

Issues of Data Privacy, Parental Rights, and Federally Sponsored Psychological Screening in the Education Sciences Reform Act (ESRA)/Strengthening Education Through Research Act (SETRA) in the Context of Current Federal Law and Programs

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#### SUMMARY OF MAJOR ISSUES AND RECOMMENDATIONS:

1) SETRA seeks to expand federal psychological profiling of our children.

**Recommendation:**

- The language on page 28 expanding the duties to research social emotional learning should be removed as the federal government has no real authority to be involved in education, so the collection of data and research on the thoughts, feelings, attitudes, and behaviors of free American citizens, especially innocent children is completely unacceptable and without justification.
- Further protections of those thoughts, feelings, attitudes, and behaviors of students need to be put in place and language is offered in Appendix A.

2) SETRA only appears to prohibit a national database.

**Recommendations:**

- The feed of personally identifiable information (PII) from state longitudinal databases currently allowed by the Family Educational Rights and Privacy Act (FERPA), and required by the national testing memoranda of understanding, and de facto linking of the state databases into a national database needs to be dismantled.
- FERPA needs to be totally revamped to not gather so much data in general and especially without parental consent<sup>1</sup>.
- The language on any kind of statistical partnership should be removed.

3) There is continued reliance on a severely outdated and weakened FERPA .

**Recommendations:**

- Before SETRA is passed, FERPA and its regulations should be totally revamped. Suggested language that is being worked on at the state level is in a separate attachment to generate ideas. The goals are to ensure that -
  - No personally identifiable student information from early childhood through the workforce should be allowed to go to the federal government for any reason, except possibly for financial data for college loans or other programs.
  - The penalties in place at the time ESRA was written are put back into law not only for government employees, but for private entities as well.
  - No personally identifiable information goes to international agencies such as those involved in PISA or TIMSS.

<sup>1</sup> For more details, please see the FERPA discussion starting on page and also at <http://edlibertywatch.org/2014/01/formal-response-to-the-chief-state-school-officers-letter-on-student-data-privacy/>

- In addition, we agree with and support recommendations on FERPA from Fordham law Professor Joel Reidenberg from his US House Education and Workforce testimony on February 12, 2015 regarding FERPA<sup>2</sup> and believe he should be consulted on any FERPA rewrite:
  - Protect all student information and not just “educational records” as conceived in 1974
  - Apply directly to vendors
  - Authorize the use of student information for specified educational uses and prohibit non-educational uses of student information
  - Expand transparency obligations and add data security requirements
  - Provide a range of enforcement remedies
  - Encourage states to create Chief Privacy Officers

4) Reliance on PPRA that allows sensitive data prohibited in surveys to be collected in curriculum and assessments.

**Recommendation:**

- Change PPRA to not fund any program that includes assessments or curriculum that assesses any of the PPRA protected areas, especially the psychology/social emotional area.

**INTRODUCTION AND STATUS OF CURRENT LAW (ESRA)**

The Education Sciences Reform Act (ESRA) is undergoing reauthorization. The strengths and weaknesses of the proposed replacement, The Strengthening Education through Research Act (SETRA), are discussed and recommendations are made.

The type and amount of personal, family, and non-academic data collected by the schools, reported in state longitudinal databases and used for research by the federal government was stimulated by the passage of the Education Sciences Reform Act of 2002 and has grown rapidly since then. Loss of student and family data privacy has been accelerated by the proliferation of education programs funded by the federal government, especially in the early childhood realm and including home visiting programs<sup>3</sup> that collect a plethora of medical, psychological, and family data and the effort to integrate standards, including psychosocial and non-academic standards; programs; and data literally from “cradle to career” through P-20W education program integration and state longitudinal databases that were part of the Head Start reauthorization of 2007<sup>4</sup> and required by the Race to the Top and Race to the Top Early Learning Challenge<sup>5</sup> grant programs starting in 2009. Some of the grantees are even integrating newborn screening genetics data.<sup>6</sup>

ESRA is up for reauthorization. Current law allows the National Center for Education Statistics (NCES) to collect data "by other offices within the Academy and by other Federal departments, agencies and instrumentalities." and "enter into interagency agreements for the collection of statistics." That data covers from preschool through the work life of every American citizen and includes “the social and economic status of children, including their academic achievement,” meaning every aspect of their lives and the lives of their families. This combined with the weakening of the Family Educational Rights and Privacy Act (FERPA) to be described below is a great danger to the privacy of American families and makes the data collection by the IRS and NSA look tame.

