

MEMORANDUM OF SUPPORT

Date: April 9, 2025

To: All Assembly Members, New York State Assembly; All Senators, New York State Senate;
Governor Kathy Hochul

From: The Legal Aid Society

Re: The Legal Aid Society's Memorandum in Support of School Biometrics Ban ([A.6720 Simone](#) / [S.3827 Hoylman-Sigal](#))

The Legal Aid Society supports the School Biometrics Ban (A.6720 Simone / S.3827 Hoylman-Sigal) and urges the legislature to pass, and the Governor to sign, this bill.

Since 1876, the Legal Aid Society has provided free legal services to New York City residents who are unable to afford private counsel. Annually, through our criminal, civil, and juvenile offices, our staff handles approximately 300,000 cases for low-income families and individuals. In addition to representing individual clients, the Legal Aid Society works to advance systemic change through affirmative litigation and policy advocacy.

Students' educational and privacy rights are of the utmost importance to the Legal Aid Society, which fights in New York courthouses and communities on behalf of children, adolescents, and their families. While the Legal Aid Society opposes the weaponization of privacy-invasive facial recognition technologies against people of all ages, we recognize the unique harms that such technologies can have when deployed in elementary and secondary educational settings. Students know well that their schools' surveillance tools can be used to discipline them and their friends.¹ Some fear their data will be shared with law enforcement, used against them by future employers or college admissions officers, used to track their inquiries about reproductive healthcare or gender-affirming care, or used against immigrant students.² These fears can limit or "chill" students from expressing themselves fully, which impedes their natural growth and learning processes.³

The Legal Aid Society believes facial recognition has no place in schools and emphatically supports the School Biometrics Ban (A.6720/S.3827). This bill codifies the existing regulatory ban on biometrics in schools. Specifically, it forbids public, private, and charter elementary and secondary schools in New York from purchasing or utilizing biometric identifying technology, except for fingerprint identification for prospective employees where written consent is given.

¹ *Digital Dystopia*, ACLU, 2023, at 21, https://assets.aclu.org/live/uploads/publications/digital_dystopia_report_aclu.pdf.

² *Id.*

³ *Why You Should Be Worried About Facial Recognition in Educational Spaces*, PRIVACY INTERNATIONAL, Oct. 2024, at 16–17, <https://privacyinternational.org/sites/default/files/2024-11/Briefing%20with%20graphic.pdf>.

The New York State Office of Information Technology Services (ITS) conducted an extensive study on the use of biometric identifying technology in schools and ultimately concluded that “the risks of the use of [facial recognition] in an educational setting may outweigh the benefits.”⁴ In September 2023, the Commissioner of Education responded to this report by creating regulations that banned the use of facial recognition and other biometrics in schools. A.6720/S.3827 would simply codify this ban, ensuring this protection for students lasts.

This bill is particularly necessary given the well-documented biases baked into the artificial intelligence on which facial recognition systems operate. Facial recognition systems may be up to 99 percent accurate on white men,⁵ but can be wrong more than one-in-three times for women of color.⁶ And since these systems are often programmed to recognize only two genders, they leave transgender and nonbinary individuals invisible and subject to misidentification.⁷ Concerningly, facial recognition technology has even higher inaccuracy rates when used on students.⁸ The consequences of this inaccuracy for students of color, transgender students, and nonbinary students “will range from m inconvenient, such as barring students of color from checking out library books, to extremely damaging, such as criminal investigations.”⁹ Additionally, when facial recognition is used in an attempt to monitor, for example, students’ engagement in class, students with disabilities and students from different cultural backgrounds might be flagged as disengaged or confused based on misinterpretations of their facial expressions.¹⁰

As the primary defender in New York City, the Legal Aid Society is acutely aware of the longstanding racial, socioeconomic, and gender-based biases in education and the criminal legal system, and how they facilitate the school-to-prison pipeline. The use of facial recognition systems in schools exacerbates existing inequities and endangers the very students it purports to protect.

⁴ *Biometric Identifying Technology in Schools*, NEW YORK STATE OFFICE OF INFORMATION TECHNOLOGY SERVICES, Aug. 7, 2023, <https://its.ny.gov/system/files/documents/2023/08/biometrics-report-final-2023.pdf>.

⁵ Steve Lohr, *Facial Recognition is Accurate, if You’re a White Guy*, NEW YORK TIMES, Feb. 9, 2018, <https://www.nytimes.com/2018/02/09/technology/facial-recognition-race-artificial-intelligence.html>.

⁶ Joy Buolamwini and Timnit Gebru, “Gender Shades: Intersectional Accuracy Disparities in Commercial Gender Classification,” in *Conference on Fairness, Accountability and Transparency*, pp. 77-91, PMLR, 2018, <http://proceedings.mlr.press/v81/buolamwini18a/buolamwini18a.pdf>.

