15 assessments, they are optional, and they are either
16 delivered separately, and there is no student PII attached
17 to the survey results. And we have provided links to those
18 surveys on the sites, at the links shown there.

19 MS. ZURKOWSKI: What types of data are not
20 collected? The questions submitted by the public: What
21 data will be collected and will it become intrusive in
22 family matters? With data hacks occurring more frequently,
23 it's highly unlikely people will be comfortable having data
24 collected about entire families, their habits, their views,
25 their lives. What assurances that are believable will we



1 have that sensitive data would be safe?

2 Do they ask for any private data from
3 students other than name, age, grade, school identification
4 number? If so, what and why? As a side note, I have
5 instructed my daughter to answer no personal questions on
6 assessments other than her name, date of birth, and gender.
7 There are no other personal questions that I consider to be
8 the business of the state or feds.

9 MR. SCHUESSLER: This is perhaps one of the
10 most important topics we present today, to address public
11 concerns as well as to correct misinformation that may be
12 distributed about the assessment program.

13 We want to be very clear and transparent
14 about the types of data that we do not collect. The data
15 that we do not collect include any type of national
16 identifier, such as Social Security number, military ID,
17 green card number; no information about addresses for the
18 student; no online addresses, such as email, social media
19 addresses, Twitter, Facebook; no academic records, courses,
20 grades, other test scores; no disciplinary or criminal
21 records; no medical or health records; no biological traits
22 or pictures; no non-academic personal information, such as
23 family members, religious or political affiliation, any
24 sexual behaviors, gun ownership, drug use, illegal
25 activity, or anything of the sort; and we do no stealth



1 technology monitoring. We do no keyboard logging, no
2 cameras on the devices during testing.

3 MS. ZURKOWSKI: How is data stored,
4 protected, and accessed? Questions submitted by the
5 public:

6 How exactly, where exactly, what exactly is
7 the data collected on my children stored, and who has
8 access to it? How is [student data] protected? Do any of
9 the technical support functions for PARCC reside outside of
10 the United States? If so, how is data protected as these
11 support staff for Pearson have access to all student data?
12 Target, Home Depot, Blue Cross/Blue Shield, National
13 Archive and Records Administration, Epsilon, Evernote,
14 Living Social -- none of them could keep our data safe.
15 What makes you think we're going to trust you to keep our
16 children's data safe?

17 With the regular security breaches we see in
18 major companies (Anthem, Chase, Home Depot, Target, et
19 cetera) why, not how, do you perceive the data collected
20 will be secure? Who has access to it, the student data?

21 MR. SCHUESSLER: So Pearson, particularly
22 under its assessment business, has put in rigorous controls
23 to help manage risk to our customers, employees, and any
24 company-sensitive information and operations. We have an
25 Information Security Management Systems, sometimes referred



1 to as an ISMS, that's based on the widely-used ISO
2 27001/27002 standards. We have a risk management framework
3 that's based on the ISO 31000 Risk Management Framework.

4 I'll cover more in depth on the following
5 slides, but we have state-of-the-art technologies
6 implemented in our systems and our operating procedures,
7 that include the encryption of all data in motion and at
8 rest, role-based security, real-time security monitoring,
9 and proactive security vulnerability scanning and
10 penetration testing. And then we have security operations
11 center that works for the detection, identification, rapid
12 response, escalation, and resolution of security and
13 privacy incidents.

14 Some of the state-of-the-art technologies
15 that we use, a multi-level firewall infrastructure to
16 monitor and control network traffic attempting to
17 communicate with Pearson; intrusion prevention systems to
18 further monitor and restrict traffic on Pearson's internal
19 network; anti-distributed denial of service systems that
20 help block malicious network attacks. As you may know,
21 some of those have occurred in the last week for another
22 statewide assessment program from another provider. Strong
23 data encryption, AES-256, which is applied to the database
24 and to all data links, so as a student is transmitting data
25 to us, as well as communications between each of our



1 servers. Internal vulnerability testing to scan for
2 vulnerabilities in our applications and all our network
3 devices.

4 Then we have external vulnerability and
5 penetration tests that are performed by third parties that
6 we hire to intentionally attack our systems, identify
7 weaknesses, and attempt to gain access to our systems. And
8 then we have many more technologies, too many to list here,
9 but include email and network information monitoring,
10 secure wireless, mobile device control, laptop security,
11 segmented private networks, et cetera.

12 As far as the actual technology servers that
13 host the data, that have the data for Colorado as well as
14 the data centers on which that equipment reside, our
15 production servers have enhanced security, which is often
16 referred to as hardening of the devices, to the industry
17 best practices for security. Each of those devices is
18 audited regularly to verify that the operating system and
19 software components are kept current with updates and
20 security and configuration standards. And our applications
21 in production are continuously scanned by a third party for
22 security vulnerabilities.

23 Our data centers are all U.S.-based with
24 multiple levels of physical security, so no data resides
25 outside of the United States. And at those data centers



1 they have multiple levels of physical control. A few
2 listed here are restricted access which is controlled by ID
3 card systems, which permit access to the hardware; closed-
4 circuit television systems monitoring access and viewing by
5 facility security guards and staff; and then all physical
6 security controls meet the security requirements as
7 described in the contract.

8 And then, finally, in the unlikely event of
9 a disaster, we have a recovery process that's based on ISO
10 2301 standards.

11 And then to address concerns about the
12 technology as well as the people within Pearson that have
13 access to student data, our technology system components
14 can only access specific student data as needed to complete
15 their function. So, for example, the test delivery system,
16 TestNav, has no access to student personally identifiable
17 information. So this helps minimize the risk of sensitive
18 data being compromised in the unlikely event of a
19 particular component being penetrated.

20 Our system logging enables forensic analysis
21 on accesses and changes to student data. So we know how
22 data was modified, either manually or in an automated means
23 by a system that can track that. And we track all extracts
24 from student data from our repositories.
25 Only authorized, U.S.-based individuals have access to



1 student data and on a need-to-know basis. And that
2 includes, most importantly, our specific staff assigned to
3 work on the specific program. So that's program team,
4 technology folks, our psychometrics staff, and tech writers
5 who are helping clarify the administration for the test
6 administrators.

7 Then our call center. We have what we
8 consider "Level 2" technical support, and those staff help
9 administrators with more detailed technical issues that
10 they are having. So they need to be able to see exactly
11 what a test administrator is seeing on their screens in
12 order to help resolve any issues that they may be
13 encountering.

14 At a more detailed level, if we have an
15 issue with a product, technology component in the
16 production environment, there are support staff to research
17 specific data issues. They generally have no access to
18 student identity data, only to specific information that
19 that component technology uses.

20 And then, finally, our operations staff that
21 handle any paper materials, such as printing up reports,
22 packaging, and scanning of the 1 percent of the test that
23 we do receive via paper.

24 On Colorado's staff, we've outlined who has
25 access on this slide. The Department of Education defines



1 specific user roles for accessing student data within
2 PearsonAccess, which is our online system for managing the
3 test administration.

4 Comprehensive student data is only
5 accessible by specific individuals responsible for the
6 overall assessment and enrollment at their respective
7 organizational levels. So some of the roles that are
8 defined within the system are the district assessment
9 coordinator. They have access to all data, and those
10 district assessment coordinators are assigned by CDE.

11 Those that have the role of student
12 enrollment or have a sensitive data add-on role, that is
13 access to sensitive data such as race and ethnicity; the
14 school assessment coordinator, which has access to identity
15 data but not sensitive student data, unless also assigned
16 student enrollment role or the sensitive data add-on; as
17 well as the test administrator, who needs to access the
18 student identity data, but not sensitive data unless they
19 have the student enrollment role.

20 MR. SHERWOOD: Madam Chair, for the purposes
21 of kind of putting a bookend on where we started and the
22 details that Randy just went back over, I was going to
23 reiterate the statements that I'd made earlier around the
24 summary of our guidelines and contractual requirements
25 around the data collection.



1 Again, Pearson is a contractor to the State
2 of Colorado and abides by the requirements of that
3 contract. The student information from the Colorado state
4 assessments is the property of the state. It is not owned
5 by Pearson and cannot be used by Pearson in any manner not
6 authorized by the state. Student data security and privacy
7 is foremost in our execution of the contract. Our
8 policies, our systems, our processes, our controls and
9 monitoring are designed to protect the unauthorized use of
10 student data.

11 We continually collaborate with all of our
12 state customers to refine and improve any process or policy
13 related to student information security and privacy. We do
14 not share any student information used in our assessment
15 programs unless authorized or requested by the state. We
16 do not share state assessment information within Pearson or
17 its partners for the purposes of product development or
18 marketing. And we do not sell any state assessment student
19 information to anyone.

20 MS. ZURKOWSKI: Madam Chair, at this time we
21 would like to open it up to Board questions related to our
22 CMAS data collection under our contract with Pearson.

23 MADAM CHAIR: Board, any questions you'd
24 like to address? Jane.

25 MS. GOFF: Thank you. This is very



1 technical and I'm not real sure, as far as specifically to
2 the social studies and science tests. If a student reports
3 an experience of being locked out or shut out or come down
4 -- and I was particularly interested, when I read the
5 phrase about a save or a re-enter function -- if a student
6 says that they have had the experience where they're unable
7 to get back in to complete, what does that look like for
8 them? And where would they know? Where would the student,
9 in particular, know, should know how to get back in so that
10 there's not a stress of not being able to finish a test.
11 What does that look like.

12 MR. SHERWOOD: I think it's Randy's.

13 MS. ZURKOWSKI: Madam Chair. I'm going to
14 jump in there first and then I'll let Randy finish, because
15 some of this is state policy issues, so I just wanted to
16 address the state policy pieces first.

17 So when a student is testing and they may
18 engage in a technology challenge, it is important to note
19 that the system all along is saving the responses. So if
20 there's suddenly like a major network breakdown, this kiddo
21 does not need to restart from the beginning. Those
22 responses are captured along the way.