<sup>2</sup> [http://edworkforce.house.gov/uploadedfiles/reidenberg\\_testimony\\_final.pdf](http://edworkforce.house.gov/uploadedfiles/reidenberg_testimony_final.pdf)

<sup>3</sup> MN Senate Health and Human Services Testimony on issues with Home Visiting <http://edlibertywatch.org/wp-content/uploads/2011/03/Home-Visiting.ppt>

<sup>4</sup> A Federal Curriculum for Preschoolers - <http://www.edwatch.org/updates07/050107-fcpsw.htm>

<sup>5</sup> Government Preschool Tyranny – “You Ain’t Seen Nothing Yet!” - <http://edlibertywatch.org/2012/02/government-preschool-tyranny-you-aint-seen-nothing-yet/>

<sup>6</sup> Ibid and Rep. Bachmann Stands Against Newborn Genetic Data Collection Starting to be Used in CCSS Databases <http://edlibertywatch.org/2014/06/rep-bachmann-stands-against-newborn-genetic-data-collection-starting-to-be-used-in-ccss-databases/>

In addition, although ESRA makes an effort to prohibit a national database of individually identifiable student data in section 182 by saying, “Nothing in this title may be construed to authorize the establishment of a nationwide database of individually identifiable information on individuals involved in studies or other collections of data under this title;” that language appears to be negated by this language in Section 157:

“The Statistics Center may establish 1 or more ***national cooperative education statistics systems*** for the purpose of producing and maintaining, with the cooperation of the States, comparable and uniform information and data on early childhood education, elementary and secondary education, postsecondary education, adult education, and libraries, that are useful for policymaking at the Federal, State, and local levels.” (Emphasis added).

That language is even more worrisome in light of the grants to fund and promote state longitudinal databases in section 208 of ESRA, and since then in the American Recovery and Reinvestment Act (ARRA) and even more heavily promoted in the Race to the Top K-12<sup>7</sup> and Early Learning Challenge programs. This also includes funding of the very invasive, ineffective home visiting programs funded in the Affordable Care Act and promoted in the president’s preschool program proposal<sup>8</sup> and in Race to the Top Early Learning Challenge, as well as the current Head Start and Early Head Start programs, that collect reams of personal and private family and medical data as well as the fourth amendment issues and promotion of government views of child rearing philosophy.

#### ISSUES IN SETRA WITH RECOMMENDATIONS:

##### 1) SETRA seeks to expand federal psychological profiling of our children.

Language on page 28, lines 16-19 in Section 132 says:

““and which may include research on social and emotional learning, and the acquisition of competencies and skills, including the ability to think critically, solve complex problems, evaluate evidence, and communicate effectively,” after “gap,”;

Here are some examples of efforts to integrate social emotional concepts into academics related to the Common Core State Standards<sup>9</sup>:

- “In national policy, there is increasing attention on 21st-century competencies (which encompass a ***range of noncognitive factors***, including grit), and persistence ***is now part of the Common Core State Standards*** for Mathematics.”<sup>10</sup> (Emphasis added.)
- “ASCA [American School Counselors Association] ***Mindsets & Behaviors*** align with specific standards from the Common Core State Standards through connections at the competency level. (Emphasis added)”<sup>11</sup> (Emphasis added)

<sup>7</sup>Race To The Top: Federal Control of Education On Steroids - <http://edlibertywatch.org/2010/02/race-to-the-top-federal-control-of-education-on-steroids/>

<sup>8</sup> State of the Union Statistics Mislead on Preschool Benefits - <http://edlibertywatch.org/2013/02/790/>

<sup>9</sup> Many more examples and much more detailed discussion on this topic is available in the paper *Psychosocial Manipulation in the Common Core Standards and Aligned Tests and Curriculum* available at <http://bit.ly/1Je2Alt>.

