Office of Governor Ron DeSantis
State of Florida
The Capitol
400 S. Monroe St.
Tallahassee, FL 32399-0001

July 9, 2019

Dear Governor DeSantis:

We are a coalition of 32 education, disability, privacy, and civil rights advocacy groups writing to highlight substantial risks arising from Florida's proposed school safety database. This project will collect information about children and young people's social media activity and other sensitive topics, and store it in a state database to be shared with state employees, schools, and law enforcement. We are deeply concerned that the program will be used to label students as threats based on data that has no documented link to violent behavior, such as data on disabilities or those seeking mental health care. We urge you to immediately halt the state's construction of this database and, instead, create a commission of parents, students, and experts on education, privacy, security, equity, disability rights, civil rights, and school safety, to identify measures that have been demonstrated to effectively identify and mitigate school safety threats.

Education Week recently [detailed] the types of information to be collected in Florida's planned database. The categories discussed included children who have been victims of bullying based on protected statuses such as race, religion, disability, and sexual orientation; children who have been treated for substance abuse or undergone involuntary psychiatric assessments; and children who have been in foster care, among others. We believe this database represents a significant safety risk because it collects highly sensitive information without a clear, evidence-based rationale for inclusion, could be used to stigmatize and blame children who have been victims of bullying or whose only "risk" factor is their disability, and will create a de facto state repository designed to track children based on federally protected characteristics.

This database is part of an alarming trend in Florida over the past year. Since the passage of the Marjory Stoneman Douglas School Safety Act in 2018, Florida has required schools and the state department of education to collect, store, and analyze increasingly sensitive information about students. For example, districts have been required to collect mental health information from students as a registration requirement for the new academic year. The state has provided no guidance on how to ensure the accuracy of this sensitive information, the information's value in the prevention of violence, or whether and how districts will dispose of the records. No evidence demonstrates that creating a massive digital surveillance infrastructure helps to prevent school violence. But [studies do suggest that it may cause students to feel less safe at school]. And without safeguards and protections, the state risks building a structure to systematically discriminate against students based on protected statuses.

The proposed database will include students' social media posts, but as the [Brennan Center for Justice] reports, there is no proof that social media monitoring programs work. The Department of Homeland Security has been using this technology since 2016 and has not found it to be effective. Moreover, the [algorithms used in these monitoring systems are susceptible to bias] and will disproportionately impact students of color and students with disabilities.

The database would cast an extremely wide net not just with respect to people but also with respect to the types of information collected and stored. According to *Education Week's* reporting, information that state agencies discussed including in the database were students':

- Experiences of bullying based on protected characteristics;

- Foster care records;
- Immunization records;
- Homelessness status;
- Social media posts
- Involuntary psychiatric exams;
- History of mental illness;
- Criminal records (including unverified reports of suspicious activity);
- History of substance abuse;
- Disciplinary records; and
- Feelings of anger and persecution.

These wide-ranging categories vary in their relevance to potential threatening behavior. It is unclear how immunization records, for example, will help educators determine whether students are likely to commit violent crimes at school. Furthermore, some information, such as students' feelings of anger or desire for revenge, is highly subjective and difficult to capture in a database. Depending on students' ages and circumstances, those feelings may be developmentally appropriate and have no bearing on the likelihood of violent behavior. Assessing the accuracy of this kind of information would be difficult at best and prone to error and bias, particularly in the case of students of color, who are far more likely to be perceived as aggressive or hostile than white students. Its use by state authorities would therefore be of questionable value. Moreover, collecting this information for school safety purposes will convey a damaging and stigmatizing message to educators, students and parents about students who fall within the targeted categories.

We also believe that if the state collects and stores some of this information, many students and their families will be deterred from seeking the services they need in school. Students who are homeless or in the foster care system, or those who have mental health disabilities, may limit the services they use out of concern that the state may use the information to flag them as potential threats. Likewise, students who are bullied because they are LGBT, have a disability, or have a minority religious affiliation may choose not to report the abuse to their schools if they fear the schools will respond by identifying them as threats. This could create a perverse incentive, leading students to avoid reporting serious or life-threatening behavior because they don't want to be labeled as a potential school shooter.

These possibilities suggest that the proposed database is not only unlikely to improve student safety, but it will introduce many safety risks. In addition to posing the risks outlined above, it will create a permanent record of questionable accuracy that will follow students from school to school—and possibly their entire lives. The overly broad nature of this service, coupled with its risks, means that Florida will engage in a mass surveillance effort that will ultimately provide little benefit and will significantly erode the civil liberties of your residents.

Experts agree that data must be secured in proportion to its sensitivity and risk. The database contemplated in this case would include extraordinarily sensitive information, and therefore require extraordinary protections. It is incumbent on those proposing a risky program to demonstrate that they have mitigated the potential harms. The programs proponents have not done so. In fact, there have been no concrete proposals addressing how his extremely sensitive information about Florida's children would be secured. At the very least, this database must be put on hold until these vital security risks have been addressed.

Because of these serious safety risks, we ask that you immediately halt the state's construction of this database and, instead, create a commission of parents, students, and experts on education, privacy, equity, disability rights, civil rights, and school safety, to determine whether a state database would actually help to identify school safety threats and would not pose undue harm to students. This commission should also

identify the legal, ethical, privacy, and security parameters that should be an integral part of this database, including the understanding that data collected to help children should not be repurposed in ways that could harm them.

Failing that, we ask that you require the state to produce the following protocols and information and make them publicly available:

- Data governance documents, including information about the sources from which the state obtains student data; who will have access to the data; which analytics, algorithmic, or AI processes and programs will be performed on the data; how data will be secured; and how those interacting with the data will be trained in how to use and protect it.
- A method by which parents may contest and correct both the information contained in the database and any inferences made about students based on the collected information.
- A deletion schedule for student information.
- A modified list of records to be collected that excludes information concerning students' disabilities, including information about mental health and substance use disorder histories and involuntary psychiatric examinations.
- A public commitment to abide by all federal and state privacy and non-discrimination laws.

We hope that you will redirect this effort and work with us to practice evidence-based methods to keep students safe, without trampling on civil rights or the safety of all students.

Sincerely,

AccessNow
ACLU
ACLU of Florida
The Advocacy Institute
American Association of People with Disabilities
Autism Society of Florida
Autistic Self Advocacy Network
Bazelon Center for Mental Health Law
The Campaign to Keep Guns off Campus
Common Sense Media
Council of Parent Attorneys and Advocates
Disability Independence Group, Inc
Disability Rights Education & Defense Fund
Electronic Frontier Foundation
EPIC
Florida Council of Administrators of Special Education
Florida League of Women Voters

Future of Privacy Forum
Intercultural Development Research Association
Learning Disabilities Association of America
Learning Disabilities Association of Florida
Mental Health America
Mental Health Association in Indian River County, Florida, a proud affiliate of Mental Health America
National Association of Councils on Developmental Disabilities
National Center for Learning Disabilities
National Center for Youth Law
The National Council on Independent Living
National Disability Rights Network
Public Advocacy for Kids
School Social Work Association of America
SPLC Action Fund
TASH