23 The student is directed that if they
24 encounter any issues during the testing that they signal
25 that to the test administrator. The test administrator,



1 different than what we've had in the past -- historically,
2 all issues with testing had to go from the test
3 administrator to the school assessment coordinator, from
4 the school assessment coordinator to the district
5 assessment coordinator, and then from the district
6 assessment coordinator to the vendor or to CDE. Because of
7 this online testing there are shortcuts that have been
8 implemented, so our test administrators have more direct
9 contact with our vendor to get that technology help as
10 quickly as possible.

11 And with that I'll pass it a little bit off
12 to Randy, in terms of how would a kid get re-entered?

13 MR. SCHUESSLER: Thanks, Joyce, for handling
14 the state policy issues.

15 So the calls then would come back to us and
16 we would, in our system, then reset that student for re-
17 entry through our Level 2 support.

18 MS. GOFF: Okay.

19 MR. SCHUESSLER: So a call through the school assessment
20 coordinator.

21 MS. ZURKOWSKI: Madam Chair.

22 MADAM CHAIR: Yes.

23 MS. ZURKOWSKI: So in many cases the issue
24 can get resolved relatively quickly. There have been some
25 cases, as we've gone through some of our field testing and



1 some of our other operational testing, that, frankly, it
2 takes longer to resolve those issues. That student is
3 allowed, from a state perspective, to go back in and finish
4 that testing at a time convenient to the student, based on
5 school and district decision. So the student is not
6 penalized in terms of that timing of the test, based on
7 that experience.

8 MS. GOFF: Okay. Thank you.

9 MADAM CHAIR: And just to follow up on that,
10 so if they reset, might there be any delay in that reset
11 that you're talking about?

12 MR. SCHUESSLER: No. That can be done
13 within a matter of minutes through our Level 2 technology
14 support, upon receiving the request.

15 MADAM CHAIR: Thank you. Any other
16 questions, Board? Deb.

17 MS. SCHEFFEL: Thank you for the
18 presentation. Such a great opportunity to talk about this
19 with the public and with our Board. Such an essential
20 question, as you know, there's been a lot of angst in
21 Colorado and other states. So as in most presentations
22 like this, great information, but we're always asking what
23 was said; what was not said.

24 So there has to be a reason for the public
25 angst, and I'd like your opinion on where that's coming



1 from. Is it merely that there wasn't enough preliminary
2 work with the public done to really explain these data --
3 where they are, how they're encrypted, how they're
4 protected, are they not protected? Is this a public
5 relations issue merely, or are there real concerns inside
6 of how these data are stored, what they're used for, that
7 were not addressed in your PowerPoint, which was quite
8 detailed. And most of us are not data security experts so
9 we're looking at these acronyms, and it's helpful in
10 general, but there's a lot of detail here and it's a very
11 complex area.

12 So my question has to do generally with,
13 where did we go wrong here? I mean, we are a small Board
14 and we represent hundreds of thousands of kids and their
15 parents, and obviously there's a lot of public angst, not
16 in Colorado but all around the nation. Where did we go
17 wrong here in terms of really trying to unpack this issue
18 before the fact, as opposed to chasing it at this time?
19 That's kind of a conceptual question.

20 A detailed question is about algorithms.
21 And so my question is, who actually sees the live data, so
22 internally and externally. And I think you've addressed it
23 somewhat, but again, the public is concerned with not just
24 the words that are on these slides, but what algorithms are
25 situated within the protections that you've delineated?



1 And how do they result in individuals seeing the data,
2 internal and external to the system? And you may have
3 addressed it but the words are not jumping off the page at
4 me.

5 For example, there's a lot of concern in the
6 public that there are algorithms that do detect emotion,
7 affect, behavior, keystroke speed, focus, biographics,
8 biometrics, interests. Are these things just falling out
9 of the air? Are people just coming up with these ideas
10 because they're paranoid about data, or is there truth to
11 the fact that there are algorithms that do surface,
12 indirectly, these kinds of behaviors, that parents do not
13 want associated with their children?

14 So that's kind of a long question, but
15 perhaps you could address the global issue and then the
16 detailed algorithms, and who sees the data internally and
17 externally?

18 MADAM CHAIR: Simple question, right?

19 MR. SHERWOOD: Madam Chair.

20 MADAM CHAIR: Yes.

21 MR. SHERWOOD: I'll take a first kind of
22 stab at addressing I think public concerns. And, you know,
23 as a parent school-aged children who take state assessments
24 I certainly appreciate the fact that there would be
25 concerns about how data is collected and handled and



1 managed, and I would expect that there are very stringent
2 safeguard and security measures in place.

3 And really, though, trying to understand
4 exactly what all those provisions are and the details
5 around them is extremely challenging, not only for someone
6 who works within the industry, but I can imagine it would
7 be rather daunting to understand, from a parent point of
8 view or perspective, when we think about the actual
9 contractual requirements that we have with Colorado, and
10 this is similar to our other state contracts, there are
11 literally over 1,000 pages of contractual requirements,
12 many of which address security requirements. And so to be
13 able to try and capture that in a setting like this and
14 articulate that with just a few slides is a challenge.

15 But parents don't have access to that,
16 typically. We don't typically do a presentation like this
17 or provide this kind of information. Obviously we're happy
18 to do so and I think it helps, I think, address and
19 alleviate, hopefully, some of the concerns about what are
20 practices around data collection, certainly in Colorado and
21 under the contract with Colorado.

22 It's always a challenge to get meaningful
23 information at the right level and detail out to parents,
24 not just about data security but how you report results and
25 experiences around what's covered on the test. Anything



1 and all things associated, I think, with student assessment
2 program are challenged around communication. It's a very
3 challenging environment in which to send out information
4 and to engage parents in a meaningful level at the detail
5 that makes sense and addresses concerns. So I think a
6 forum like this is important to try and get that
7 information out.

8 MS. SCHEFFEL: And may I talk directly back
9 or do I --

10 MADAM CHAIR: I think -- didn't Randy have
11 something to add to that?

12 MS. SCHEFFEL: I'd love to hear the rest of
13 the answer but I just had a quick comment on what this
14 gentleman said.

15 MADAM CHAIR: That's all right. What I was
16 -- I thought he had something to respond.

17 MS. SCHEFFEL: Oh, he may, yeah.

18 MADAM CHAIR: Was I right?

19 MR. SCHUESSLER: It's on the algorithm
20 piece, of course.

21 MS. SCHEFFEL: Yeah. I just wanted to
22 respond to Walter. Can I do that?

23 MADAM CHAIR: You want to respond to him
24 first?

25 MS. SCHEFFEL: Just real quickly



1 MADAM CHAIR: Okay. Go ahead.

2 MS. SCHEFFEL: Okay. So my point is I've
3 pulled up the contract. It's extremely detailed, very
4 technical, and there's no way a parent would understand it.
5 I barely understand it. Most of it don't understand it.
6 But I do know what parents want to know, and I think you do
7 too, which is, in an age where, as you pointed out, Anthem,
8 Home Depot -- or I guess as the parent question pointed out
9 -- Chase, Target -- these are huge corporations as well.
10 They've encrypted their data as well. They have a huge
11 stake in not allowing personal information of their
12 customers to escape, right? But the information has
13 escaped and we all see it in the media. And so parents are
14 concerned about this.

15 So I think to the extent that we can look at
16 this question deeply and address parents' questions in
17 parent-friendly and layperson-friendly language, we have to
18 do it. We have to do it as a Board, in venues like this,
19 and I'm concerned that even these slides are a little over
20 the heads of many of us.

21 So I appreciate you coming and I hope that
22 we can really distill this information down, not just in
23 what is said but what is not said. Where are the concerns
24 coming from? How could we prevent something like this
25 occurring, that has occurred with many other very robust



1 corporations? So thank you for that statement.

2 Now if you could address the algorithm
3 piece.

4 MADAM CHAIR: Yes. Go ahead.

5 MR. SCHUESSLER: So as far as algorithms are
6 concerned, I think we see, in the general public sector,
7 that algorithms are continuously being developed to either
8 improve sales, on patterns of usage and behavior, as well
9 as in our national security sector, to identify threats for
10 national security. Those algorithms, though, are not
11 incorporated. We make no attempt to incorporate any types
12 of algorithms into our systems, for further data mining or
13 data analysis of usage behaviors with our systems.

14 So we do not do anything to try to detect
15 emotional or biographic or psychological traits on
16 students. We simply collect assessment data for the
17 purposes of state and federal reporting.

18 MS. SCHEFFEL: May I follow up?

19 MADAM CHAIR: Yes.

20 MS. SCHEFFEL: Why is that out there? Why
21 are parents concerned about that? I mean, apparently, at a
22 conference where Pearson was presenting there was a
23 presentation on identifying emotional states using
24 keystroke dynamics, and you're saying that you collect data
25 on changed responses. Well, parents are concerned about



1 how data is being used to surmise what a child is thinking.
2 You could see why that would be a problem for any parent,
3 right? I mean, that's why they're concerned.

4 Where have these data -- where do these
5 concerns come from?

6 MR. SCHUESSLER: Madam Chair. I can't speak
7 for the general population at large but I can tell you, as
8 a father of two children in K-12, I would have some of the
9 same concerns, and that's why I'm here to speak today to
10 tell you definitively what we do with the data and to clear
11 up any misconceptions that may exist with how we use -- how
12 we collect the student data, what we do with that, which is
13 only for state and federal reporting.

14 MS. SCHEFFEL: Can you use different
15 algorithms over time? In other words, you're stating
16 today, at a point in time we do not use algorithms to
17 collect affective behavior, keystroke information, speed of
18 response. You do collect speed of response, is that right?

19 MR. SCHUESSLER: Madam Chair. Our work is
20 described in our contracts with our customers such as the
21 State of Colorado. We perform no additional work outside
22 of that contract in order to service the contractual
23 requirement.

