

Summary Response to U.S. House Education and Workforce Committee March Hearing “Strengthening Education Research and Privacy Protections to Better Serve Students”

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INTRODUCTION:¹

The committee’s recent hearing, “Strengthening Education Research and Privacy Protections to Better Serve Students, comes at a critical time. With the Family Education Rights and Privacy Act (FERPA) being outdated; the Strengthening Research Through Education Act (SETRA) continuing dossier-building via state longitudinal databases; and the expanded efforts to psychologically manipulate and profile our children via social emotional and mindset assessments in standards, curriculum and tests; it is extremely important that these bills be updated. Government data-gathering on innocent children must be significantly pared back in content and kept to the local level, and privacy protections strengthened. The issue is not just data security, but the type and amount of data that is gathered.

POSITIVES:

- Rachel Stickland² from The Parent Coalition for Student Privacy, an organization that receives no government or special-interest funding, founded by and composed of parents, which brought down the Bill Gates inBloom operation³, gave excellent testimony despite being outnumbered by three Big Data witnesses. (See NEGATIVES below).
- Some of the questions by members (particularly Mrs. Foxx, Mr. Thompson, Mr. Brat, and Ms. Bonamici) indicated a good understanding of the dangers of extensive student data-collection and took parental concerns seriously.
- Ms. Stickland’s description of the State Longitudinal Data System (SLDS) was excellent and correct; especially the part about the SLDS’s resulting in dossiers from birth. This includes genetic data, at least in Rhode Island.⁴ In addition, although the funding push for SLDS occurred during the stimulus bill, in the Race to the Top grants, and in the America COMPETES Act, it was codified in ESRA in 2002 and continued in SETRA, which is why the data-transparency language she mentioned is so critical for both SETRA and FERPA. If, as Dr. Hannaway claimed, the data is in fact completely anonymized, this should not be a problem.
- Ms. Stickland gave a crucial response to Mr. Heck’s excellent question about parents’ concern regarding “new measurements of student achievement that doesn’t necessarily have academic purposes – grit and tenacity and those sorts of things, the sort of emotional factors.” Indeed, there is much evidence⁵ that non -academic social emotional teaching is being promoted through Common Core standards, which means there is psychological data-gathering happening in the federally mandated mostly Common Core state tests.

¹ A more detailed document with extensive quotes and references is available at <http://edlibertywatch.org/wp-content/uploads/2014/11/Response-to-US-House-Privacy-and-Research-Hearing.pdf>

² http://edworkforce.house.gov/UploadedFiles/Testimony_Stickland.pdf

³ <http://www.studentprivacymatters.org/background-of-inbloom/>

⁴ <http://edlibertywatch.org/2013/08/feds-resolute-yet-tone-deaf-on-data-collection-part-1/>

⁵ <http://www.flstopccoalition.org/files/45ACDEA5-46D6-408B-9934-4D8BE4B74449--8035CC3C-673E-49B4-8293-E43078236473/psychosocial-manipulation-in-the-common-core-standards-and-aligned-tests-and-curriculum.pdf>

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NEGATIVES AND MISSED OPPORTUNITIES:

- There was an incontrovertible and substantial Big Data bias of the rest of the panel. The other panelists essentially proclaimed entitlement to this data with few if any hindrances:
 - Neil Campbell of the Foundation for Excellence, which is funded by many of the corporations behind the Data Quality Campaign and that will profit handsomely from easy access to student data.
 - Dr. Jane Hannaway, who makes her living by doing research on student data.
 - Robert Swiggum, Chief Information Officer of the Georgia Department of Education, who has a vested interest in obtaining as much data as possible without the inconvenience of parental consent
- There was almost no discussion of the elephant in the room – the social emotional data-mining in ESSA, SETRA, the NAEP, etc.⁶ The social emotional research language in SETRA in Sec. 132 is unacceptable both to parents and even to education researchers such as Dr. Angela Duckworth,⁷ who no longer supports gathering this data for accountability purposes due to subjectivity and validity concerns. There is also concern from school board members in California,⁸ the state leading the way in trying to implement this very unwise idea funded by a federal education grant.
- There seemed to be little awareness or concern by the committee about the whole section of FERPA regulations allowing sharing of personally identifiable student information (PII) with the federal government and third parties without parental consent.
- These same regulations say that (PII) may be “re-disclosed” to other entities and be used for “predictive testing” without consent, again justifying the concerns of parents about loss of control over their children’s longitudinal data that can have life-changing consequences.
- Closely related to this “re-disclosure” concern are the FERPA regulations allowing the use of PII for “predictive testing.” To have this subjective, unvalidated socioemotional data not only stay in a longitudinal database that follows a student for life, but also be used to predict future academic or workforce performance used for critical life decisions appalls and horrifies parents when they learn of it.
- There was no mention of the two recent hearings convened by the Oversight and Government Reform Committee⁹ showing the deplorable state of data security at the US Department of Education (USED). A November Inspector General’s report showed how vulnerable that data is to a breach that would dwarf the Office of Personnel Management data breach.

