



**Maryland Independent College
and University Association**

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August 30, 2016

The Honorable James Fielder
Secretary of Higher Education and
Chair of the MLDS Governing Board
6 North Liberty Street
Baltimore, MD 21201

Dear Secretary Fielder:

I write to you in your capacity as Chair of the Governing Board of the Maryland Longitudinal Data System (MLDS). In June, the MLDS Governing Board voted on a motion to move forward with a synthetic data system project "provided that additional legal issues that need to be worked out are resolved and taken under advisement." The motion carried five to three. As the representative of Maryland's independent colleges and universities, I voted in opposition to the motion due to the unresolved legal issues and data security concerns. Immediately following the meeting, Executive Director Ross Goldstein suggested I request an exemption from the project for Maryland's independent colleges and universities.

After considering the legal and security ramifications of this project, the fifteen MICUA member institutions respectfully request the MLDS Center exclude its data from the synthetic data system project and ask that the MLDS Governing Board review this request at its September meeting.

MICUA fully supports the MLDS Center and recognizes the importance of its mission – "to generate timely and accurate information about student performance that can be used to improve the State's education system and guide decision makers at all levels." The synthetic data project does not support this core mission. The project will not produce more accurate or timely information, it will produce less accurate and less timely information. To create the synthetic data set, researchers intend to alter individual data records in a manner that will hide the identity of the individual. The resulting database will have many inaccuracies. The MLDS Center will continue to house the most accurate, reliable, and timely data. Moreover, the Center does not need a synthetic data system to audit and evaluate State and federal programs, because the Center has the authority to use the real (more accurate) data for this purpose. The core purpose of the synthetic data project is to create a dataset that may be released publicly and used by any

researcher for any purpose. MICUA maintains this stated purpose is not consistent with the mission of the MLDS Center.

Furthermore, the creation of a synthetic data system inherently increases the risk of data breaches. The project proposes to utilize de-identified data to create three sets of synthetic data to examine pre-determined research questions. There is a presumption that neither the de-identified data nor the synthetic datasets present a risk to disclosure. However, advances in technology and the proliferation of public datasets have made it increasingly more possible to re-identify individual records. Moreover, the synthetic data project will add to the number of authorized personnel with access to student unit record data, exponentially increasing the risk of disclosure. MICUA believes these risks are unnecessary and not warranted by the stated objective of the project.

Additionally, it is our belief the synthetic data project violates the federal Family Educational Rights and Privacy Act (FERPA). FERPA permits institutions of higher education to share unit record data with authorized representatives of a state's higher education agency for authorized purposes only. Under federal FERPA law, the data may be used to develop, validate, or administer predictive tests; administer student aid programs; or improve instruction. FERPA does not permit student unit record data to be utilized by any researcher for any purpose.

Finally, it is not clear how the MLDS Governing Board will meet its obligations under Maryland law. Maryland statute requires MLDS to:

- Ensure routine and ongoing compliance with FERPA and other relevant privacy laws and policies (including de-identified data in data research and reporting);
- Dispose of information that is no longer needed;
- Provide data security (including the capacity for audit trails);
- Provide for performance of regular audits for compliance with data privacy and security standards; and
- Implement guidelines and policies that prevent the reporting and other potentially identifying data.

Furthermore, State law prohibits the release of “data that may be identifiable based on the size or uniqueness of the population under consideration. The creation of a synthetic data system will make it more difficult for the Board to comply with these State statutory requirements.

In conclusion, the value of this project to the State is minimal at best and the risk is too great for students, families, teachers, and institutions. Colleges and universities are responsible under federal law for the information they collect from students, even if that information is shared with a third party, such as a state agency or a vendor. This project puts Maryland's colleges and universities at risk of lawsuits from students attending institutions of higher

education whose data is shared with unauthorized persons and used for unauthorized purposes.

For all of these reasons, we respectfully request the MLDS Governing Board exclude Maryland's independent institutions from the synthetic data project and ask the MLDS Center to provide details on how MICUA's request will be implemented.

Thank you for your consideration of this request.

Sincerely,


Tina Bjarekull
President

cc: President of the MICUA Member Institutions
Ross Goldstein, Executive Director of MLDS