

## Student Psychological Profiling in Federal Education Legislation, Testing, & Policy

Karen R. Effrem, MD – President of Education Liberty Watch & Executive Director of the Florida Stop Common Core Coalition

Uncle Sam is lately wearing a white coat and placing American students on the psychiatrist's couch. The number of federal education bills, tests, programs and other policies promoting indoctrination and assessment of affective attitudes, beliefs, "mindsets," "non-cognitive skills" and other non-academic traits is rapidly and alarmingly proliferating. Here are the most recent and very concerning examples:

- 1) The Every Child Achieves Act (S 1177) – This is the 610 Senate version of the Elementary and Secondary Education Act (ESEA) reauthorization. It is brimming with examples of language involving affective issues of which the following is just a small sample:
  - Training teachers who are not mental health professionals to mentally screen students "for early identification of children with trauma histories, and children with, or at risk of, mental illness."<sup>1</sup>
  - Doing special education (IDEA)-style behavioral monitoring and intervention school-wide without delineation between observation, suggestion, and treatment nor clear methods of parental consent and privacy protection for behavioral information.<sup>2</sup>
  - The federal government is promoting the concept that schools taking on the functions of families and physicians by paying for schools to provide "health care services and integrated student supports to address the physical, mental, and emotional well-being of children."<sup>3</sup>
  - By ascribing affective elements in physical education, such as "the emotional development of every student" this will require psychological testing in order to make sure the program is successful.<sup>4</sup>
- 2) The Student Success Act (HR 5) – The House version of the ESEA/NCLB reauthorization expands affective testing by omission instead of commission and also continues mental health programs for certain groups:
  - The rewrite of Section 1111 that discusses state standards, assessments and accountability leaves out the key provision that prohibited state assessments from including items that "evaluate or assess personal or family beliefs and attitudes." This was one of the few good pieces of language in No Child Left Behind.<sup>5</sup> This would allow federal government via the federally mandated statewide tests, which with Common Core are also federally supervised and funded, to assess the thoughts and attitudes of our innocent children with impunity and put it in their electronic dossiers to follow them for life.
  - Title I funding includes funding for "the coordination of health and social services for such individuals if there is a likelihood that the provision of such services, including day care, drug

<sup>1</sup> "...carrying out in-service training for school personnel in – (i) the techniques and supports needed for early identification of children with trauma histories, and children with, or at risk of, mental illness" S. 1177 Sec. 2103 (b)(4)(K)

<https://www.congress.gov/114/bills/s1177/BILLS-114s1177pcs.pdf>

<sup>2</sup> "...implementation of schoolwide positive behavioral interventions and supports, including through coordination with similar activities carried out under the Individuals with Disabilities Education Act, in order to improve academic outcomes for students and reduce the need for suspensions, expulsions, and other actions that remove students from instruction;" – S 1177 Sec. 4105 (a)(4)(J)

<sup>3</sup> S 1177 - Sec. 1113(d)(5)(B)(iv)

<sup>4</sup> "(b) PROGRAM ELEMENTS.—A physical education program that receives assistance under this part may provide for 1 or more of the following...(2) Instruction in a variety of motor skills and physical activities designed to enhance the physical, mental, and social or emotional development of every student." S 1177, Sec. 4402(b)(2)

<sup>5</sup> S 1177 - Sec. 1111(b)(3)(C)(xiv)

and alcohol counseling, and mental health services, will improve the likelihood such individuals will complete their education.”<sup>6</sup> This will again require affective testing or data collection to make sure the plans have worked.

3) The Strengthening Education Through Research Act (SETRA - S 227)

The Senate reauthorization bill for the Institute for Education Sciences (IES) that houses the National Center for Education Statistics (NCES) and the National Assessment of Educational Progress also plans to allow “research on social emotional learning.”<sup>7</sup> The 2002 reauthorization of this bill gave us the scourge of the state longitudinal databases and was extremely problematic at the time.<sup>8</sup> As we have previously pointed out,<sup>9</sup> besides the psychological profiling, there are several major problems with this approach that include:

- The bill still relies on a very outdated and severely weakened Family Educational Rights and Privacy Act (FERPA)
- The prohibition on a national database is negated by a weakened privacy protection law (FERPA) and the linking of state longitudinal databases.
- The Protection of Pupil Rights Amendment (PPRA) protects against psychological profiling only in surveys but not in curriculum and assessments which is frequent and an admitted purpose of the Common Core standards.