CONCLUSIONS AND RECOMMENDATIONS:

1. Student privacy and parental consent should always be considered pre-eminent over the research desires of the government or private sector, especially in the realm of psychological profiling.
2. The government has no constitutional, statutory, or moral right to collect highly personal and sensitive socioemotional data on our children.
3. Government’s having this kind of data poses major dangers to freedom of thought, as when California prisoners were forcibly treated with antipsychotics because their so-called “extreme homophobia” was considered delusional.¹⁰
4. According to data presented to this committee by the Cato Institute several years ago, federal involvement in education has yielded either stagnant or declining academic performance:

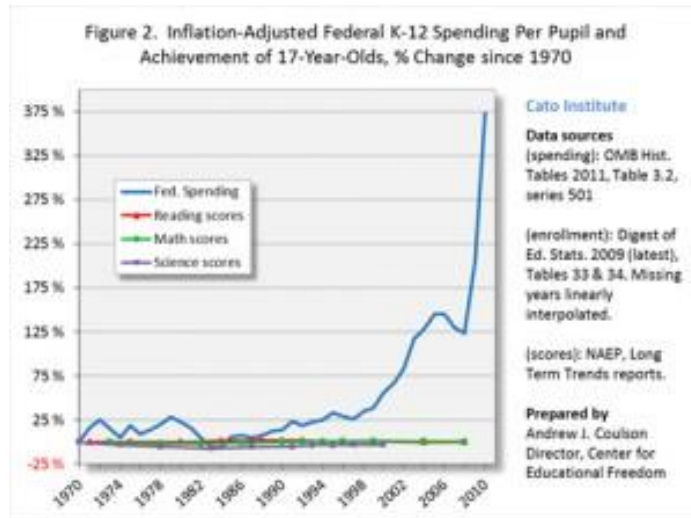
⁶ <http://edlibertywatch.org/2015/06/1294/>

⁷ http://www.nytimes.com/2016/03/01/us/testing-for-joy-and-grit-schools-nationwide-push-to-measure-students-emotional-skills.html?_r=0

⁸ <http://www.ocregister.com/articles/data-708778-student-education.html>

⁹ <https://oversight.house.gov/hearing/u-s-department-of-education-information-security-review/> and <https://oversight.house.gov/hearing/u-s-department-of-education-information-security-review/>

¹⁰ <http://www.washingtonpost.com/wp-dyn/content/article/2005/12/09/AR2005120901938.html?referrer=emailarticle>



5. The vast majority of federal education programs are unconstitutional because the entire USED is unconstitutional. Most of these programs should be eliminated, with any remaining that are demonstrably effective and constitutional, block-granted to the states.
6. Government policy-makers routinely ignore studies that refute the pet theories of the progressive education establishment (*e.g.*, studies showing the ineffectiveness and or harm of current government education and child social programs¹¹). So why must we fund so many studies in the first place?
7. **The committee should therefore:**
 - Remove the social emotional research language from Section 132 of SETRA.
 - Prohibit social emotional data-gathering and the use of data for predictive testing in the FERPA reauthorization.
 - Include in the FERPA reauthorization strict data-transparency language, and update the data-security language per the recommendations of technical experts such as Dr. Joel Reidenberg or Barmak Nassirian .
 - Require third-party software and testing vendors to notify parents of what data is collected on students and how it is used.
 - Allow compensation for students whose identity and privacy is compromised, not just penalties for researchers or private vendors.
 - Close the curriculum and assessment loophole for invasive surveys in PPRA.
 - Demand that USED immediately repairs the federal data-security failures found in the Inspector General's recent report and uncovered by the House Oversight Committee.
 - Strongly consider a moratorium on further federal research until programs already shown to ineffective and/or harmful are transformed or eliminated and until effective measures are actually implemented.

¹¹ <http://edlibertywatch.org/2015/11/compilation-analysis-of-early-childhood-research-regarding-effect-fade-out-academic-emotional-harm/>