24 MS. SCHEFFEL: So is there a page number --
25 I mean, I've looked at the contract; it's overwhelming --



1 that says these are the algorithms that we could use, maybe
2 not be using them today, could use to identify certain
3 types of data that would help us? I mean, I know what
4 you're trying to surmise, is why a child fails an item, or
5 why he or she passes an item. So, I mean, that would be
6 the argument from Pearson's perspective, that could be
7 helpful educationally. If you see a child hovering over an
8 item and they end up answering it incorrectly or correctly,
9 I suppose the concept would be where is the dissonance,
10 cognitively, that results in them hovering over an item. I
11 get that.

12 But parents are concerned with how else that
13 could be used, or what other algorithms could be brought to
14 bear, legally? Can you point to a page number or
15 something? I'm struggling to look at that detail.

16 MR. SHERWOOD: Madam Chair.

17 MADAM CHAIR: Oh, sorry, Mr. Sherwood.

18 MR. SHERWOOD: I think we could follow up
19 with you with that. In fact, I think we could pull that
20 right now, sitting here.

21 I think in terms of, you know, how parents
22 might construe or not understand exactly how or in the ways
23 in which the data is collected and the algorithms that
24 exist within the student assessment contract, I think
25 people in general have a tendency to kind of generalize



1 information across areas that may or may not be related,
2 and that there is an understanding that, you know, some
3 fields, some companies do that kind of thing, and so they
4 might associate any online activity or data collection
5 efforts to be, you know, part of that group that does
6 things like that. Specifically to the student assessment
7 contract, we don't collect that kind of information, nor
8 would we.

9 MS. SCHEFFEL: Okay. Well, I have further
10 questions but I'll yield to my colleagues.

11 MS. FLORES: I have a question.

12 MADAM CHAIR: Yes. Go ahead.

13 MS. FLORES: Thank you, Madam Chair. I
14 would like to ask about the -- and it could be dealing with
15 algorithms, but I don't know -- whether machines are going
16 to be grading this.

17 MADAM CHAIR: A what?

18 MS. FLORES: Machine.

19 MADAM CHAIR: Can do what?

20 MS. FLORES: Machines are grading the test,
21 and, thereby -- I have read several articles where machines
22 scan. They look for certain data, you know, words, like
23 whether they use a framework, such as whether they use the
24 sentence again that was asked the question, certain words
25 that in response. And one particular researcher looked at



1 whether -- and he did this, and gave just spot words that
2 were important to this, to the answer, but was basically
3 gobbledy-gook, and really scored high on responses such as
4 this.

5 So -- and this is not humans. I mean,
6 you're going to be paying people \$15 an hour. These are
7 not people that are, you know, really know their subject.
8 People -- \$15 an hour is not a professional, as far as I'm
9 concerned. But this is what you're going to be paying
10 people to read these questions. And I know the speed at
11 which people will have to read. I've seen people doing
12 this, and I kind of wonder whether -- that's another
13 question.

14 Does the public really think that a machine,
15 and does the public really think that, or parents out there
16 think that a machine should be scoring, you know, the
17 tests, or whether low-paid people who are not really
18 professionals, that you maybe pick off the street, who
19 would do this, can actually look at the items responded by
20 your children, and this will be a valid way to do it, to
21 grade papers? I don't think so. Can you tell me that --
22 can you give any information to further my concerns and
23 fears about what I read and I've seen?

24 MS. ZURKOWSKI: Madam Chair.

25 MADAM CHAIR: Yes.



1 MS. ZURKOWSKI: If I may, I think I'm
2 hearing two separate questions from you. One is will
3 Colorado be utilizing what were referred to as artificial
4 intelligence to complete some of our scoring? I think your
5 second questions really relates to how do we ensure that
6 the scoring that is done on our open responses by humans is
7 reliable scoring.

8 MS. FLORES: That's right.

9 MS. ZURKOWSKI: Both of those are very, very
10 important questions. I'm going to ask the Chair, given
11 that they are kind of outside of the purview of the data
12 security, data privacy, whether you want us to hold off on
13 that question, obviously provide a response, or whether you
14 want us to digress, at this point, and go on a sidebar.

15 MS. FLORES: See, I didn't know whether
16 Pearson people were going to be back again.

17 MADAM CHAIR: I think Joyce's question is a
18 good one, and actually, I would prefer that you respond to
19 her separately, and, as you said, later, because I think
20 it's a little out of the purview of the rest of the
21 discussion.

22 And I usually wait until everybody, but I
23 just have a question I wanted to ask, and that is this aura
24 of distrust. It's, you know, prevailing. People don't
25 trust you and they don't trust us. And has there ever been



1 an incident in Pearson. Have you have incidents where
2 people did do something wrong? You know, scores got
3 released or any of these sort of things that people think
4 happened. Do you have any examples of things where you
5 have gone wrong, or where people really have had real, you
6 know, questions that you needed to answer?

7 MR. SHERWOOD: Madam Chair.

8 MADAM CHAIR: Yeah.

9 MR. SHERWOOD: Not to my knowledge, we have
10 not had a data security or a data privacy breach, although
11 we do have very strict provisions within the contract with
12 Colorado and all of our states for a remedy in the event
13 that that would happen, and the requirements for
14 notification and possible, you know, breach of contract are
15 provisions that are in there. But I'm not aware, and I can
16 go back and make sure that I'm answering that correctly.

17 MADAM CHAIR: Is this just an era of
18 distrust of large corporations?

19 MR. SHERWOOD: I think it's fair, given the
20 track record of corporations and their ability to safeguard
21 data, that people would have questions or concerns about,
22 you know, how well or not you're managing --

23 MADAM CHAIR: No, I understand their
24 concerns. I was just wondering if we had any real incidents
25 to report back on that, and your company, at this point,



1 has no examples of any place where data was used
2 incorrectly or released to the wrong people, or any of
3 those sort of things? No?

4 MR. SHERWOOD: First, let me back up a
5 little bit. So we have not had any major security breaches
6 or issues around that. On occasion we have misreported or
7 sent reports to the wrong school, or to, you know, the
8 wrong students. So at times we have, you know, had
9 security breaches in terms of our reporting, getting sent
10 back to the wrong places.

11 MADAM CHAIR: All right. Thank you for that
12 that.

13 Did you have a question, Angelika?

14 MS. SCHROEDER: I do. With your permission
15 I'd like to continue on Deb Scheffel's conversation. I
16 want to bring it down to the experience that we have, if I
17 decide that I want to buy some sleds for my grandson, and I
18 go online and order, or don't order, just going online,
19 looking for them.

20 The next time I go online for anything else
21 the advertisement pops up -- and I don't know if that's
22 called an algorithm. I kind of want to bring it down to
23 where we think parents are worried, and that is that it
24 feels like somebody is somewhere -- is in my office with
25 me. They're still working on me. I guess I haven't



1 ordered the sleds.

2 So who is this, and what are they seeing? I
3 think it's that anxiety. It not just the breaches at the
4 stores, et cetera. I think it's this eerie, Big Brother
5 feeling that you get when you have that. And I don't know
6 how to say that in a contract, that our parents were going
7 online and looking at our -- in other words, is there a way
8 to explain what's in your contract in a way that reflects
9 the world we live in right now online, ourselves? That's
10 why we worry about our kids, because if they're watching
11 me, if they're figuring out exactly -- and they do know
12 where I spend my online money, or what my interests are,
13 assure our parents that you're not -- that's not what
14 you're doing.

15 MADAM CHAIR: Yes. Go ahead.

16 MR. SCHUESSLER: Madam Chair.

17 MADAM CHAIR: Take a stab.

18 MR. SCHUESSLER: Certainly those
19 technologies exist, as I said earlier. They're used in the
20 private sector. We make no application of those
21 technologies in our statewide assessment business.

22 MS. SCHROEDER: Okay. So what I think I'm
23 saying is that somewhere in the contract, English,
24 examples.

25 So we were lucky enough to have a property



1 that we rented to somebody else, and we had a rental
2 agreement and a contract. Despite the fact that there is a
3 lawyer in the family, we actually decided to put it in
4 English, so that our tenant really knew exactly what his or
5 her rights were and what we expected.

6 And I get the fact that you've got mega
7 contracts, that you've got the legal beagles all over the
8 place, but is it possible to also have a section that talks
9 about the world that we're living in, knowing that these
10 things are out there, and these are the things that you are
11 not doing, and these are the things that you are doing, in
12 plain old English? I mean, I know what an algorithm is but
13 I didn't think that was necessarily helpful for everyone
14 who is listening to us today, because there are plenty of
15 folks who actually didn't even -- I don't think even
16 understood at that level. Thank you.

17 MADAM CHAIR: A question or a statement?

18 UNIDENTIFIED VOICE: Well, in a way it's a
19 statement but it's a request. And I think what you're
20 asking is could we -- that's what I'm saying. Is there a
21 page somewhere? I mean, all these popcorn questions from
22 the public, and they're great questions, right? Is a
23 child's location tracked when he or she is taking a test?
24 If I'm a parent, I don't want that, not because I don't --
25 I don't care that the test knows they're in their school



1 taking the test. I care that somehow my kid is being
2 tracked. I don't want that. Is that somehow protected?

3 I don't know what a simple, common-language
4 list of data points is. Is there a list somewhere? I
5 don't know how algorithms, or formulas, or whatever we want
6 to call them, that are inside our servers, as adults,
7 whenever we do a search, are captured in perpetuity. I
8 don't know if that's happening for my child, and if it
9 isn't, what are you doing to make sure that it never
10 happens? Maybe it's not happening today but is it
11 somewhere in a cloud somewhere where somebody's going to
12 buy it later? As a parent, I have no assurances of any of
13 these things, and those are the things, even as adults, we
14 care about, right?

15 Every time I get on the computer I think,
16 really, every click, every Web search, every -- it's all
17 historically captured somewhere. I can't imagine who cares
18 about it. Advertisers care about it, so parents care about
19 it. Is there a way to render this friendly to the public?
20 And again, I defer to my Board members for other questions.