4) Measuring Psychological Variables in the NAEP

Education Week, one of the media organs of the Bill and Melinda Gates Foundation, reports that The National Assessment of Educational Progress (NAEP), the Nation’s Report Card, intends to start collecting affective survey data on students who take the test in 2017:

- “The nation’s premiere federal testing program is poised to provide a critical window into how students’ motivation, mindset, and grit can affect their learning... The [background survey will include five core areas](#)—grit, desire for learning, school climate, technology use, and socioeconomic status—of which the first two focus on a student’s noncognitive skills, and the third looks at noncognitive factors in the school. These core areas would be part of the background survey for all NAEP test-takers. In addition, questions about other noncognitive factors, such as self-efficacy and personal achievement goals, may be included on questionnaires for specific subjects to create content-area measures, according to Jonas P. Bertling, ETS director for NAEP survey questionnaires.”<sup>10</sup>

5) A summary of the grant proposals<sup>11</sup> in the preschool version of Race to the Top, called the Early Learning Challenge, had various states bragging about how they would profile and monitor our babies:

- “California will offer additional provider training in assessing social - emotional learning and ensure greater access to developmental and behavioral screenings.”
- “The state’s (Minnesota) existing birth-to-five child development standards will be aligned with K-12 standards, which will be expanded to include non-academic developmental domains for children ages five to 12.”

---

<sup>6</sup> HR 5 - Sec. 1164 (a)(3) <https://www.congress.gov/114/bills/hr5/BILLS-114hr5rh.pdf>

<sup>7</sup> “Insert ‘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.’” - S 227, Section 132 <https://www.congress.gov/114/bills/s227/BILLS-114s227rs.pdf>

<sup>8</sup> <http://edwatch.org/master.com/taxis/master/redir/?u=http%3A//www.edwatch.org/network/3801.htm>

<sup>9</sup> <http://bit.ly/1CYg31N>

<sup>10</sup> <http://www.edweek.org/ew/articles/2015/06/03/nations-report-card-to-gather-data-on.html?cmp=ENL-EU-NEWS2-RM>

<sup>11</sup> Early Learning Challenge Collaborative - Stepping up to the Challenge: State Profiles of the 2011 Early Learning Challenge Grant Applicants - [http://ffyf.org/wp-content/uploads/2014/04/Stepping\\_Up\\_to\\_the\\_Challenge.pdf](http://ffyf.org/wp-content/uploads/2014/04/Stepping_Up_to_the_Challenge.pdf)

- 6) A Federal Register notice<sup>12</sup> of a grant program called the Middle Grades Longitudinal Study is described and seeks to do the following:

*Title of Collection:* Middle Grades Longitudinal Study of 2016-2017 (MGLS:2017) Item Validation and Operational Field Tests.

*Abstract:* The Middle Grades Longitudinal Study of 2016-2017 (MGLS:2017) is the first study sponsored by the National Center for Education Statistics (NCES), within the Institute of Education Sciences (IES) of the U.S. Department of Education (ED), to follow a nationally-representative sample of students as they enter and move through the middle grades (grades 6-8). The data collected through repeated measures of key constructs will provide a rich descriptive picture of the academic experiences and development of students during these critical years and will **allow researchers to examine associations between contextual factors and student outcomes**. The study will focus on student achievement in mathematics and literacy along with **measures of student socioemotional wellbeing and other outcomes**.

The problems with these proposals and efforts are numerous, both from the policy and medical/scientific viewpoints. Here are just a few:

- 1) These measures set up the federal government as arbiters of what is normal thought, behavior, belief, attitudes, and values in children, even very young children – The danger of this situation to freedom of thought and conscience is profound and cannot be over stated. There is recent history of attempts to make racism and homophobia delusional disorders treated by antipsychotics in the most recent version of the American Psychiatric Association's (APA) Diagnostic and Statistical Manual (DSM-5). Trials were performed on California state prison inmates in 2005 under that paradigm.<sup>13</sup> Extreme racism and homophobia were ultimately not added to the DSM, but given the widespread teaching of the issue, even in preschool and kindergarten<sup>14</sup> coupled with the new Supreme Court ruling on same sex marriage and statements by activists<sup>15</sup> who want to attack expressions of religious conscience regarding homosexual unions as prejudice, there is more than a little reason to be concerned.
- 2) These socioemotional standards and assessments are extraordinarily vague, subjective, and difficult to apply to children, especially young children. Here are some examples of expert opinion:
  - "Without highly reliable, multimethod, multiinformant measurement batteries whose validity has been demonstrated for diagnosis, it will be difficult for a practitioner to justify the individual diagnosis of children's personal qualities, such as self-control, grit, or growth mind-set," the essay says.<sup>16</sup>
  - "At present, most psychiatric disorders lack validated diagnostic biomarkers, and although considerable advances are being made in the arena of neurobiology, psychiatric diagnoses are still mostly based on clinician assessment."<sup>17</sup> [Translation: Psychiatric diagnosis is an educated guess.]
  - "Broad parameters for determining socioemotional outcomes are not clearly defined"<sup>18</sup>

<sup>12</sup> [https://www.federalregister.gov/articles/2015/06/17/2015-14838/agency-information-collection-activities-comment-request-middle-grades-longitudinal-study-of?utm\\_campaign=subscription+mailing+list&utm\\_medium=email&utm\\_source=federalregister.gov](https://www.federalregister.gov/articles/2015/06/17/2015-14838/agency-information-collection-activities-comment-request-middle-grades-longitudinal-study-of?utm_campaign=subscription+mailing+list&utm_medium=email&utm_source=federalregister.gov)

