

January 10, 2016

To: Lake Forest High School Board of Education

RE: [Agenda Item to Approve Contract with ECRA Group at January 11, 2016 Board Meeting](#)

Dear Board of Education:

I am concerned that the above-referenced Agreement the Board is about to enter at [its January 11, 2016 meeting](#) at the behest of the D115 Administration does not protect students against disclosure of their personally identifying data to third-parties and may in other respects possibly violate of federal and other law. In addition, I am concerned that parents have had insufficient opportunity to evaluate whether the disclosure of any or all of their child's personal information to a third party is even necessary to achieve the ambiguously stated aim of the Agreement.

The Board appears poised to approve a Letter of Agreement with a third-party, ECRA, so that ECRA can provide a "Collaborative Research and Information Service Solution ("ECRISS") to support the District in areas related to, but not limited to "research, assessment, evaluation, data warehousing, data analysis, reporting, professional development, growth models and planning." In exchange for ECRISS, the District agrees to disclose "all such data, documents, information, [etc.]..." to ECRA including, but not limited to, all such information necessary to create, *inter alia*, a "student achievement data warehouse" and "[d]ata analysis, online portal tools, and reports to support... [i]ndividual student monitoring and [r]esponse to intervention."

None of the data to be collected is specified (i.e. grades, test scores, IEP goals, medications on file with the Nurses' office, juvenile records, interviews with Social Workers, etc.) Yet the District is obligating itself to turn over "all such data" without limitation "in a prompt manner" that ECRA "shall reasonably request or require in performance of expected services." The Agreement provides it will be automatically renewed every succeeding year unless cancelled with notice by either party.

And lastly, the barely one and one-half page Agreement states: "ECRA and the District recognize that in the course of working together, ECRA will be provided with access to *individually identifiable student information, including personally identifiable information*. ECRA will comply with all applicable laws and/or regulations, including FERPA with respect to privacy and data security relative to information and data about students and their parents." (Emphasis supplied)

I do not believe this contract complies with the law, thus exposing the District to litigation and potential damages. FERPA (Family Educational Rights and Privacy Act) requires that the District's disclosure to outside third-party contractors like ECRA is permitted **only if**:

"(A) The study is conducted in a manner that does not permit personal identification of parents and students by individuals other than representatives of the organization that have legitimate interests in the information;

(B) The information is destroyed when no longer needed for the purposes for which the study was conducted; and

(C) *The educational agency or institution or the State or local educational authority or agency headed by an official listed in paragraph (a) (3) of this section enters into a **written agreement with the organization that—***

(1) specifies the purpose, scope, and duration of the study or studies and the information to be disclosed; [The Agreement does not contain the scope and duration or information to be disclosed and provides a sketchy “purpose”]

(2) Requires the organization to use personally identifiable information from education records only to meet the purpose or purposes of the study as stated in the written agreement; [It is impossible to determine compliance with this section as the Agreement is now written]

(3) Requires the organization to conduct the study in a manner that does not permit personal identification of parents and students, as defined in this part, by anyone other than representatives of the organization with legitimate interests; and

(4) Requires the organization to destroy all personally identifiable information when the information is no longer needed for the purposes for which the study was conducted and specifies the time period in which the information must be destroyed.” [The Agreement by its own terms is perpetual and does not comply in any regard with this subsection] (34 CFR 99.31)

The District’s proposed Agreement with ECRA fails to comply with the highlighted sections (1)-(4). Moreover, parents are entitled, in any event, to understand what data about their children the District would release to third parties in addition to *why*.

Second, the Agreement’s ambiguity makes it impossible to understand whether the District’s execution of the Agreement and its provision of student data to ECRA would also violate the Protection of Pupils Rights Amendment (PPRA). One would hope the Administration understands that PPRA governs student privacy protections in many areas, including the student’s mental or psychological problems, illegal behavior, and relationships with lawyers, doctors and ministers, religious beliefs, parental income, etc. Because of the ambiguity in the description of all ECRIS’s purposes and the personally identifying data ECRA is entitled to gather under the Agreement, the District is doubly ill-advised to enter into it.

For the foregoing reasons, I believe the Agreement fails to comply with applicable law. Given the very high sensitivity of the data subject to this Agreement, and the critical privacy concerns involved, and the high potential of litigation and damages should there be a privacy or other legal violation (not to mention the damage to individual students), I ask that the Administration inform parents and the community of the reasons for D115’s Administration’s desire that the Board approve the execution of this Agreement and seek feedback from parents. If the Board decides to enter into such an agreement with this or any other vendor, parents are entitled to know their and their children’s legal rights will be meticulously respected.

Very truly yours,

Jennifer C. Neubauer

Parent Coordinator

Lake Forest Schools Watch

www.lakeforestschoolswatch.com