<sup>10</sup> U.S. Department of Education Office of Technology – Promoting Grit, Tenacity, and Perseverance: Critical Factors for Success in the 21<sup>st</sup> Century – February 2013 removed from <http://www.ed.gov/edblogs/technology/files/2013/02/OET-Draft-Grit-Report-2-17-13.pdf> but now available at <http://www.flstopccoalition.org/files/F6A22756-73E4-4406-BC0F-F9E8340A37C6--E36F73DA-E434-44F5-B829-1C27BAA8532F/grit-tenacity-and-perseverance-feb-2013-doe.pdf>

<sup>11</sup> American School Counselors Association - Change Behaviors by Changing Mindsets -

<https://www.schoolcounselor.org/magazine/blogs/november-december-2014/change-behaviors-by-changing-mindsets>

- The now Common Core aligned *SpringBoard* English Language Arts curriculum, having been previously adopted by several large Florida counties, such as Orange County<sup>12</sup> and Hillsborough County,<sup>13</sup> is now in use in over 40 Florida districts<sup>14</sup>, and the company bid for the 2013-14 Florida statewide textbook adoption in grades 6-8 and 9-12.<sup>15</sup> It is also used in several large California districts<sup>16</sup>. This English curriculum is published by the College Board, now led by chief Common Core English architect David Coleman and responsible for the SAT college entrance exam, the GED high school graduation test, and the AP tests. This curriculum contains many controversial, non-cognitive, psychosocial survey assessments scattered throughout the curriculum that will become part of children’s academic record for life:

- Activity 4.9 – Justice and Moral Reasoning<sup>17</sup> with items such as:
  - I should pay all my taxes because I could go to jail if I do not
  - people will think of me as a good citizen
  - my taxes along with those of others will help to pay for services used by all

Depending on whether students respond with a majority of “a,” “b,” or “c” responses they are forced to rate themselves as “pre-conventional,” “conventional,” and “post-conventional” based on psychologist Lawrence Kohlberg’s Three Levels and Six Stages of Moral Reasoning. This is clearly a psychological test about which parents receive no notification and for which their consent is not asked.

- According to the Race to the Top Early Learning Challenge grant applications, several states are aligning their preschool standards and their K-12 standards, these standards teach psychological issues, which are then used for “screening” young children for mental health issues, even though the screening instruments are notoriously inaccurate. The Work Sampling System is based on the National Head Start Child Outcome Framework and the early learning standards used in many states and contains many subjective psychosocial items<sup>18</sup>:



<sup>12</sup> [http://www.fldoe.org/board/meetings/2007\\_02\\_20/OrangeStRep.pdf](http://www.fldoe.org/board/meetings/2007_02_20/OrangeStRep.pdf)

<sup>13</sup> Marilyn Brown – *New Curriculum Becomes A SpringBoard For Teacher Criticism* - Tampa Tribune 3/6/09  
<http://tbo.com/news/education/new-curriculum-becomes-a-springboard-for-teacher-criticism-113138>

<sup>14</sup> <http://springboardprogram.collegeboard.org/florida/>

<sup>15</sup> See detailed bids at <http://www.fldoe.org/core/fileparse.php/5574/urlt/2013-14draftsbr.pdf>

<sup>16</sup> [http://www.susanohanian.org/show\\_atrocities.php?id=9381](http://www.susanohanian.org/show_atrocities.php?id=9381)

<sup>17</sup> *SpringBoard English Textual Power Level 5*- College Board, p, 256, documentation available on request.

<sup>18</sup> Work Sampling 5<sup>th</sup> Edition ( newest version) taken from

video: <https://wsoz.pearsonclinical.com/wsoTeacherApp/teachApp/login/showLogin.html?product=work> at 4:06 last accessed 2/11/15

According to the Tenth Amendment, the federal government has no constitutional authority to be involved in education at all. The amount of data collected on individual children, families, and teachers via the US Department of Education through this law and the constitutional violations of FERPA and PPRA is appalling and a complete violation of the Fourth Amendment. To then give the federal government to right to research the thoughts, feelings, attitudes, and behaviors of free American citizens, especially innocent children is completely unacceptable and without justification.

**Recommendation:**

- **Remove the “social emotional” language on page 28.**

**2) SETRA only appears to prohibit a national database.**

As mentioned above, ESRA prohibits a national student database, but then seems to contradict itself by setting up “***national cooperative education statistics systems***.” SETRA in Section 157 then changes the phrase to “cooperative education statistics partnerships” and then inserts “reviewing and improving, with the voluntary participation”; and by strikes “comparable and uniform” and inserting “data quality standards, which may include establishing voluntary guidelines to standardize.” Finally, it says, “No student data shall be collected by the partnerships established under this section, nor shall such partnerships establish a national student data system.” While this appears to be excellent language, it unfortunately doesn’t do anything to stop the egregious loss of privacy that has happened since ESRA established the national cooperative statistics systems and state longitudinal databases in 2002, which have been enhanced by American Recovery and Reinvestment Act (ARRA, Stimulus), Race to the Top and the America COMPETES Act.

