

----- Forwarded message -----

From: **Ann Marie Banfield** <abanfield@nhcornerstone.org>

Date: Fri, Apr 14, 2017 at 3:32 PM

Subject: Re: request for information

To: Pierre Couture <p.couture@sau35.org>

Cc: Frank.Edelblut@doe.nh.gov, Tom Raffio <TomRaffio@nedelta.com>, "chags@comcast.net" <chags@comcast.net>, "Gregory.Odell@doe.nh.gov" <Gregory.Odell@doe.nh.gov>, "hhonorow@barrylawoffice.com" <hhonorow@barrylawoffice.com>, Bill Duncan <waduncan@gmail.com>, ann.lane@comcast.net, "Ward, Ruth" <Ruth.Ward@leg.state.nh.us>, David Solomon <DSolomon@unionleader.com>, "houseeducationcommittee@leg.state.nh.us" <houseeducationcommittee@leg.state.nh.us>, Bob.Giuda@leg.state.nh.us, John Reagan <johnreagan111@gmail.com>, Rich Girard <rich@girardatlarge.com>, "david.watters@leg.state.nh.us" <david.watters@leg.state.nh.us>, kcassady@allstaffcorp.com, "Dr. Gary Thompson" <drgary@earlylifepsych.com>

Thank you. I heard back from Dr. Waltman and she said I can expect all of the requested information by April 21st.

After reading the statement from Laura Clark, I need further clarification:

1) ***we do not have a contract with PSU.***

What kind of information are you sending to PSU if there is no contract? I'm confused by how the agreement was reached between PSU and the school district.

2) Since parents were not notified data was collected through the DESSA screening tool, it's safe to say that no written consent was requested?

3) ***We are treating it just like the DIBELS or other universal progress monitoring or benchmark assessments, except it is all anonymous.***

Does this mean all data collected through the DESSA screening tool is then sent to PSU but the data does not identify the student?

4) ***Once the universal assessment is completed if a student is flagged and further assessment is needed, we will obtain parent consent.***

How do you flag a student if that student is anonymous?

What privacy laws are you following in terms of sharing this data with outside organizations?

I spoke at length with Marc Kirsch who is a sale representative for the DESSA screening tool. He did acknowledge that the DESSA is a psychological evaluation. At this point, I'm wondering how HIPPA would not apply to this kind of evaluation? Would these psychological evaluations on students not violate the HIPPA law since there is no parental notification or consent?

This is very different from an academic assessment on students. This is a psychological evaluation. Do you have a code of ethics in place when screening students in this manner? Something similar to what the American Psychological Association would require. Are parents receiving all of the data collected and any behavior modification techniques that are put in place once the evaluation has been completed?

<http://www.apa.org/ethics/code/>

Section 9 Assessment:

9.03 Informed Consent in Assessments

(a) **Psychologists obtain informed consent** for assessments, evaluations or diagnostic services, as described in Standard 3.10, Informed Consent, except when (1) testing is mandated by law or governmental regulations; (2) informed consent is implied because testing is conducted as a routine educational, institutional or organizational activity (e.g., when participants voluntarily agree to assessment when applying for a job); or (3) one purpose of the testing is to evaluate decisional capacity. Informed consent includes an explanation of the nature and purpose of the assessment, fees, involvement of third parties and limits of confidentiality and sufficient opportunity for the client/patient to ask questions and receive answers.

(b) Psychologists inform persons with questionable capacity to consent or for whom testing is mandated by law or governmental regulations about the nature and purpose of the proposed assessment services, using language that is reasonably understandable to the person being assessed.

(c) Psychologists using the services of an interpreter obtain informed consent from the client/patient to use that interpreter, ensure that confidentiality of test results and test security are maintained, and include in their recommendations, reports and diagnostic or evaluative statements, including forensic testimony, discussion of any limitations on the data obtained. (See also Standards [2.05, Delegation of Work to Others](#); [4.01, Maintaining Confidentiality](#); [9.01, Bases for Assessments](#); [9.06, Interpreting Assessment Results](#); and [9.07, Assessment by Unqualified Persons](#).)