21 MADAM CHAIR: Yes, Joyce.

22 MS. ZURKOWSKI: Madam Chair, I'm going to
23 suggest that, back to one of your original questions, which
24 I think it was how are parents supposed to be able to
25 access this information? How are they supposed to be able



1 to understand it? How are they supposed to be able to
2 know, and why are they so concerned? I think we've
3 addressed the issue of why they are concerned. What we
4 haven't addressed is what could we have perhaps have done
5 better? And I think it is having better communication
6 directed at our parents.

7 I don't think we did as good of a job with
8 that as we could have, and I think, with this forum, it's
9 our first step to put together information that is parent-
10 friendly, I think is a very fair request of the Board to
11 make of us, so that they can understand again exactly what
12 is collected and what is not collected, and try to
13 specifically address their concerns.

14 Providing the public with the opportunity to
15 ask their questions, last month, I think opened that door,
16 but I would suggest we, as a Department, need to be
17 answering the questions in a more parent-friendly way and
18 trying to get the information out there. When parents have
19 contacted us and we've been able to have conversations,
20 very often, at the end of the conversation, the parent
21 says, "Thank you. I now understand. I will move on with
22 my day." But how do we do that at a large scale, and
23 that's our challenge.

24 So I think it is fair for you to request of
25 us to put some information together that we can try to



1 distribute, and we will look to the Board for help in terms
2 of how to get that message out there.

3 MR. DURHAM: Thank you, Madam Chair. I
4 think it's fair to say that we've all been put under a lot
5 of pressure by what are considered to be problems with
6 Pearson and your administration of the PARCC test, and an
7 element of that is the data collection. I think probably
8 you ought to hear that I'm certainly more than tired of
9 trying to explain to people why this testing window appears
10 interminable, why the test has to be divided in two parts,
11 why the results are delayed. And I think it's not the
12 place here but in context with data, those are problems you
13 all need to remedy or our problems are going to get worse
14 and, as a result, so are yours.

15 So let me say that I don't think these --
16 all of the complaints and concerns about data collection
17 have come, or have been created out of whole cloth. And
18 there's plenty of evidence that -- or allegations that you
19 do a lot more than you say you do. Do you do business with
20 a company called Newton?

21 MADAM CHAIR: Pardon?

22 MR. DURHAM: Newton.

23 MADAM CHAIR: Newton?

24 MR. SHERWOOD: Madam Chair, yes, we do.

25 Newton is a company that provides an adaptive learning



1 engine that helps personalize instructional resources for
2 students. That product is part of our -- it's a service
3 that is sometimes associated with some of our MathXL
4 products that are used primarily at higher education. The
5 services that Newton provides, again, would be provided
6 under contract with the -- either university or higher ed
7 institution or school district that has requested and asked
8 for those services.

9 MR. DURHAM: Let me, if I could, let me just
10 read a few things that Newton has to say about you.

11 "We have a large publishing partnership with
12 Pearson and they tag all their content, and we are an open
13 standard so anyone can tag us. If you tag all your content
14 and you do it down to the automatic concept level, down to
15 the sentence, down to the clause, you unlock an incredible
16 amount of trapped, hidden data."

17 So I guess the question that proceeds from
18 that, what is it that you're giving Newton that they are
19 able to use to unlock "an incredible amount of trapped,
20 hidden data"?

21 MR. SHERWOOD: Again, I'm not -- Madam Chair
22 -- I'm not extremely familiar with the Newton produce since
23 that has really absolutely nothing to do with the student
24 assessment program and nothing to do with the Colorado
25 contract whatsoever. My understanding, though, at a very



1 high level, is that one of the services, one of the
2 features of using those MathXL products is when a student
3 is interacting with the product, with the instructional
4 resources, they go in and they select responses or answers.
5 Based on those responses, then, the Newton engine then
6 helps drive what instructional resources or what happens
7 next in terms of the experiences with students' learning.

8 My understanding is also that that
9 information is completely de-identified and has no PII
10 associated with it, but it's simply based on their
11 algorithm that exists within the Newton product. It helps
12 drive what is then sent next.

13 MR. DURHAM: Let me continue Newton's
14 statement:

15 "So Newton students today, we have about
16 180,000 right now. By December it will be 650,000. By
17 early next year it will be in the millions, and the next
18 year it will be closer to ten million, and that's just
19 through our Pearson partnership. So every one of the
20 students, we can figure out, within a few hours, what
21 they're strong at and what they're weak at, at the
22 beginning of the course."

23 MADAM CHAIR: Mr. Durham, could you give us
24 all the source of that so we can look it up ourselves?

25 MR. DURHAM: Yeah. It's part of a video



1 that's posted online and I'll get that to you.

2 MADAM CHAIR: Okay. Thank you. Go ahead,
3 whoever.

4 MR. SHERWOOD: I'm not sure I understand the
5 question.

6 MADAM CHAIR: Was it a question?

7 MR. DURHAM: Well, do you want to deny that
8 you provide Newton with any information that would allow
9 them to do, with tens of millions of students, what they're
10 describing? And it will get better if you want me to --
11 let me know when you want me to continue.

12 MR. SHERWOOD: Sorry. What I'd said
13 previously, Madam Chair, we don't share any students'
14 personally identifying information with Newton.

15 MR. DURHAM: So, okay.

16 "Newton can figure out things like you learn
17 math best in the morning between 8:40 and 9:13, you can
18 learn science best in 42-minute bite sizes, and at the 42-
19 minute mark you might click -- you might start missing
20 questions you would normally get right. We literally know
21 everything about you and how you learn best everything,
22 because we have five orders of magnitude more data about
23 you than Google has. We literally have more data about our
24 students than any company has about anything else, and it's
25 not even close."



1 So your contract with Newton doesn't provide
2 them any opportunity to match that scoring data with
3 whatever data it is they're gathering through their
4 contracts with, I presume, local governments. Is that your
5 statement?

6 MR. SHERWOOD: I can't speak to -- Madam
7 Chair, I can't speak to the details within the contract
8 between Newton and Pearson but I can certainly get that
9 information for you.

10 MADAM CHAIR: So can we not go too much
11 longer if we're not going to get any more answers?

12 MR. DURHAM: We've got another hour. We're
13 in good shape.

14 MADAM CHAIR: No. We need to have -- get
15 out of here.

16 MR. DURHAM: "We're really excited to
17 correlate with other people's dataset about open API and
18 things like that. Someone we've talked to, it's kind of a
19 joke that it would work, but it's like a food diary. You
20 tell us what you had for breakfast every morning at the
21 beginning of the semester and by the end of the semester we
22 should be able to tell you what you should have had for
23 breakfast, because you always do better on the days when
24 you had scrambled eggs."

25 I think these are the fears that parents



1 have, and this particular commentary is at a White House
2 conference, made by someone with whom you have a contract,
3 who alleges that you supply them with information that
4 helps get them to this point. So either they're puffing --
5 I can't imagine a company would do that -- but either
6 they're puffing or there's more in the relationship than at
7 least you all have talked about to this point.

8 Is it puffing or is there anything that we
9 should know that you're sharing?

10 MR. SHERWOOD: Madam Chair, I apologize.
11 I'm not familiar enough with those statements made by
12 Newton to really speak at length to them. What I am
13 familiar with is the way in which Newton is or is not
14 associated with the student assessment program in Colorado,
15 and it's absolutely not. We can go back and look at more
16 detailed contractual language between Pearson and Newton
17 and I could get something back to you around that.

18 MR. DURHAM: You would agree that statements
19 like this being made that include you are not particularly
20 helpful to solving the problems that we face on the issues
21 of data security, data privacy, and I think what is the
22 greater concern, about information being collected,
23 accurately or otherwise, that follows a student to the end
24 of the earth, or at least to the grave. And having watched
25 some of the activities over at the Capitol here in the last



1 few days, I mean, one of the things that -- and I don't
2 know whether you're involved in lobbying these activities
3 or not, but it's quite clear that the data collection
4 community will resist to the death any ideas they should
5 ever have to delete or give up or stop collecting any data.
6 So the fact that these statements are made can't do
7 anything but harm your company.

8 And let me put it in context of the one,
9 page five of the presentation here, where the data you
10 collect, it says is expelled. Is that data you have to
11 collect? I mean, does somebody require you to collect
12 whether or not a student has been expelled?

13 MS. ZURKOWSKI: Madam Chair.

14 MADAM CHAIR: Yes.

15 MS. ZURKOWSKI: The status of a student
16 being expelled has implications for reporting, yes.

17 MR. DURHAM: So if they're expelled at the
18 time of the test or if they've ever been expelled?

19 MS. ZURKOWSKI: Madam Chair.

20 MADAM CHAIR: Yes.

21 MS. ZURKOWSKI: It is at the time of the
22 test. So students who are expelled at the time of the
23 test, those scores are not, I believe, attributed -- I was
24 just looking to see if Dr. Owen was down there -- I believe
25 it is not attributed to the school.



1 MADAM CHAIR: All right. Thank you.

2 MR. DURHAM: Could you comment on digital
3 badges, and do you have any involvement with the concept of
4 creating digital badges for students?

5 MR. SHERWOOD: Madam Chair.

6 MADAM CHAIR: Yes.

7 MR. SHERWOOD: No, I'm not familiar at all
8 with that. We do not do anything with digital badges, to
9 my knowledge.

10 MS. ZURKOWSKI: Madam Chair, for our program
11 we do not do anything with digital badges.

12 MR. DURHAM: Predetermined career track
13 sample from Pearson marketing video on digital badges.
14 I'll give you a copy of that when we're done.

15 Would you have objection to a contract
16 modification that in very plain English spelled out the
17 data you could collect and prohibited the collection of any
18 other data, including things like time between keystrokes -
19 - I don't know. Apparently you can do that. I don't know
20 if you do it. Time between keystrokes, how many times
21 somebody goes back to look at an answer or to change their
22 answer -- so that we could just get this test and the data
23 collection back to name, rank, and service number as
24 opposed to I don't know what anybody's interested in and
25 how long it is between keystrokes, or how long it is



1 between questions. That doesn't seem to me to serve a
2 useful purpose. Your job is to grade papers. So could you
3 produce a contract, and would you be willing to enter into
4 contract negotiations that would specify what you could, in
5 plain English, collect, and then everything else is
6 prohibited?