**Recommendations:**

- **The feed of individually identifiable data from state longitudinal databases currently allowed by FERPA, and required by PARCC and SBAC national testing memoranda of understanding, and de facto linking of the state databases into a national database need to be dismantled.**
- **FERPA needs to be totally revamped to not gather so much data in general and especially without parental consent<sup>19</sup>.**
- **The language on any kind of statistical partnership should be removed.**

**3) There is continued reliance on a severely outdated and weakened FERPA.**

Both ESRA and SETRA refer to FERPA (20 USC 1232g) in Section 183 and requires data privacy to be handled according to that law. However, FERPA passed in 1974 long before the presence of interoperable databases and cloud computing. It also only discusses sanctions on entities that mishandle the data and those, which used to include fines and imprisonment<sup>20</sup>, were severely weakened when ESRA was passed in 2002. Students, families, and teachers, whose sensitive personal and family data about everything from “social and emotional” issues to genetic data in newborn screening data have no redress. According to an investigation by Politico<sup>21</sup>, education technology companies are “**scooping up as many as 10 million unique data points on each child, each day.**” (Emphasis added).

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<sup>19</sup> For more details, please see the FERPA discussion starting on this same page and also at <http://edlibertywatch.org/2014/01/formal-response-to-the-chief-state-school-officers-letter-on-student-data-privacy/>

<sup>20</sup> <http://uscode.house.gov/statviewer.htm?volume=108&page=4034>

<sup>21</sup> <http://www.politico.com/story/2014/05/data-mining-your-children-106676.html>

In addition to these significant concerns, FERPA has been severely weakened by the Obama administration via regulatory fiat to weaken consent requirements and broaden access to data without consent:

- An “Authorized representative means **any entity or individual designated by a State or local educational authority** or an agency headed by an official listed in §99.31(a)(3) to conduct—with respect to Federal- or State-supported education programs—any audit or evaluation, or any compliance or enforcement activity in connection with Federal legal requirements that relate to these programs.”<sup>22</sup> (Emphasis added)
- There is an entire section of the FERPA regulations that discuss how to disclose student data without parental consent<sup>23</sup> and allow that disclosure to any entity that has “**legitimate educational interests**” that include “ **A contractor, consultant, volunteer, or other party** to whom an agency or institution has outsourced institutional services or functions” (Emphasis added).
- That same section of FERPA regulations would allow districts or states in the new “cooperative education statistics partnerships” or states in the national Common Core testing consortia<sup>24</sup> to enter into agreements with various entities listed in the regulations and then those entities “rediscovering” this data to officials that include the Secretary of Education in order to “improve instruction” or “develop, validate, or administer predictive tests.”<sup>25</sup>
- In addition, PARCC and SBAC signed memoranda agreeing to provide individually identifiable data to the USED:

“Comply with and where applicable coordinate with the ED staff to fulfill the program requirements established in the RTTA Notice Inviting Applications and the conditions on the grant award, as well as to this agreement, including, but not limited to working with the Department to develop a strategy to make **student - level data that results from the assessment system available on an ongoing basis for research, including for prospective linking, validity, and program improvement studies**; subject to applicable privacy laws”<sup>26</sup> (Emphasis added)

This completely debunks the idea put forth by PARCC and SBAC<sup>27</sup>, Common Core proponents and the NCES<sup>28</sup> that student data given to USDOE is in aggregate.

Given this language in the FERPA regulations, personally identifiable information could also be ending up in the hands of international agencies that do the international tests and surveys like TIMSS and PISA authorized in section 152 of ESRA and SETRA.

<sup>22</sup> Code of Federal Regulations – §99.3 What definitions apply to these regulations? - <http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&sid=11975031b82001bed902b3e73f33e604&rgn=div5&view=text&node=34:1.1.1.1.33&idno=34%2334:1.1.1.1.33.4.132.1#34:1.1.1.1.33.1.134.3>

<sup>23</sup> Title 34: Education PART 99—FAMILY EDUCATIONAL RIGHTS AND PRIVACY – § 99.30 Under what conditions is prior consent required to disclose information? <http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&sid=11975031b82001bed902b3e73f33e604&rgn=div5&view=text&node=34:1.1.1.1.33&idno=34%34:1.1.1.1.33.4.132.1>

<sup>24</sup> The federally funded and supervised Common Core testing consortia are the Partnership for Assessment of Readiness for College and Careers (PARCC) and the Smarter Balance Assessment Consortium (SBAC) who have both signed agreements to submit PII to USED.