<sup>13</sup> Vedantam, S. - *Psychiatry Ponders Whether Extreme Bias Can Be an Illness* - The Washington Post, December 10, 2005, Pg. A01  
Reproduced by NPR at <http://www.vedantam.com/bias-12-2005.html>

<sup>14</sup> See Effrem, K. – *Studies on Effectiveness of Early Childhood Programs* – at <http://edlibertywatch.org/2011/03/studies-on-effectiveness-of-early-childhood-programs/> for examples of controversial preschool curriculum and standards

<sup>15</sup> <http://newsbusters.org/blogs/jeffrey-meyer/2014/02/25/george-takei-religious-freedom-just-cloak-prejudice>

<sup>16</sup> Duckworth, A. and Yeager, D. - Measurement Matters: Assessing Personal Qualities Other Than Cognitive Ability for Educational Purposes - *Educational Researcher* May 2015 44: 237-251 as quoted in Education Week  
[http://blogs.edweek.org/edweek/rulesforengagement/2015/05/grit\\_accountability\\_noncognitive\\_skills\\_duckworth\\_yeager.html](http://blogs.edweek.org/edweek/rulesforengagement/2015/05/grit_accountability_noncognitive_skills_duckworth_yeager.html)

<sup>17</sup> Jeste, D (President of the American Psychiatric Association) – The New DSM Reaches the Finish Line – Huffington Post 12/11/12  
[http://www.huffingtonpost.com/dilip-v-jeste-md/dsm-5\\_b\\_2280155.html](http://www.huffingtonpost.com/dilip-v-jeste-md/dsm-5_b_2280155.html)

<sup>18</sup> National Center for Infant and Early Childhood Health Policy – Addressing Social-Emotional Development and Infant Mental Health in Early Childhood Systems – 2005 <http://files.eric.ed.gov/fulltext/ED496853.pdf>

- “Childhood and adolescence being developmental phases, it is difficult to draw clear boundaries between phenomena that are part of normal development and others that are abnormal.”<sup>19</sup>
- 3) Socioemotional standards and screenings are leading to overmedication with psychotropic medication that can have brain damaging and life threatening side effects – Studies are finding alarming increases in medication of young children without adequate studies on the effects of these drugs on growing bodies and brains. The drugs can cause suicidal thoughts and actions, violence, psychosis, stunted growth, brain damage, and a 25 year shortened life span.
  - 4) Data from these subjective assessments will be in an electronic dossier that will follow a child for life – The federal government already has much data due to contracts like PARCC and SBAC that require individually identifiable data to be given to the US DOE, through the linking of federally mandated state longitudinal databases, and via the regulatory gutting of Family Education Rights and Privacy Act. Parents greatly opposed the InBloom database held by private entities and there is no evidence that this contained socioemotional data. Wait until many parents understand how routinely their children’s minds will be probed. In addition, given the willful misuse of citizen data by the IRS and NSA, and the inability of the federal government to protect the integrity of its employees’ data, there is plenty of reason for parents to be upset. Also, at some point employers and universities will have or demand access to this data.
  - 5) Belatedly putting in parental consent requirements will not make profiling via academic assessments or routine mental screening in schools acceptable - We have already seen how the prohibitions on psychological assessment in the Protection of Pupil Rights Amendment (PPRA) are sidestepped and the gaping loophole of the statute not applying to assessments and curriculum. The notion of parental consent will be used as a fig leaf to assuage concerns long enough for the government or corporations to figure out a way sidestep the rules. Asking consent for something that is so constitutionally, legally and ethically wrong does not make it right.
  - 6) The rapidity and scope by which the Constitution, federal law, ethics, and parental autonomy are being shredded is breathtaking and very alarming, particularly with this issue - Parents are expected to submit their children to this kind of government profiling and psychological experimentation with no explanation, no way to express concern or opt their children out, no way to see the federally mandated academic statewide assessments, the NAEP or any of the international assessments that do much of this profiling to find out what was asked of their children. Federal law currently prohibits federal government involvement in regular curriculum and standards, but somehow it is now fine for the federal government to mandate and support the assessment or screening or teaching of socioemotional topics, because they want to assess something that is ostensibly a positive trait or this will have an alleged benefit for a child? This defies logic.

Short of shutting down the US Department of Education or at least the Institute for Education Sciences that houses the National Center for Education Statistics, the data mining and emotional profiling arm of the US DOE, we can halt the ESEA/NCLB and other federal legislative reauthorizations until there is an administration that is not so in favor of Common Core, expansive federal control, testing, profiling, and data mining. The other very important and practical thing to do is to support Senator David Vitter’s Student Privacy Protection Act (SPPA) as a stand-alone bill. Data privacy and freedom of conscience are too important for this bill to be lost and eventually watered down in the monstrous reauthorization bills. This is the only legislation offered that truly protects against the psychological profiling described here while updating and strengthening FERPA from all of the weakening that happened during this administration. Our children deserve nothing less.