⁷ Rachel Metz, *AI Software Defines People as Male or Female. That’s A Problem*, CNN BUSINESS, Nov. 21, 2019, <https://www.cnn.com/2019/11/21/tech/ai-gender-recognition-problem/index.html>.

⁸ Patrick Grother, Mei Ngan, and Kayee Hanaoka, *Ongoing Face Recognition Vendor Test (FRVT) Part 2: Identification*, NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY, U.S. DEP’T OF COMMERCE, Nov. 2018, <https://nvlpubs.nist.gov/nistpubs/ir/2018/NIST.IR.8238.pdf>.

⁹ Claire Galligan, Hannah Rosenfeld, Molly Kleinman, and Shobita Parthasarathy, *Cameras in the Classroom: Facial Recognition Technology in Schools*, U. MICH. SCIENCE, TECHNOLOGY, AND PUBLIC POLICY PROGRAM, 2020, at 31, https://stpp.fordschool.umich.edu/sites/stpp/files/uploads/file-assets/cameras_in_the_classroom_full_report.pdf.

¹⁰ Daniel Nuccio, *New Facial Recognition AI Classroom Management Tool Prompts Concerns*, THE COLLEGE FIX, Apr. 8, 2024, <https://www.thecollegefix.com/new-facial-recognition-ai-classroom-management-tool-prompts-concerns/>.

Voice recognition software, another widely known biometric surveillance tool, echoes this pattern of poor accuracy for those who are nonwhite, non-male,¹¹ or young,¹² which underlies the futility of employing these faulty tools in New York classrooms.

Collecting and storing biometric data in schools also threatens to expose children to unnecessary and preventable privacy and safety risks. This data is vulnerable to a variety of security threats,¹³ including hacking, data breaches and insider attacks, and schools tend to have inadequate cybersecurity practices,¹⁴ putting children at great risk of being tracked and targeted by malicious actors.¹⁵ There is also the danger that districts could send the biometric information captured by facial recognition technology to law enforcement or immigration authorities, like ICE, putting undocumented students and undocumented families of American children at risk. Normalizing biometric surveillance will bring about a bleak future for kids at schools across the state.

Importantly, surveilling students using facial recognition will not make students safer.¹⁶ While some have advocated its use to address school shootings, because the majority of school shootings are committed by current students or alumni of the school in question, facial recognition systems would likely not flag these faces as suspicious and therefore would not provide students with any additional protections.¹⁷

Banning facial recognition in schools is necessary to protect New York children and teenagers from biased, ineffective, insecure, and dangerous surveillance technologies. We urge the legislature to pass, and the Governor to sign, the School Biometrics Ban (A.6720/S.3827).

¹¹ Rachael Tatman and Conner Kasten, "Effects of Talker Dialect, Gender & Race on Accuracy of Bing Speech and YouTube Automatic Captions," in *Interspeech*, pp. 934-938, 2017, https://www.isca-speech.org/archive_v0/Interspeech_2017/pdfs/1746.PDF.

¹² Patricia Scanlon, *Voice Assistants Don't Work for Kids: The Problem with Speech Recognition in the Classroom*, TECHCRUNCH, Sept. 9, 2020, <https://techcrunch.com/2020/09/09/voice-assistants-dont-work-for-kids-the-problem-with-speech-recognition-in-the-classroom>.

¹³ *How Biometrics Are Attacked*, *Biometric Recognition and Authentication Systems*, NATIONAL CYBER SECURITY CENTRE, Jan. 24, 2019, <https://www.ncsc.gov.uk/collection/biometrics/how-biometrics-are-attacked>.

¹⁴ Rachael Altman, *Cybersecurity Concerns Escalate in the Education Industry*, G2, Nov. 2, 2021, <https://www.g2.com/articles/cybersecurity-concerns-in-the-education-industry>.

¹⁵ Benjamin Herold, *FBI Raises Alarm on Education Technology and Security of Students*, EDWEEK, Sept. 18, 2018, <https://www.edweek.org/leadership/fbi-raises-alarm-on-education-technology-and-security-of-students/2018/09>

¹⁶ *Biometric Identifying Technology in Schools*, NEW YORK STATE OFFICE OF INFORMATION TECHNOLOGY SERVICES, Aug. 7, 2023, at 17, <https://its.ny.gov/system/files/documents/2023/08/biometrics-report-final-2023.pdf> (finding no evidence that facial recognition has ever prevented violence in a school environment).

¹⁷ Ava Kofman, *Face Recognition Is Now Being Used in Schools, But It Won't Stop Mass Shootings*, INTERCEPT, May 30, 2018, <https://theintercept.com/2018/05/30/face-recognition-schools-school-shootings>.