<sup>25</sup> Ibid

<sup>26</sup> COOPERATIVE AGREEMENT Between the U.S. DEPARTMENT OF EDUCATION and the PARTNERSHIP FOR ASSESSMENT OF READINESS OF COLLEGE AND CAREERS 1/7/11 PR/Award #: S395B10001 and S395B10001A

<http://www2.ed.gov/programs/racetothetop-assessment/parcc-cooperative-agreement.pdf>

<sup>27</sup> [http://blogs.edweek.org/edweek/curriculum/USED%2520Letter\\_FINAL\\_01-23-14-3.pdf](http://blogs.edweek.org/edweek/curriculum/USED%2520Letter_FINAL_01-23-14-3.pdf)

<sup>28</sup> <http://edlibertywatch.org/2013/08/feds-resolute-yet-tone-deaf-on-data-collection-part-1/>

Although the language in Section 152 is a big step in the right direction, it still requires trust in the federal government to protect privacy, which given their track record in privacy (IRS, NSA, etc.) and the US DOE's broken statutory promises of not interfering in standards, assessments, and curriculum is a very tall order.

#### Recommendations:

- **Before SETRA is passed, FERPA and its regulations should be totally revamped. Suggested language that is being worked on at the state level is in a separate attachment to generate ideas.**

**The goals are to ensure that -**

- **No personally identifiable student information from early childhood through the workforce should be allowed to go to the federal government for any reason, except possibly for financial data for college loans or other programs. As an example, language to this effect was amended into the Student Success Act for the state report to the Secretary under ESEA:**

“(E) DATA — All personal, private student data shall be prohibited from use beyond assessing student performance as provided for in subparagraph (C). The State’s annual report shall only use such data as sufficient to yield statistically reliable information, and does not reveal personally identifiable information about individual students.”

- **The penalties in place at the time ESRA was written should be put back into law not only for government employees but for private entities as well:**

(2) **EMPLOYEE OR STAFF VIOLATIONS.**—Whoever, being or having been an employee or staff member of the Department, having taken or subscribed the oath of office, or having sworn to observe the limitations imposed by subsection (a)(2), knowingly publishes or communicates any individually identifiable information (as defined in paragraph (5)(A)), the disclosure of which is prohibited by subsection (a)(2), and that comes into such employee or staff's possession by reason of employment (or otherwise providing services) under this title, shall be found guilty of a class E felony and imprisoned for not more than five years, or fined as specified in section 3571 of title 18, United States Code, or both.

**No personally identifiable information goes to international agencies such as those involved in PISA or TIMSS.**

- **In addition, I agree with the recommendations on FERPA from Fordham law Professor Joel Reidenberg from his US House Education and Workforce testimony on February 12, 2015 regarding FERPA<sup>29</sup> and believe he should be consulted on any FERPA rewrite:**
  - **Protect all student information and not just “educational records” as conceived in 1974**
  - **Apply directly to vendors**
  - **Authorize the use of student information for specified educational uses and prohibit non-educational uses of student information**
  - **Expand transparency obligations and add data security requirements**
  - **Provide a range of enforcement remedies**
  - **Encourage states to create Chief Privacy Officers**

<sup>29</sup> [http://edworkforce.house.gov/uploadedfiles/reidenberg\\_testimony\\_final.pdf](http://edworkforce.house.gov/uploadedfiles/reidenberg_testimony_final.pdf)

4) **Reliance on PPRA that allows sensitive data prohibited in surveys to be collected in curriculum and assessments –**

Both ESRA and SETRA rely also on the PPRA (20 USC 1232h) to protect sensitive information such as:

- 1) political affiliations or beliefs;
- 2) mental or psychological problems, psychological resources, mindsets, learning strategies, effortful control, attributes, dispositions, social skills, attitudes, or intrapersonal resources;
- 3) sexual behavior or attitudes;
- 4) illegal, antisocial, self-incriminating, or demeaning behavior;
- 5) critical appraisals of another individual with whom a student has a close family relationship;
- 6) legally recognized privileged or analogous relationships, such as those with a lawyer, physician, or clergyman;
- 7) religious practices, affiliations, or beliefs; or
- 9) income or other income-related information except that required by law to determine eligibility to participate in or receive financial assistance under a program.

