



**Beth Garvey**

General Counsel  
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Albany, New York 12246

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March 31, 2019

Temitope Akinyemi  
New York State Education Department  
Office of Higher Education  
89 Washington Avenue, Room 975 EBA  
Albany, NY 12234

**Sent via U.S. Mail and by email to [regcomments@mail.nysed.gov](mailto:regcomments@mail.nysed.gov)**

Re: Proposed Regulation: Protecting Personally Identifiable Information, Part 121  
I.D. No. EDU-05-19-00008-P

Dear Ms. Akinyemi,

The State University of New York (“SUNY”) has reviewed the Department’s proposed regulations adding a new Part 121 to Title 8 NYCRR in relation to protecting students’ personally identifiable information. We appreciate the opportunity to comment on this matter.

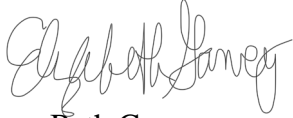
SUNY is in full support of the important privacy goals underlying Education Law § 2-d and these implementing regulations, and has no objection to the majority of these proposed provisions. However, we do have significant concerns about any potential impact on the ability of higher education institutions to receive information about prospective students that have taken college entrance exams such as the SAT, PSAT, or ACT.

Currently, SUNY receives information about prospective students who have taken these entrance exams, thereby allowing the various SUNY campuses to send out targeted informational material to help students learn about their college options. Students must opt in to this service, and can opt out at any time, so this is a purely voluntary program offered for the student’s convenience. This program can be particularly helpful to traditionally underrepresented students, allowing for streamlined delivery of targeted and relevant information on programs of interest, financial aid, and potential scholarship opportunities.

SUNY respectfully requests that the State Education Department clarify that this category of voluntary information disclosure to colleges at a student's request will be allowed to continue before final regulations are issued.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Beth Garvey". The signature is written in a cursive style with a large initial "B" and a long, sweeping tail.

**Beth Garvey**  
General Counsel