7 MR. SHERWOOD: Madam Chair.

8 MADAM CHAIR: Yes.

9 MR. SHERWOOD: Again, as we kind of walked
10 through on those slides, the information that we collect
11 under the student assessment program is the requirements
12 set forth in our contract with Colorado.

13 MADAM CHAIR: Thank you.

14 MR. DURHAM: Well, all right. Then let me
15 ask Joyce. Is there any reason why our contract with them
16 has to include any more than name, rank and service number?

17 MS. ZURKOWSKI: Madam Chair.

18 MADAM CHAIR: Yes.

19 MS. ZURKOWSKI: Yes. So we are required to
20 be able to report out on all of those other subgroups which
21 we indicated. Some of the other information -- and I
22 apologize. Things aren't scrolling right now.

23 MR. DURHAM: It's a data collection issue.

24 MS. ZURKOWSKI: Technology. Some of the
25 other information that we collect, that you referenced,



1 specifically like the time on an item, that actually
2 becomes relevant in terms of us selecting items that we're
3 going to utilize in the future. So we may have an item
4 that we think students should take about a minute and a
5 half on, and that's our estimate, and then we find out that
6 once a student has actually experienced the item it takes
7 them ten minutes. We're not going to utilize that item
8 again, right. Our estimation in terms of amount of effort
9 it was going to take the kiddos to answer, it isn't serving
10 us well. It's a poor-quality item. And so that's why that
11 time on an item actually becomes relevant to us, in terms
12 of building a reliable and valid assessment.

13 MADAM CHAIR: Thank you.

14 MS. MAZANEC: Madam Chair, a follow-on.

15 MR. DURHAM: I'll yield to --

16 MADAM CHAIR: Pam's got a question and she's
17 not been able to speak yet.

18 MS. MAZANEC: I just had a question relevant
19 to Mr. Durham's question.

20 MADAM CHAIR: Pam, you had a question?

21 MS. MAZANEC: Well, relevant to what he was
22 saying, Steve was saying, is you do collect their IP
23 address, right, and the location of their device. Did you
24 -- don't you? And why is that -- and is that --

25 MR. SHERWOOD: We collect the network



1 address so we can ensure that -- so that we can make sure
2 that the student was testing on a secure network, as well
3 as in the school, and to identify any network issues that
4 may be pervasive across that school, so we can identify
5 location-specific problems with testing. But that's not
6 used for any other purpose.

7 MS. MAZANEC: And the type of advice?

8 MR. SHERWOOD: The type of device. Those
9 were outlined on the section 4 of the student data slides
10 on page 11. So we collect the type of device, so was it a
11 laptop, was it an iPad, a Chromebook, you know, which
12 browser they were using underlying that and the operating
13 system. And that's needed to also troubleshoot problems
14 that may exist with a specific type of device. That's
15 purely what that is used for. And these are school assets.
16 These are personal assets of the students.

17 MS. MAZANEC: Thank you.

18 MADAM CHAIR: Deb, I just wanted to remind
19 the Board we've only got 45 minutes left in this session,
20 so if we can get to the audience questions we need to wrap
21 it up. One question.

22 MS. SCHEFFEL: So, again, thank you for your
23 patience with all these questions. I think one of our
24 challenges is we've heard what's been said. We're
25 struggling with what's not been said. So, for example, in



1 our contract with PARCC we know at the Federal Government
2 owns the data. In other words, they have access, by
3 contract, to the data. So why would someone in a district
4 in a rural area say that the schools have to take the
5 master chip out of the computer and seal it in a
6 confidential envelope provided by Pearson, and mail it in?
7 I mean, what happens with a report like that?

8 MADAM CHAIR: Good question.

9 MS. SCHEFFEL: I mean, are you saying that
10 the data is not shared with the feds? Of course it's
11 shared with the USDE.

12 MS. ZURKOWSKI: Madam Chair, so in terms of
13 the results that are collected, the Federal Government does
14 get aggregated results. That has been the case, frankly,
15 for a lot of years. So aggregated information does go back
16 to the Federal Government. What does not go to the Federal
17 Government is the individual student-level data. And the
18 data that is collected on our students under this contract
19 is owned by Colorado.

20 MS. SCHEFFEL: And can the Federal
21 Government disaggregate it? In other words, you're saying
22 right now they take what we send them, which is
23 disaggregated, and they reaggregate it. Can they at some
24 point disaggregate it? I mean, we're looking at present
25 tense functionalities of the data that may not be exploited



1 now but could be exploited later. Can you speak to that?

2 MADAM CHAIR: Yes.

3 MS. ZURKOWSKI: Madam Chair, so we -- again,
4 under our federal requirements we do do reporting at an
5 aggregate level. Is there opportunity for discussion in
6 terms of how that is aggregated, what exactly is delivered?
7 I think that's fair. We have certain rules for what it is
8 that we report out publicly, in terms of like minimum N
9 size, also looking at subgroups and trying to figure out,
10 you know, by default, can somebody figure out how a
11 particular kid did?

12 I think those conversations are deepening,
13 but again, at this point, in terms of a Pearson issue,
14 that's not a Pearson issue. That is a Colorado and a
15 federal Department of Education conversation that we may
16 want to have. But again, they do not get the individual
17 student-level data.

18 MS. SCHEFFEL: Right, but you can see where
19 this becomes a slippery discussion, right, because I think
20 Pearson is talking about the protections that are built
21 into their system, but they only use the data for a time,
22 where they collect it in a certain way, and then it's
23 shipped off to the feds, and what does the Federal
24 Government do with it, and what protections do parents --
25 what is in place with how that data gets disaggregated or



1 used now and in the future? That's why there's such
2 concern over this. There are so many multiple moving
3 pieces that one discussion, because there are so many
4 tentacles, really doesn't capture the big picture of where
5 these data go, how they're used, and protections of
6 privacy.

7 MS. ZURKOWSKI: Madam Chair, I absolutely
8 agree with you that there are a lot of issues that are
9 getting conflated --

10 MS. SCHEFFEL: Yes.

11 MS. ZURKOWSKI: -- and there are a lot of
12 legitimate concerns. One thing that I would like to point
13 out is Pearson does not have pass off data to the Federal
14 Government.

15 MS. SCHEFFEL: The state does.

16 MS. ZURKOWSKI: Colorado passes off data to
17 the Federal Government.

18 MS. SCHEFFEL: It's the same.

19 MS. ZURKOWSKI: But it's not the same. What
20 I'm saying is, is that in terms of this conversation, in
21 terms of what Pearson is doing, I just want to make clear,
22 this is not a Pearson issue. This is a state issue with
23 the Federal Government, and I just want to direct it in
24 that direction, as opposed to getting it confused with the
25 Pearson contract.



1 MS. SCHEFFEL: You see, I appreciate that,
2 but you can see why, for parents and the public who are the
3 main recipients of this work, it's very frustrating,
4 because they try to ask a question and there's a semantic
5 answer with a nuance that suggests they're asking the wrong
6 question, you know, straining at a gnat, in a sense, and I
7 understand that Pearson is one of the players, the state is
8 another player, other vendors are other players, and they
9 all have dependencies that are not fully fleshed out or
10 made transparent to the public. This is inordinately
11 frustrating for the public.

12 I would go back to Mr. Durham's request that
13 we map this out, in great clarity, for the public, and I
14 think that it would serve us all well if we could figure
15 that out, because those are the frustrations -- that's why
16 we have this hearing. That's why we have hundreds of
17 emails from frustrated parents, desperately trying to
18 figure out, well, if that's not the right question, what is
19 the right question?

20 MS. ZURKOWSKI: Madam Chair.

21 MADAM CHAIR: Yes.

22 MS. ZURKOWSKI: And I am also looking at
23 Commissioner Hammond here. I think, again, in terms of how
24 data is used by the Department, where the data goes, that
25 is a really, really important question for us to address.



1 I think the Department has taken steps, especially within
2 the last year, to attempt to become more transparent with
3 where the data lies, and where it goes. There is
4 information that is posted on the Web. I understand that
5 we may need to make that even clearer. That's work for the
6 Department.

7 MS. SCHEFFEL: I would encourage us to
8 engage parents in writing a document. They know exactly
9 the questions they want answered. And every time we
10 generate a document, many of us read it and think, for some
11 reason the answer is not apparent. So I agree and I'd like
12 to engage parents in writing it, and get their input,
13 pervasively.

14 MADAM CHAIR: All right. Thank you. Joyce,
15 we now seem to turn to the questions from the audience, and
16 I notice in my script it says "I will read them." I think
17 you meant, were you going to read them.

18 MS. ZURKOWSKI: I think the intent was that
19 you would do the reading, but obviously that's open for you
20 to make a decision about.

21 MADAM CHAIR: And I don't care. I can read
22 them. I hadn't seen any so I didn't want to be unprepared
23 for this part. They're picking them up now.

24 MS. SCHROEDER: So let me make my comment.

25 May I?



1 MADAM CHAIR: Yeah. Angelika is going to
2 make a quick comment.

3 MS. SCHROEDER: In relationship to what Deb
4 just said, it really doesn't matter whether we read
5 something and understand it, because we may say this is
6 very clear to us. So I agree with you to have just sort of
7 run this past folks who are not engaged at our particular
8 level, to sort of get a temperature of whether this makes
9 sense to other folks. Because there are things that seem -
10 - that I think we understand and others don't, and there
11 are things that others understand that I'm not
12 understanding either, like that technical stuff. Thank
13 you.

