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March 29, 2022

The Honorable Thomas Umberg
Chair, Judiciary Committee
1021 O Street, Room 3240
Sacramento, CA 95814

Re: SB 1172 – Student Test Takers Privacy Protection Act (SUPPORT)

Dear Senator Umberg,

Our organizations are dedicated to improving digital rights and the rights of children and write to express our support for SB 1172. This bill would vastly improve the privacy of students in California by limiting the amount of information proctoring companies can collect about them, and giving them ways to fight back against companies that violate their privacy.

Since the start of the COVID-19 pandemic, more students and individuals have been required to take tests using proctoring software, which is often invasive. Remote proctoring companies collect biometric data such as facial recognition templates and fingerprints, citizenship data and medical information, browsing history, and video and audio of a user’s surroundings. This information is not necessary to administer an examination, and needlessly places students’ privacy at risk.

No one should not have to surrender their privacy information to third-party software companies simply to take examinations. Proctoring companies have claimed that students do not have control over information collected in the course of test-taking, because they are not the “consumers” of the service—their schools are. Yet a 2020 California Supreme Court case ruled that students should have the right to delete their information when proctoring companies collect and retain data unrelated to the administration of tests, recognizing that companies that collect and hang on to this information places student privacy at risk.

It’s clear that current law does not offer enough protection to students subject to remote proctoring. That is why we need stronger protections for Californians. We also need to give them tools to fight back against irresponsible companies. SB 1172 not only gives students the control they deserve over their own biometric and private information, it also empowers test takers to protect their privacy rights against proctoring services by providing a private right of action against proctoring companies.

While proctoring software use has increased by 500 percent during the pandemic, remote proctoring isn’t going to “go away” when the pandemic ends. Students will continue to use proctoring tools for any number

Coalition support for SB1172

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of reasons. With this simple bill, California can protect its students and create meaningful data collection and minimization standards, eliminating the vast majority of the dangers these tools create.

For these reasons, our organizations support SB 1172 and respectfully ask for your “Aye” vote on this bill.

Sincerely,

Katharina Kopp, Center for Digital Democracy
Kalesi Budei, Citizens Privacy Coalition of Santa Clara County
Nelson Santiago, Consumer Action
Irene Ly, Common Sense
David Monahan, Fairplay
Vinhcent Le, The Greenlining Institute
Tracy Rosenberg, Media Alliance and Oakland Privacy
Hayley Tsukayama, Electronic Frontier Foundation
Emory Roane, Privacy Rights Clearinghouse

cc: Senator Dr. Richard Pan