However, the law says that these prohibitions do not apply to “curriculum and instructional materials” or to “tests and assessments.” This is especially problematic as related to the social, emotional and psychological realm as discussed above.

**Recommendation:**

- **Change PPRA to not fund any program that includes assessments or curriculum that assesses any of the PPRA protected areas, especially the psychology/social emotional area with language offered in Appendix A and a separate attachment.**



## Appendix A – Suggested Draft Language for a Prohibition on Psychological Testing

### Prohibition on Psychological Testing

#### Section 1:

##### a) Definitions:

- 1) the term “process” or “processing” shall mean to use, access, manipulate, scan, modify, transform, disclose, store, transmit, transfer, retain, aggregate, or dispose of student or teacher data;
- 2) the term “affective computing” shall mean systems and devices that can or attempt to recognize, interpret, process, or simulate aspects of human feelings or emotions;
- 3) the term “psychological resources” shall mean non-cognitive, emotional characteristics, attributes, and skills, including mindsets, learning strategies, and effortful control, used by an individual to address or manage various life situations;
- 4) the term “intrapersonal resources” or “intrapersonal skills” shall mean noncognitive emotional and psychological characteristics and attributes used to manage emotions and attitudes within an individual;
- 5) the term “interpersonal resources” or “interpersonal skills” shall mean noncognitive, emotional, and psychological characteristics and attributes and skills used to manage relationships and interactions among between or among individuals;
- 6) the term “track” shall mean to collect and maintain records of a student’s activities once he exits the educational system, including but not limited to his entrance into and progression through the workforce or the military; and
- 7) the term “predictive modeling” shall mean use of educational data-mining methods to make predictions about future behaviors or performance.

##### b) Notwithstanding any law, statute, or rule, no federal funds shall be spent to support any survey or academic assessment allowing any of the following types of data collection via assessments or any other means, including digitally:

- 1) any data collected via affective computing, including analysis of facial expressions, EEG brain wave patterns, skin conductance, galvanic skin response, heart-rate variability, pulse, blood volume, posture, and eye-tracking;
- 2) any data (including any resulting from state or national assessments) that measure psychological resources, mindsets, learning strategies, effortful control, attributes, dispositions, social skills, attitudes, or intrapersonal resources;
- 3) any data collected through predictive modeling to be used to detect behaviors, beliefs, or value systems, or predicting or forecasting student outcomes.

- 4) any type of psychological data, including assessment of non-cognitive skills or attributes, psychological resources, mindsets, learning strategies, effortful control, attitudes, dispositions, social skills, or other interpersonal or intrapersonal resources collected via any state or national student assessment. The adoption of any state or national assessment collecting any psychological data is strictly prohibited in this state.
- c) No federal funds will be issued to a state agency, district board of education, or PreK-12 education institution that administers any student survey, assessment, analysis, evaluation, or similar instrument that solicits information about the student or the student's family concerning the following:
- 1) political affiliations or beliefs;
  - 2) mental or psychological problems, psychological resources, mindsets, learning strategies, effortful control, attributes, dispositions, social skills, attitudes, or intrapersonal resources;
  - 3) sexual behavior or attitudes;
  - 4) illegal, antisocial, self-incriminating, or demeaning behavior;
  - 5) critical appraisals of another individual with whom a student has a close family relationship;
  - 6) legally recognized privileged or analogous relationships, such as those with a lawyer, physician, or clergyman;
  - 7) religious practices, affiliations, or beliefs;
  - 8) personal or family gun ownership; or
  - 9) income or other income-related information except that required by law to determine eligibility to participate in or receive financial assistance under a program.
- d) No funding will be given for any video monitoring of classrooms for any purpose, including for teacher evaluation, without the approval of the district school board after public hearings and the written consent of the teacher, of all eligible students, and of the parents of all other students in the classroom.
- e) No funding shall be given for any program that allows or promotes schools installing remote camera surveillance software on a school supplied computing device provided to a student or a teacher without the approval of the school board, after a public hearing. No funding shall be given for an LEA for computing devices unless the school board that provides computing devices to students or teachers adopts a policy prohibiting the use of remote camera surveillance software on a school supplied computing device without the written consent of the teacher or a parent or legal guardian of the affected student.