14 MADAM CHAIR: I'm sorry. Did you answer her
15 question?

16 MS. ZURKOWSKI: Madam Chair, I don't think
17 it was a question. I think it was a statement.

18 MADAM CHAIR: All right.

19 MS. ZURKOWSKI: And it was very well heard.

20 MADAM CHAIR: Okay. Thank you.

21 MS. MAZANEC: Can I make one quick comment
22 too?

23 MADAM CHAIR: Yes.

24 MS. MAZANEC: I think we talked about this
25 probably over a year ago and I agree. I think we



1 suggested, over a year ago, that we need a page on the
2 Department of Education website for parents. You guys
3 know, you're hearing from us, you're hearing from them what
4 their hot topics are, what their concerns are. There needs
5 to be a page that speaks to parents in a language that
6 makes sense to them, and one that makes sense to me too, as
7 well. But we've been talking about that for over a year,
8 so I really hope that we get busy on that. Because one of
9 my concerns is data that is shared, authorized by the
10 state. I want to revisit that, as well.

11 MADAM CHAIR: Thank you, Pam. Question.
12 Did you want answer? Any comment? No?

13 MS. ZURKOWSKI: Not at this time, Madam
14 Chair.

15 MADAM CHAIR: Okay. We can now address
16 questions from the audience, submitted via note cards. I
17 will read them in the order in which I received them. And
18 any we are not able to address will be added to our list of
19 questions and posted with responses on our webpage after we
20 have had a chance to respond to them.

21 Please note that any that are not germane to
22 the CMAS assessment data collection and privacy discussion
23 today will be addressed through the Frequently Asked
24 Questions that will be posted on our website.

25 All right, question number one -- and I've



1 not had a chance to read it in advance so I hope I don't
2 stumble on it -- how many -- oh, we have a lot of questions
3 -- how many attacks on your software have there been?

4 UNIDENTIFIED VOICE: I would have to go
5 research that information.

6 MADAM CHAIR: Have there been attacks? Have
7 any of their attacks been successful? That's all part of
8 the same question. Have you had any successful hacks?

9 UNIDENTIFIED VOICE: Madam Chair, I'm not
10 aware of successful hacks against our assessment systems.
11 We have had denial-of-service attacks in the past and we
12 improved our systems over time. We can respond with a
13 complete list.

14 MADAM CHAIR: Okay.

15 UNIDENTIFIED VOICE: What's a denial-of-
16 service attack?

17 UNIDENTIFIED VOICE: A denial-of-service
18 attack is, you could think of it as -- in the physical
19 world, if you had a store, and crowds were trying to get in
20 the front door, nobody could get into the building. So in
21 assessment, if there is a coordinated attack on our servers
22 it could disrupt an assessment. But we have technology in
23 place to thwart those types of attacks. And as I mentioned
24 earlier, that type of attack occurred last week with
25 another state assessment program, with another vendor. But



1 we take measures proactively to try to avoid those types of
2 attacks on our systems for assessment.

3 MADAM CHAIR: Okay. Who is the third-party
4 contractor who reviews and (indiscernible) your security?

5 UNIDENTIFIED VOICE: I will have to follow
6 back up with that too.

7 MADAM CHAIR: Okay. We will answer any
8 questions we don't answer today.

9 UNIDENTIFIED VOICE: Absolutely.

10 MADAM CHAIR: We will get them out there.

11 I can't read this last one. I'll look on
12 the back. I should have had a chance to practice them.

13 What audits or supervision do you exercise
14 on subcontractors, and how do you ensure that they're
15 meeting your standards?

16 UNIDENTIFIED VOICE: Madam Chair, all of our
17 subcontractors are subject to the same provisions as our
18 contract is, and we hold our subcontractors to those
19 provisions. The same type of audits that apply to us, we
20 apply to them.

21 MADAM CHAIR: Okay.

22 MS. ZURKOWSKI: Madam Chair -- and I do just
23 want to point out Slide 26 that is currently on the screen,
24 that address subcontractor agreements, while you go ahead
25 and read some more questions.



1 MADAM CHAIR: And, by the way, if I run
2 across the same questions that they've already answered I
3 won't repeat the question. So if yours is the same as
4 someone else it won't get read twice.

5 The student data identity and registration,
6 starred data is required. What additional optional data is
7 provided by Pearson or CDE?

8 MS. ZURKOWSKI: Madam Chair, I believe what
9 is being referenced is the data indicated on Slide 10. So
10 we did provide two fields that had an asterisk next to it,
11 indicating that we had no testing (indiscernible) in school
12 and we needed to know testing grade prior to the test being
13 administered. The other fields, again, we need to have for
14 reporting but we don't need to have at the start of the
15 test. So schools and districts could choose to upload that
16 information actually after testing is completed.

17 MADAM CHAIR: Who are the partners that
18 participate with you? I'm sorry. I mean, I assume that
19 Mr. Durham asked a question that they are considering
20 themselves to be a partner.

21 MR. SHERWOOD: Madam Chair, I think we'll
22 answer that in the context of the student assessment
23 program in Colorado.

24 UNIDENTIFIED VOICE: Madam Chair.

25 MADAM CHAIR: Yes.



1 UNIDENTIFIED VOICE: Pearson does have some
2 partners on the PARCC component of the contract, and those
3 include ETS, a company called Measured Progress.

4 MADAM CHAIR: I didn't hear that word.

5 UNIDENTIFIED VOICE: A company called
6 Measured Progress.

7 MADAM CHAIR: Measured Progress.

8 UNIDENTIFIED VOICE: And ETS. Those are two
9 I am aware of. The science and social studies components
10 we have no subcontractors.

11 MADAM CHAIR: Okay.

12 MS. ZURKOWSKI: Madam Chair.

13 MADAM CHAIR: Yes.

14 MS. ZURKOWSKI: For purposes of clarity
15 there is also, for PARCC, a subcontract with HumRRO that is
16 doing some validity work for the assessment. Again, for
17 the sake of transparency there is that third.

18 MADAM CHAIR: Okay.

19 UNIDENTIFIED VOICE: Excuse me. Was that
20 first answer TS -- TS GOLD?

21 UNIDENTIFIED VOICE: Madam Chair, ETS,
22 Educational Testing Service.

23 MADAM CHAIR: Okay. Thank you.

24 Who owns the test?

25 MS. ZURKOWSKI: Madam Chair, I'll speak to



1 that. For the science and social studies assessments those
2 are owned by the State of Colorado. For the PARCC
3 assessments, those are jointly owned with the other states
4 that helped develop and administer the PARCC assessments.
5 Neither are owned by Pearson.

6 MADAM CHAIR: And would that same answer be
7 true for who owns the data?

8 MS. ZURKOWSKI: Madam Chair, slightly
9 different. When it comes to the Colorado data, for both
10 the science and social studies assessments, as well as the
11 English language arts and math assessments, that data is
12 owned by Colorado, and solely Colorado.

13 MADAM CHAIR: Does Pearson do data mining on
14 our kids' D2 (ph) teacher, or just does Pearson do data
15 mining?

16 UNIDENTIFIED VOICE: Madam Chair. We do not
17 do any data mining on your student data.

18 MADAM CHAIR: Okay. We do not do any.
19 Listen, there, people.

20 Why do you collect total time on item?

21 MS. ZURKOWSKI: Madam Chair, I tried to, or
22 began to address that earlier. Total time on data -- or,
23 sorry -- total time on an item helps us to know which items
24 should be included in future assessments and which items
25 should not be included in future assessments.



1 MADAM CHAIR: In the sense that if it takes
2 too long or not enough time?

3 MS. ZURKOWSKI: Madam Chair, so if we have
4 an item that we expected a student to take a minute and a
5 half on, and suddenly we find out that students, on
6 average, are taking ten minutes, we will not utilize that
7 item again.

8 MADAM CHAIR: So it's mostly a matter of
9 utilizing for test time periods and that sort of thing.

10 Oh, this is the second part of that. It
11 says "that" and I'm assuming the answer the first one.
12 That is behavioral. How does that benefit the student? I
13 would assume that they're thinking that some students might
14 take ten minutes but others might not. Would you, you know
15 --

16 MS. ZURKOWSKI: Madam Chair, again, that
17 information is utilized for the purposes of future
18 assessments, so that, again, we can try to keep those
19 assessments at a length that is feasible, and so it has
20 impact on future administrations.

21 MADAM CHAIR: So it only has impact on
22 future tests. It does not have impact on the student that
23 took ten minutes when everybody else did in three.

24 MS. ZURKOWSKI: Madam Chair, when it comes
25 to scoring, whether a student answers correctly in 30



1 seconds or in three minutes or in ten minutes, it doesn't
2 matter when it comes to scoring for that particular
3 student.

4 MADAM CHAIR: Is Pearson beholden to COPPA
5 laws - C-O-P-P-A?

6 UNIDENTIFIED VOICE: Madam Chair, for
7 purposes of the state assessment program, COPPA does not
8 apply. It's a recent ruling by the Federal Trade
9 Commission because it's not a commercial software product.

10 MADAM CHAIR: Okay. So it does not apply.

11 UNIDENTIFIED VOICE: It does not.

12 MS. ZURKOWSKI: Madam Chair -- and I would
13 like to remind folks that when it comes to data that is
14 provided by the student, the student is not being asked to
15 provide any of their personal information, and Pearson is
16 not collecting anything in terms of like an email address
17 or other ways for Pearson to be able to contact that
18 student.

19 MADAM CHAIR: Okay.

20 All right. This is a long one. Let me look
21 at it.

22 Federal grants awarded to PARCC include
23 language, committing PARCC to share student-level data with
24 the Department of Education on an ongoing basis. This
25 makes it clear that PARCC is the recipient of student data



1 from its member states.

2 Go ahead, Joyce. Take a stab.

3 MS. ZURKOWSKI: Madam Chair, I will search
4 through our MOU as well as the original grant application
5 to try to understand exactly where that is coming from.
6 Again, we will not handing off individual student-level
7 data to the Federal Government.

8 MADAM CHAIR: We will not be handing off
9 individual data to the Federal Government, and any further
10 thing you'll have on the FAQs.

11 Okay. Security nondisclosure agreements
12 prohibit school principals to read, view, or discuss any
13 test materials. True? This agreement requires school
14 principals to break in loco parentis, which is a higher law
15 established in the 1700s and reviewed in 1996. School
16 leaders who sign this agreement break their -- this isn't a
17 question. This is a statement, kind of -- break their
18 higher obligation to parents. There is no safeguard
19 regarding inappropriate questions.

