

**Senate Education Committee**  
**Hearing on Student Privacy and the Pennsylvania Information Management System**  
**Testimony of Dr. Don L. Francis**  
**President- Association of Independent Colleges and Universities of Pennsylvania**  
**October 12, 2010**

Thank you Senator Piccola, Senator Dinniman, and members of the Education Committee for convening this hearing and inviting me to share my ideas with you in regards to student privacy and the Pennsylvania Information Management System (PIMS) on behalf of the Association of Independent Colleges and Universities of Pennsylvania, an organization representing 87 private colleges and universities across the Commonwealth.

Over the past few years the Pennsylvania Department of Education has created a database containing the education records of over two million Pennsylvania children, adolescents, and adults. The Pennsylvania Information Management System, or PIMS, is described by the Department as a “womb to workplace” information system. It is conceptualized as linking together not only school records from preschool, elementary, secondary, and postsecondary schools but also data on Pennsylvania residents collected by numerous state agencies including the Pennsylvania Department of Health, Public Welfare, Labor and Industry, Corrections, Military Affairs, and PHEAA. The development of such a large and comprehensive government information system that will track residents from childhood through adulthood is unprecedented in the history of this Commonwealth. The stated aim of this effort is to bring together data on Pennsylvania residents from numerous sources as a means to improve the educational system in the Commonwealth.

The Association of Independent Colleges and Universities of Pennsylvania recognizes that the state needs data on students in order to measure progress and to provide appropriate educational and support services. We understand that policymakers as well as teachers and parents must have quality data on students in order to formulate effective education policy. In fact, we have encouraged state policymakers in the past to collect data on family income in the various higher education sectors in order to formulate more appropriate higher education finance policy. And we support state scrutiny of graduation rates or the passage rates of our students on licensure exams. However, we are greatly concerned by the actions of the Pennsylvania Department of Education in developing and managing PIMS, especially as the Department now moves to expand PIMS to include greater numbers of postsecondary students.

Specifically, we are troubled by the Department's lack of appropriate attention to the issues of: 1.) data security and the privacy rights of students; 2.) the legal and financial costs to higher education institutions to participate in this system; and, 3.) the development of a clear and detailed plan regarding how the data collected through PIMS will be utilized to raise student and teacher performance in Pennsylvania. Until these concerns are addressed, we support Senate Bill 1449 because it will terminate this incompletely formulated plan.

### **Data security and student privacy**

The Family Educational Rights and Privacy Act (FERPA) (20 USC § 1232g; 34 CFR Part 99) allows state education agencies to collect personally identifiable student data from colleges and universities for selected purposes and to maintain this data on behalf of those educational

institutions. However, the Act also makes clear that colleges and universities remain the owner of such data and retain the responsibility to prevent misuse.

Our institutions understand the trust placed in them by students and parents and have spent significant sums of money to protect the student data they collect. The Pennsylvania Department of Education has assured us and others that it has strict policies in place to safeguard the confidentiality and security of student data transferred into PIMS. As evidence, it points to the regulations outlined in its *Data Access and Use Policy*. However, in a recent application to the U.S. Department of Education for grant funding for PIMS, the Pennsylvania Department of Education acknowledges the shortcomings of this same *Data Access and Use Policy* and notes that it is insufficient to safeguard the privacy of postsecondary student data maintained in PIMS.

The Pennsylvania Department of Education also assured us and others that individual student records transferred by colleges and universities into PIMS would be identified only by a unique identifier so that student privacy could be protected. The Department has apparently loosened its focus on student privacy because it now asks colleges and universities working with PIMS to supply the social security number and the home address of students - either of which can be used to identify individuals. An information system that will house sensitive data on millions of Pennsylvania residents demands appropriate attention to what is collected and how it will be protected and the Department has fallen short in both respects.

Let me note that the Association of Independent Colleges and Universities of Pennsylvania had urged the Department to make numerous changes to its *Data Access and Use Policy* to increase the security and privacy protection of student records in PIMS but our recommendations have not been implemented.

### **Legal and financial costs to higher education institutions**

The Pennsylvania Department of Education admits that on occasion it will make personally-identifiable data on students available to researchers and to contractors in order to undertake various projects required by the Department. It also acknowledges that staff of school districts and higher education institutions across the state will have access to this data. Allowing individuals outside of the Department to utilize the personal data of Pennsylvania residents may result in unintended breaches of privacy.

Unlike the Commonwealth and its entities, private colleges and universities in Pennsylvania do not possess legal immunity from lawsuit or criminal prosecution. As noted earlier, private colleges and universities that submit student records to PIMS retain the legal responsibility under FERPA for any unauthorized access or misuse of these records. Therefore, we seek to have the Commonwealth pass legislation to indemnify private colleges and universities from the legal and financial consequences of any breach of confidential data from PIMS. This is only fair. Thus far, the Department has done nothing to seek passage of this legislation.

In addition to the legal burden of participation in PIMS, private colleges and universities also have to bear the financial costs of preparing and submitting to PIMS the education records of individual students. PIMS will require institutions to allocate additional staff resources to data preparation activities at a time when institutions are seeking to control costs in any way possible. This is not an insignificant cost, especially for smaller private colleges or universities. While tax dollars support public universities in developing their PIMS data systems, no such support has yet been offered to our institutions.

### **Development of a clear plan for utilizing PIMS data**

As noted earlier, we understand that education records are the source of data used for administrative programs and policymaking. However, a basic rule of thumb in any large-scale data collection project is that the need for data must outweigh all costs of obtaining that data and the possibility of harm from security intrusions or loss of individual privacy. In the case of the Pennsylvania Information Management System, the Pennsylvania Department of Education has not presented us with concrete examples of how the massive amounts of data it is asking colleges and universities to provide will result in improvements to the educational system in Pennsylvania.

In a 2009 document outlining the benefits of state education data systems, the Pennsylvania Department of Education highlights the education reports produced by other states that have developed statewide student data systems. The PDE report makes several references to the State of Florida, which has had a student data system for over 15 years and into which the state has

invested hundreds of millions of dollars. Surely such a large investment of taxpayer funds has resulted in an educational system second to none? In fact, a 2009 study by researchers at the Johns Hopkins University notes that Florida is among those states that have the lowest high school graduation rates in the nation. The report calls it a statewide crisis and urges the federal government to become involved to insure that children in that state receive an adequate high school education. So much for the promise of educational improvement through data collection!

Numbers do not evaluate teachers or create exemplary schools or formulate educational policy. Numbers do not find funding for educational improvements. Without a clear and detailed plan on how this data will be utilized to improve the educational system in Pennsylvania, the Pennsylvania Department of Education is asking higher education institutions and the taxpayers in this Commonwealth to invest significant resources in a data system that does no more than serve as a repository for numbers.

Since 2008 we have repeatedly told the Department that private colleges might voluntarily participate in PIMS if they would address our concerns. Unfortunately, the Department has never seriously attempted to address these issues. Instead it has chosen to use mandates and threats to force institutions into this program. Consequently, while we are amenable to further dialogue, we cannot support the Pennsylvania Information Management System until our concerns are met and a detailed plan for the use of the data is presented.