9.04 Release of Test Data

(a) The term test data refers to raw and scaled scores, client/patient responses to test questions or stimuli and psychologists' notes and recordings concerning client/patient statements and behavior during an examination. Those portions of test materials that include client/patient responses are included in the definition of test data. Pursuant to a client/patient release, psychologists provide test data to the client/patient or other persons identified in the release. Psychologists may refrain from releasing test data to protect a client/patient or others from substantial harm or misuse or misrepresentation of the data or the test, recognizing that in many instances release of confidential information under these circumstances is regulated by law. (See also Standard [9.11, Maintaining Test Security](#).)

(b) In the absence of a client/patient release, psychologists provide test data only as required by law or court order.

Ann Marie Banfield

On Fri, Apr 14, 2017 at 11:49 AM, Pierre Couture <p.couture@sau35.org> wrote:
Ann Marie, you will be getting a statement from Cindy Waltman from PSU regarding your request. The attached email is the response I got from Lisbon.

Pierre Couture

----- Forwarded message -----

From: **Laura Clark** <laclar@lisbon.k12.nh.us>

Date: Thu, Apr 13, 2017 at 1:02 PM

Subject: Fwd: request for information

To: Pierre Couture <p.couture@sau35.org>

Cc: Jackie Daniels <jadani@lisbon.k12.nh.us>, Emily Russell <emruss@lisbon.k12.nh.us>

Pierre,

Did you see this email from Cindy Waltman? Jackie passed along your questions and we do not have a contract with PSU. We also can't provide any of the other items because a parent notification was not sent. We are treating it just like the DIBELS or other universal progress monitoring or benchmark assessments, except it is all anonymous. We also do not consider it a survey, but an assessment which looks at competencies that are linked to New Hampshire's work study competencies. Once the universal assessment is completed if a student is flagged and further assessment is needed, we will obtain parent consent. We just began the process so we haven't even finished all the universal screeners. I hope this helps. Please let me know if you need anything else.

Laura

----- Forwarded message -----

From: **Cynthia Waltman** <cwaltman@plymouth.edu>

Date: Thu, Apr 13, 2017 at 9:49 AM

Subject: request for information

To: Pierre Couture <p.couture@sau35.org>, "jadani@lisbon.k12.nh.us"

<jadani@lisbon.k12.nh.us>, Laura Clark <laclar@lisbon.k12.nh.us>

Cc: Sarah Kilfoyle <sakilfoyle@plymouth.edu>

Plymouth State University's: Cindy Waltman, Ph.D., NCSP, Associate Professor, School Psychology Program Coordinator. Here is what Dr. Walman sent me per my 91-a Right to Know Request:

We are pleased to share with you the following information in response to the questions in your email from March 31, 2017.

1. *Below is the list of schools that are participating in this project:*

- *Bow Elementary School*
- *Franklin School District*
 - *Paul Smith Elementary*
 - *Franklin Middle School*
 - *Franklin High School*
- *Hillsboro-Deering Elementary School*
- *Lisbon Regional School*
- *Plainfield Elementary School*
- *Winnisquam School District*

- *Sanbornton Central School*
- *Union Sanborn School*
- *Southwick School*

She went on to answer questions about the Plymouth State Project:

1. *The purpose of this research is to learn if schools can have a positive impact on students' social-emotional learning skills through early intervention.*
2. *Copies of the two grant applications are attached.*
3. *There was no official document sent to schools to request their participation. Communication was done verbally.*
4. *There are no contracts between the schools and Plymouth State University regarding this project.*
5. *Your item #6 is for a request for information and not records; for that reason, PSU has no records that are responsive. Notwithstanding that, please know PSU is conducting this research in accord with the applicable federal laws regarding human subjects research.*
6. *The researchers adhere to the standards set forth by Plymouth State University's Institutional Review Board, whose responsibilities are outlined in Title 45 Code of Federal Regulations Part 46.*
7. *The Codes of Ethics of the following professional associations guide our work on this project: The National Association of School Psychologists, the American Psychological Association, the American Counseling Association, the American Educational Research Association, the American School Counseling Association, and the American Mental Health Counselors Association.*
8. *We are not using any other materials besides the DESSA to research social-emotional learning.*