March 27, 2012

Dear members of the OEIB,

If data drives the decision-making of the OEIB, the data must be good and it must not be misused. Further, students have the right to privacy. I don't believe the latter has been addressed at all in these public meetings.

Yesterday I had the opportunity to attend the OEA's symposium, where Linda Darling-Hammond was the keynote speaker. Her credentials are stellar. She is professor of education at the Stanford University School of Education; she headed Obama administration's 2008 Education Policy Transition Team; and she is Senior Research Advisor for the Smarter Balanced Assessment Consortium.

She was very emphatic that value added evaluations to assess teacher effectiveness does not work. Earlier this month, she wrote in Education Week, "Indeed, reviews by the **National Research Council**, the **RAND Corp.**, and the **Educational Testing Service** have all concluded that value-added estimates of teacher effectiveness should not be used to make high-stakes decisions about teachers."[1]

As for SBAC's predictive value for "college and career readiness"? Another no.

What about growth? The answer was fuzzy. She sits on the SBAC technical advisory committee with Dr. David Conley (who also spoke yesterday). This web page[2] specifically states, "*Smarter Balanced works with teams of national experts to develop a balanced assessment system accurately measures student progress and growth toward college and career readiness.*"

She referred to yearly summative SBAC tests to be administered in the last twelve weeks of school. Interim common formative assessments will be optional.[3] The NCLB waiver expects both measures of student growth and teacher evaluation. The OEIB has not discussed what measures are to be included in the longitudinal database.

A summary of the OEIB's strategies includes a "Data Base Plan"[4] which depends on Project ALDER to be operative by 6/30/12, to "to inform teaching and learning," "with ROI for early childhood and K-12"

The state's achievement compact includes only 3rd grade proficiency in reading and math.

- Will passage of the SBAC be necessary for a regular high school diploma, which is the numerator for graduation rates?
- Will data from optional interim SBAC tests measure growth?

The database, Project ALDER, has been given short shrift. When I asked David Conley about Project ALDER's proposal to merge 5 databases[5] (ODE, CCWD, OUS, TSPC, and OED), there was a very pregnant pause—and a non-answer.

The rationale to include wage data is best summarized in testimony about rising student debt given by this Stanford professor.[6]

"A more targeted approach to the problem of student borrowers with more debt than acquired human capital would be to look at why their borrowing did not result in increased human capital sufficient to repay the loan. Did their institutions of higher learning, trade schools or other educational institutions defraud them, making false promises of a better future? Or did they find their studies too difficult, or change their minds about their goals and aspirations?"

It's the same rationale for Senator Wyden's, S.2098 "Student Right to Know Before You Go Act,"[7][8] co-sponsored by Senator Marco Rubio. (Companion bill in the House: H.R.4061) The American Legislative Exchange Council wrote model legislation for longitudinal databases[9] and higher education accountability[10] and productivity[11]. Senator Rubio is an ALEC alumnus.[12]

Project ALDER's talking points to the OEIB[13] included these "Barriers to Success":

- Current FERPA[14] regulations restrict access to student information to those agencies defined as "educational institutions." This definition hinders the development of a longitudinal data system that includes workforce information. Under current definitions, data exchange with the Oregon Employment Department is severely limited. The Oregon Consumer Identify Theft Protection Act (2007) regulates how state agencies can store and use social security numbers. Because the social security number is the primary mechanism for matching workforce data with specific students, this Act has created limitations and barriers to the implementation of the longitudinal data system.

- Statutory support needed for data sharing between agencies

- Definitions needed in statute and/or rule (e.g., teacher of record)

In testimony for FERPA rule-making proposals last year, the Center on Law and Information Policy[15] wrote this:

"**Security breaches and improper use of the data increase in likelihood with the centralization of educational records in longitudinal databases and wider sharing. These events will take place at the local and state levels and will be likely to involve large numbers of families like the exposure of the educational records of all the students in the Nashville, Tennessee public schools during 2009**."

The business partners[16] of the vendor, Public Consulting Group, involved in that data breach[17] include the Council of Chief State School Officers[18] and Pearson.

I hope you can facilitate answers to the following questions I have asked of Josh Klein, ODE Chief Information Officer.[19]

Thank you,

Kris Alman

- A current copy of the data sharing agreement between ODE, OUS, TSPC, CCWFD and ODE.

