THE SECRETARY OF EDUCATION
WASHINGTON, DC 20202

March 13, 2014

Honorable Tom Luna
Superintendent of Public Instruction
State Department of Education
Len B. Jordan Office Building
650 West State Street
Boise, Idaho 83720

Dear Superintendent Luna:

Thank you for your January 23 letter regarding States' collaboration in building next-generation assessment systems. You are correct that the Department does not require the two consortia developing next-generation assessment systems through Race to the Top Assessment grants to share any student-level information with the Department or any federal agency.

I applaud your efforts to improve education across the country and to develop next-generation assessments that measure student progress in gaining critical knowledge and skills. I share your anticipation of the value that better information will offer students, parents, and classroom educators. I also support the efforts both Race to the Top Assessment consortia have taken recently to establish data privacy and security policies, as well as model agreements that States can use to clarify State ownership of student data.

As you indicated, the Race to the Top Assessment program does not create any new student-level data collection, and neither the Department nor any other federal agency collects individual student-level assessment data from any State as part of this grant program. The Department FAQs on the Race to the Top Assessment Program reflect this fact and provide additional program guidance available at http://www2.ed.gov/programs/racetothetop-assessment/faq.html.

I also confirm that the Department is not legally authorized to create a national, student-level database, outside of activities specifically authorized and required by Congress such as administering student loans and grants for higher education, and that we have no intention to create such a system. Several statutes forbid such a database (see, *e.g.*, section 9531 of the Elementary and Secondary Education Act, as amended (ESEA) (20 U.S.C. 7911) and section 134 of the Higher Education Act of 1965, as amended (HEA) (20 U.S.C. 1015c(a)).

The Department has provided significant technical assistance around privacy and security, and we remain committed to helping States, districts, and schools protect student privacy. You may find our guidance and recommendations for best practices at http://ptac.ed.gov.

Thank you again for your letter and your work to ensure that every student receives a high-quality education. We agree on the need to continue to protect the privacy of individual student information against inappropriate access or use. I am sending an identical response to the other signers of your letter. If you have further questions or concerns regarding data privacy, please contact Kathleen Styles, Chief Privacy Officer, at Kathleen.Styles@ed.gov. If you have additional questions about the Race to the Top Assessment program, please contact Ann Whalen, Director of Policy and Programs for the Implementation and Support Unit, at Ann.Whalen@ed.gov. I appreciate your suggestions and welcome your continued thoughts, and I look forward to working with you and your colleagues on behalf of students.

Sincerely,

Arne Duncan