20 FERPA has changed and now relaxed third-
21 party accesses now available without any parental
22 notification or approval. FERPA is no longer a protection
23 mechanism for parents. True or false, and anything to add?

24 MS. ZURKOWSKI: Madam Chair, I think you are
25 correct that there is not a question there. There are



1 statements there.

2 MADAM CHAIR: Okay. Randy, this one's for
3 you.

4 You referenced that psychometric staff.
5 Please explain exactly what this staff does and why is a
6 pressure parental permission for psychological study of our
7 children's work product?

8 MS. ZURKOWSKI: Madam Chair, I'm going to
9 try to address at least part of that question. The
10 psychometric staff are the psychometricians who do the
11 analysis of the data. They need to have access to some PII
12 because as we look at, again, the issue of our items, we
13 want to make sure that our items are fair across subgroups,
14 so kids are actually being assessed on content and not
15 whether they happen to be a boy or a girl.

16 Also, we are required to report out based on
17 subgroup.

18 MADAM CHAIR: Okay. Last question, I
19 believe. How is there any assurance that test content is
20 grade-level appropriate if teachers, principals, et cetera,
21 are not allowed to see the test or comment on it before,
22 during, or after the test, per the PARCC handbook?

23 MS. ZURKOWSKI: Madam Chair, I'll address
24 that one as well.

25 So the test is a secure test, just like many



1 of the assessments are that we have taken as children or
2 our children have taken previously. In terms of having
3 assurances that the items are appropriate, they go through
4 a thorough review process before they are ever put on a
5 test, that is done by several different educator groups.

6 One educator group is looking at it from a
7 content perspective. Is the content appropriate for that
8 grade level? Is it matching the standard? Is it age
9 appropriate? Another group looks at it from a bias and
10 sensitivity perspective to ensure, again, that no
11 particular group is unfairly advantaged or disadvantaged by
12 a particular item. Those items are then field-tested.
13 Based on field testing we look at data to make sure that we
14 haven't missed anything unintentionally, before they're put
15 onto an operational assessment.

16 In terms of how parents can gain an
17 understanding of what is going to be on the assessment,
18 there have been sample items out there for several years.
19 There are full practice tests that are available on the
20 Web, and we can provide that link for all of you. And
21 there is both an online version as well as a paper version
22 for those items. And come fall, PARCC will be releasing
23 what I'll refer to as a full set of items that were used
24 operationally on the assessments this spring, so that
25 parents, teachers, principals, content staff can see what



1 was actually on those assessments and will also be able to
2 see how students performed on those assessments.

3 MADAM CHAIR: That was a real short answer
4 there. Be that even though particular principals and
5 teachers do not get to see this that they are field-tested
6 by other principals and teachers at that level so that they
7 would -- is that what -- they would approach the correct
8 level.

9 MS. ZURKOWSKI: Madam Chair, I would suggest
10 that in terms of educator eyes on the items, when we look
11 at PARCC, there have been, for each item, at least 30
12 different educators who have looked at each item. Colorado
13 educators have spent approximately 20,000 hours involved in
14 the PARCC assessment development process, and then, yes,
15 those items do go through a field test process, but no,
16 even at that point in time, individual principals shouldn't
17 be looking at those items.

18 Again, once we go through the scoring
19 process there will be released items. Those will be items
20 that appeared on the actual test, with how students
21 actually performed, as well as sample responses from
22 students.

23 MS. FLORES: Madam Chair.

24 MADAM CHAIR: All right. Could I finish my

25 --



1 MS. FLORES: I'm sorry.

2 MADAM CHAIR: -- section here and then I'll
3 ask you.

4 MS. FLORES: Thank you.

5 MADAM CHAIR: These are from a Pearson
6 contract. What does Pearson do with the emotional data
7 observations about behavior you gathered from this test?

8 UNIDENTIFIED VOICE: Madam Chair, we do not
9 collect any such information.

10 MADAM CHAIR: No emotional data collected,
11 is what you're saying?

12 MS. ZURKOWSKI: Madam Chair, I would like to
13 -- because, again, there were questions earlier about where
14 can some of these ideas be coming from. We do collect
15 information through the surveys in terms of how the
16 students interacted with the test, their experience, right.
17 Were you able to navigate through the assessment? Would
18 you prefer to take the assessment online or on paper? Were
19 you able to utilize the tools? That is definitely part of
20 what we're doing.

21 There is another unfortunate technical
22 phrase that is used in the development of assessments, and
23 it is "cognitive labs." And I think some people hear that
24 and think, uh-oh, we're trying to do deep psychological
25 analysis on their children. That's not what happens during



1 the cognitive labs. What happens during that time, again,
2 is in small groups, before we administer the test live, is
3 we wanted to make sure that students could interact with
4 the system appropriately, that they weren't actually
5 experiencing interference, that, you know, our 10-year-olds
6 knew how to utilize that system.

7 And so, yes, in small groups kids engaged
8 with the system and gave feedback in terms of what was
9 working, what was not working, and they did talk through,
10 you know, "I'm having issues. I don't understand how I'm
11 supposed to highlight." And that's the kind of information
12 that was captured during those cognitive labs.

13 MADAM CHAIR: Okay.

14 Boy, this is really detailed. On page 5,
15 line 3, or maybe it's page 3, line 5, PARCC commits to
16 working with the Department to develop a strategy to make
17 student-level data that results from the assessment system
18 available on an ongoing basis for research. And then
19 there's a question mark after that.

20 MS. ZURKOWSKI: Madam Chair, again, when it
21 comes to the individual student-level data that is produced
22 from these assessments, that data is owned by Colorado.
23 And I am now able to click through my slides.

24 When it comes to how Colorado does share
25 information, we do provide, obviously, individual student-



1 level information, school information, district-level
2 information to the schools and the districts. We do post
3 the aggregated student demographic and assessment results
4 information by school, district, and state on the
5 assessment website in SchoolView. Important to note, we do
6 not post individual student-level data through those
7 avenues. There are a limited number of CDE employees who
8 are granted access to the assessment data if it's needed to
9 inform or complete their work on behalf of the districts.
10 CDE does not sell the individual student-level data.

11 Data and research requests that CDE receives
12 are redirected back to the districts whenever possible, so
13 that districts can make decisions as they deem appropriate.
14 If data is provided through a research request it is de-
15 identified and does not include student names or SASIDs.
16 Approved requests are restricted to the identified
17 requestors identified in the Student Data Protection,
18 Accessibility, Transparency, and Accountability Act of
19 2014. And all de-identified data that is released at the
20 student level includes a corresponding data-sharing
21 agreement, and you can see a listing of those data-sharing
22 agreements at the link there.

23 When it comes time to make determinations
24 about what kind of student-level data may or may not be
25 released through our English language arts and mathematics



1 assessments, we will follow a very similar procedure.

2 MADAM CHAIR: That was a very thorough
3 answer, Joyce.

4 Deb, let me finish this section and we
5 should have time then for a couple of follow-up questions.

6 MS. SCHEFFEL: It relates directly to that
7 answer. Shall we still wait?

8 MADAM CHAIR: Pardon?

9 MS. SCHEFFEL: My question, I think, relates
10 to that answer. Should we wait?

11 MADAM CHAIR: That answer? Okay. Go ahead.

12 MS. SCHEFFEL: My question is, CDE does not
13 sell data but it shares data, and that data can be sold. I
14 mean, are these the nuances that the public is struggling
15 with? In other words, what do the feds do with the data
16 when they get it, or whoever else gets it? The feds get
17 the data, disaggregated, but they can access -- I mean
18 aggregated, but they can access disaggregated data. That's
19 where the public concern is.

20 So the answer, strictly speaking, is right.
21 CDE doesn't sell data. But if it shares the data with the
22 feds, and they have access to algorithms within the
23 aggregated data that allow them to disaggregate and do
24 something with it, that's where the public concern lies.
25 Can you speak to that? I apologize.



1 MS. ZURKOWSKI: Madam Chair, I would suggest
2 that perhaps we need to have a follow-up conversation to
3 this discussion today. Again, this issue of the sharing of
4 data between the state and the Federal Government is,
5 again, kind of outside of what we're prepared to talk about
6 today, and, frankly, we may need some other people sitting
7 here as well, in order to be able to answer completely.

8 MS. SCHEFFEL: Thank you.

9 MADAM CHAIR: Okay. Simple question.

10 MS. FLORES: My letter --

11 MADAM CHAIR: Does it relate to these
12 questions I'm asking --

13 MS. FLORES: Yes.

14 MADAM CHAIR: -- or is it a separate
15 question?

16 MS. FLORES: Yes, it does relate.

17 MADAM CHAIR: It relates directly to the
18 questions from the audience.

19 MS. FLORES: Yes.

20 MADAM CHAIR: Let me finish and then -- I
21 promise you, Val, you get to make a statement, okay?

22 MS. FLORES: Okay.

23 MADAM CHAIR: Because I'm in the middle of a
24 process here.

25 Pearson has contracted with PARCC. PARCC



1 contracted with USDOE. Whose contract trumps the other?

2 MS. ZURKOWSKI: Madam Chair, so there was
3 what were referred to as a contract in place. For
4 simplicity's sake I will refer to it as PARCC, with the
5 U.S. Department of Education for the development of the
6 assessments. When it comes time to the administration of
7 the assessments, that contract is between Colorado and
8 Pearson.

9 MADAM CHAIR: Okay. And the final question
10 -- Val, you'll be happy to know --

11 MS. FLORES: Yes.

12 MADAM CHAIR: -- high school student
13 reported this week that they were asked questions such as -
14 -

15 MS. ZURKOWSKI: And, Madam Chair, I'm going
16 to ask that you read that -- sorry -- very carefully.
17 Again, the assessments at this point in time are secure and
18 I don't want us to be responsible for a breach across many
19 state.