- Cost estimates to maintain and operate the seven regional data warehouse providers of Project ALDER.

- A list of Project ALDER vendors. Please include the negotiated bidding process, and if none, please indicate.

Furthermore, I have raised questions and concerns:

- What is meant by "Turn your vendors into partners. Give them buy-in to the project and make sure that they know you value their opinion."? p. 79, http://alder.orvsd.org/sites/alder.orvsd.org/files/ USED_Site_Visit_Session_ Materials_Binder.pdf

- Will Oregon create guidelines for data retention and any data breaches of the database to protect affected children, families and staff? See (6) (i) (B) of FERPA regulations at 34 CFR § 99.31 (http://edocket.access.gpo. gov/cfr_2001/julqtr/34cfr99.31.htm) *The information is destroyed when no longer needed for the purposes for which the study was conducted.* Here is the link to current data retention policies in Oregon.http://arcweb.sos. state.or.us/doc/recmgmt/sched/ special/state/sched/20060017oderrs.pdf

- Have the state and federal Departments of Education defined a "secure" data warehouse, including the usage of cloud computing?

- A Project ALDER document (p.28) sites the Oregon Consumer Identity Theft Protection Act (2007), ORS 646A.600-628. Are Oregon children "consumers" of public education, who might have their identity stolen? And, if so, how can this law mitigate harms that are already done (such as identity theft)?

- Based on Margie Lowe's report at the Sept. 30, 2011 meeting: *(A)bout $1 million of the $3 million appropriated for SB 909 this biennium will be used on developing the database and other early learning grants. They were looking to add investments in early learning and early social system supports. While they are hoping for additional federal grants, those will not be available in the next year. Foundations might be a source of funding or C.O.Ps.* . http://www.oregon. gov/Gov/OEIB/Docs/Nov21MinutesFINAL.pdf?ga=t

- Is additional funding for Project ALDER coming from foundations? If so, what foundations are supporting it and with how much money?

- What are C.O.Ps? How do they support the funding of Project ALDER?

---

[1]http://www.edweek.org/ew/articles/2012/03/05/24darlinghammond_ep.h31.html?tkn=XSLF8dtEku7dtKu1xSZfeIqk1QmVLXJ5Fp0i&cmp=clp-edweek

[2] http://www.smarterbalanced.org/about/advisory-committees/

[3] http://www.smarterbalanced.org/smarter-balanced-assessments/

[4] http://www.oregon.gov/Gov/OEIB/Docs/SummaryOEIBStrategiesandPlan.pdf?ga=t; strategy #6

[5] http://alder.orvsd.org/sites/alder.orvsd.org/files/USED_Site_Visit_Session_Materials_Binder.pdf p.90

[6] http://www.judiciary.senate.gov/pdf/12-3-20ColeTestimony.pdf

[7] http://thomas.loc.gov/cgibin/bdquery/z?d112:s.2098:

[8] http://www.youtube.com/watch?v=z_hOpYMa3cM

[9] http://alecexposed.org/w/images/b/bd/2E6-Longitudinal_Student_Growth_Act_Exposed.pdf

[10] http://alecexposed.org/w/images/6/68/2B7Higher_Education_Accountability_Act_Part_1_Exposed.pdf

http://alecexposed.org/w/images/5/54/2B8-Higher_Education_Accountability_Act_Part_2_Exposed.pdf

[11] http://alecexposed.org/w/images/2/28/2B13-CALLING_FOR_GREATER_PRODUCTIVITY_IN_AMERICAN_HIGHER_EDUCATION_Exposed.pdf

[12] http://www.americanlegislator.org/2012/03/a-destructive-irs-mandate/

[13] http://www.oregon.gov/Gov/docs/11-21-11_ODE_ProjectALDER_Update.pdf?ga=t

[14] Family Educational Rights and Privacy Act http://www2.ed.gov/policy/gen/guid/fpco/ferpa/index.html

[15] http://www.aacrao.org/Libraries/Federal_Relations_Documents/FERPA-CLIP-Comments.sflb.ashx pp 11, 12

[16] http://www.publicconsultinggroup.com/about/business_partners/index.html

[17] http://www.vagazette.com/articles/2011/10/03/news//doc4e86392ac0352101784988.txt

[18] http://www.ccsso.org/Who_We_Are.html

[19] http://www.ode.state.or.us/search/page/?id=403