20 MADAM CHAIR: Okay.

21 MS. ZURKOWSKI: Apologies for interrupting
22 you.

23 MADAM CHAIR: And I understand that, but
24 this is the kind of thing. Can I ask it in a real general
25 way?



1 MS. ZURKOWSKI: Absolutely.

2 MADAM CHAIR: If perhaps students were
3 receiving questions such as "Do you attend church?" or "Are
4 there any guns in your home?"

5 MS. ZURKOWSKI: Madam Chair, and again, I
6 apologize for interrupting. I just wanted to make sure we
7 weren't running into problems here.

8 MADAM CHAIR: No. I'm through. That was
9 it.

10 MS. ZURKOWSKI: We attempted to address the
11 issue of surveys earlier in our presentation. We provided
12 links to the surveys that are connected to the PARCC
13 assessment. There is not a survey that is being
14 administered by Colorado, by Pearson, or by PARCC as a
15 whole, at this point in time. There will be a survey that
16 is given to students at the end of the assessment, at the
17 end-of-year-assessment, and those questions are available,
18 again, at that link that I showed you earlier.

19 MADAM CHAIR: At that link.

20 MS. ZURKOWSKI: Yes.

21 MADAM CHAIR: So they would not --

22 MS. ZURKOWSKI: We are not asking --

23 MADAM CHAIR: -- they would not have been
24 asked, to this point.

25 MS. ZURKOWSKI: There is not a question



1 associated with the PARCC assessment or a Colorado
2 assessment that asks about religious affiliation, gun
3 ownership, drug use, or anything like that.

4 MADAM CHAIR: Okay.

5 UNIDENTIFIED VOICE: Madam Chair.

6 MADAM CHAIR: Yes.

7 UNIDENTIFIED VOICE: I'd also ask if any
8 member hearing this conversation or in the public, we've
9 received three or four of those so far, and we've tried
10 everything we can to run them down to the level of the
11 classroom that we're hearing that from, and so far we've
12 not been able to identify one single thing. And we would
13 ask if anybody else hears that, please let me know
14 personally, so we can run that down, because that's just --
15 in our books, that's forbidden.

16 MADAM CHAIR: Would need to identify --

17 UNIDENTIFIED VOICE: Right.

18 MADAM CHAIR: -- where it happened and what
19 classroom.

20 UNIDENTIFIED VOICE: We were recently made
21 aware of about 20 districts that received a letter that
22 that's going around, and so if any of you hear that, please
23 let me know so we can check it out.

24 MADAM CHAIR: And it wouldn't have anything
25 to do with Pearson.



1 UNIDENTIFIED VOICE: No. We wouldn't dare
2 ask.

3 MADAM CHAIR: All right. Val, you have your
4 question, please?

5 MS. FLORES: Okay. Given the racist history
6 of testing, and cultural fairness, I overview your tests,
7 nine -- I'm sorry -- third, fifth, seventh, ninth, and
8 11th. And I don't think any child would -- any minority
9 child -- second language speaker, black child, and such,
10 would find himself in that -- in all that test, meaning
11 there was not an experience by such a child. The names of
12 the writers, there was not a name that was Latino. In
13 fact, it made -- you know, a point to go through the other.

14 And I know we're talking about the test, and
15 I don't think there's going to be another chance for me to
16 ask you. Why was this done? Why no trace of, say, my
17 culture at all in that test. Why not the culture of a
18 black child in that test? And I say that -- certainly
19 there was Native American. I did see that.

20 But, you know, here you have, in this state
21 you kind of just negate it, the experience of possibly, you
22 know, two-thirds of the population, maybe even -- a large
23 number. And we do have large numbers of wonderful writers,
24 wonderful writers, who are Latino writers, Mexican-American
25 writers, wonderful black writers. But yet we don't see any



1 of that experience in that. And I'm very concerned that
2 that is not available, and that basically kids would go
3 through a test like this and not see themselves in a name,
4 or an experience, in any way. And I would say that you
5 would be perpetuating, you know, that our history of
6 testing.

7 MADAM CHAIR: Thank you, Val.

8 We have now reared end of our presentation.
9 We have a few minutes, if you promise to keep it brief.

10 MR. DURHAM: Oh, I promise.

11 MS. FLORES: Is there an answer to this?

12 MADAM CHAIR: No. I don't think there's an
13 answer. I thought it was just a statement on your part.

14 MS. FLORES: No. I'm asking why?

15 MS. ZURKOWSKI: Madam Chair, can I offer a
16 brief response?

17 MADAM CHAIR: Sure.

18 MS. ZURKOWSKI: As I indicated earlier,
19 passages and items do go through what we refer to as that
20 bias and sensitivity process, and there is an effort to
21 make sure that all student groups are reflected across the
22 test. You did see a sample, not the entirety. But I will
23 gladly take your feedback back to the group and indicate
24 that you believe that we need to make more of an effort.

25 MS. FLORES: A big effort.



1 UNIDENTIFIED VOICE: Madam Chair, may I
2 comment?

3 MADAM CHAIR: Steve was asked first.

4 UNIDENTIFIED VOICE: Oh, Steve.

5 MR. DURHAM: Just briefly. If you've got a
6 room of 20 kids taking the test and they're all taking it
7 by paper, do they all have exactly the same questions?

8 MS. ZURKOWSKI: Madam Chair.

9 MADAM CHAIR: Yes.

10 MS. ZURKOWSKI: No, they do not. So there
11 are multiple forms that are used for both the paper version
12 of this assessment as well as for the online version, and I
13 would encourage you, again, to think about some of your pat
14 experiences with testing. Take, as an example, SAT, right.
15 Different forms are used and yet they are considered the
16 same test and the results are comparable.

17 MR. DURHAM: So, in theory, they are normed,
18 even though they're different questions.

19 MS. ZURKOWSKI: Madam Chair.

20 MADAM CHAIR: Yes.

21 MS. ZURKOWSKI: So, yes, they will go
22 through that technical process that we referred to as
23 equating, to ensure that they are comparable.

24 MR. DURHAM: So then the same room with
25 people taking the test online, they would get different



1 questions, each -- not each of them but there would be
2 several versions. How many versions in a class of 20?

3 MS. ZURKOWSKI: Madam Chair, the forms are
4 actually what we refer to as spirals, and they are randomly
5 assigned. So any particular group of 20 is not going to be
6 identical, but it is fair to say that there is
7 approximately eight forms of an assessment that are out
8 there at this point in time.

9 MR. DURHAM: Is it possible -- once I start
10 taking a test, the questions that I am going to answer are
11 predetermined and don't change based on my correct or
12 incorrect answers to other questions. Is that correct?

13 MS. ZURKOWSKI: Madam Chair, I appreciate
14 you asking this because yesterday there was reference to
15 the PARCC test being adaptive. The PARCC test is not
16 adaptive. How you answer one question does not determine
17 the next question that you get. In fact, students can
18 actually go through that test in a backwards order if they
19 want to. All of those items are predetermined.

20 MADAM CHAIR: Thank you. Deb.

21 MR. DURHAM: And then visiting back one
22 item, to the keystroke question, it would at least be
23 theoretically possible -- I mean, I have an article in
24 front of me here about using keystrokes to determine
25 emotional state, so apparently that's -- or at least there



1 are people who believe that's theoretically possible. And
2 you collect that data, correct, between keystrokes or you
3 do not collect it?

4 MR. SCHUESSLER: Madam Chair.

5 MADAM CHAIR: Yes.

6 MR. SCHUESSLER: We do not collect keystroke
7 data. The only data we collect is, on essay responses,
8 what was typed in in a text field, but no actual keystrokes
9 or typing.

10 MR. DURHAM: So it's actually what's typed
11 in, and then if it's -- and you keep all the versions of
12 that, so if there are deletions or corrections, you have
13 the versions.

14 MR. SCHUESSLER: We have an autosave every
15 two minutes on the essay responses. Otherwise, it's saved
16 on submission.

17 MADAM CHAIR: Okay. Wrapping up. Deb, last
18 question.

19 MS. SCHEFFEL: I just wanted to say in
20 response to Member Flores, just that as I read my version -
21 - I guess there are eight versions, you said -- I did find
22 cultural representation in terms of the names and the
23 stories. So it might be that the different versions are
24 different. But I just wanted to say that I did find it
25 representative.



1 And now I just had one quick statement. May
2 I make a statement, Madam Chair?

3 MADAM CHAIR: Okay. Go ahead.

4 MS. SCHEFFEL: I just wanted to thank
5 Pearson. You know, you are a business. We appreciate
6 business. You're functioning as a business that's
7 attempting to serve a statutory requirement. And if you
8 did not exist, the Department of Education would have to
9 increase its staff and reach, by huge numbers and
10 infrastructure to accomplish this work. And so we
11 appreciate you and we thank you for coming and for your
12 presentation.

13 I would also add, though, that as we forge
14 public-private partnerships, if we don't keep the public in
15 mind first, then we don't serve our state very well, and
16 that is the responsibility of the legislature, of this
17 Board, and of the Department of Education, which is our arm
18 of implementation. So to the extent that we have parental
19 issues, and that there are concerns, and that we haven't
20 addressed them clearly, we need your input.

21 But we, as a Board, need to work with the
22 legislature and with the parents and with the Department of
23 Education to create great clarity, and it sounds like some
24 of the questions that have been raised today really relate
25 to the relationships between the Federal Government, the



1 Department of Education, Pearson, other vendors, and that
2 these relationships have not been fully exposed or
3 delineated or made clear. And I think to the extent that
4 we can do this work far better, we will serve the public
5 far better. But we appreciate you coming.

6 MADAM CHAIR: Thank you, Deb, and I
7 appreciate your comments there. And do the Pearson
8 representatives have any closing statements you would like
9 to make in this little session?

10 MR. SHERWOOD: Madam Chair, we'd just like
11 to thank you for this opportunity to come and speak with
12 you all this morning, so thank you.

13 MADAM CHAIR: All right. That will close
14 this session and we'll take a five-minute break.

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 25th day of January, 2019.

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

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