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Education for a FREE nation

To: The Federal School Safety Commission

From: Karen R. Effrem, MD – National Education Issues Chairman, Eagle Forum & President, Education Liberty Watch

Re: Recommendations for the Final School Violence Report

Dear Chairwoman DeVos and Members of the School Safety Commission,

Thank you for your efforts to investigate the many complex issues surrounding school shootings and related safety issues. Eagle Forum, a national policy organization founded in 1972 and involved in many federal issues affecting the American family, including education, and Education Liberty Watch, a national education policy organization respectfully submit the following recommendations, which are based on an extensive review of medical and policy research, a significant portion of which was not presented at the hearing dealing with these topics.

1. Rescind the Obama Era School Discipline Policy set forth in the 2014 Dear College Letter on K-12 school discipline policies, which would allow local teachers and other staff to mete out discipline based on actual, observed behavior, instead of on quotas.
2. Strongly oppose the expansion of mental health screening and social emotional learning (SEL) programs based on these programs' inaccuracy leading to the over-prescription of ineffective and harmful psychiatric drugs.
3. Undertake a forensic medical evaluation, including all psychiatric medications taken by the perpetrator, after each school shooting based on the clear connection between psychiatric drugs and violence.
4. Given the many concerns regarding the inaccuracy of mental screening and diagnostic criteria, and a host of other issues with major privacy implications, an increase in mental health and behavioral data sharing via the Family Educational Rights and Privacy Act (FERPA) and the Health Insurance Portability and Accountability Act (HIPAA) should be undertaken in only the most limited of circumstances, if at all.
5. Given high rates of behavior problems, gun use, delinquency, and imprisonment among fatherless youth, as well as the mistaken attribution of high suspension and expulsion rates among fatherless youth to racism; work to reverse federal policies that subsidize fatherlessness and promote policies that engender two-parent family formation.

Extended discussion and documentation of these recommendations follows. Thank you for your consideration.

Sincerely,
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Please note:

- All emphasis in the quotes listed below is added.
- In the spirit of full disclosure, I also serve on the board of the Alliance for Human Research Protection (AHRP), which will send separate comments.

1. Rescind the Obama Era School Discipline Policy set forth in the 2014 Dear College Letter on K-12 school discipline policies, which would allow local teachers and other staff to mete out discipline based on actual, observed behavior, instead of quotas.

- As well outlined in the Wisconsin Institute for Law and Liberty letter to Secretary DeVos,¹ the **legal foundation for the 2014 guidance is weak to non-existent.** “The Supreme Court of the United States has unequivocally declared that ‘Title VI [of the Civil Rights Act of 1964] itself directly reach[es] only instances of intentional discrimination,’ as opposed to discrimination based on the disparate impact of a particular policy.^[2] Federal regulation cannot create authority that does not exist in the authorizing federal law.”
- **Federal influence on state and local school-discipline policies actually disincentivized arrests of troubled students (especially minority and disabled).**³

Although the Parkland shooter was at one time referred to the PROMISE program despite claims to the contrary by Broward County Superintendent Robert Runcie,⁴ multiple other incidents, including felonious death threats⁵ against other students and a suicide attempt received inadequate attention. If these incidents had received the attention they deserved, the perpetrator would either have been evaluated under the Baker Act or arrested, either of which would have disqualified him from the legal purchase of firearms.
- **The Dear Colleague letter, according to congressional testimony by Manhattan Institute fellow, Max Eden; documented how coercive, over-reaching, and costly this guidance, done without even a single federal regulation, has been:**

“That letter threatened school districts with federal investigations on the basis of disciplinary statistics. Schools were told that even if their rules were totally fair, even if they were administered totally fairly, they could face a federal investigation and be held liable for “unlawful discrimination” if students of different races broke the rules at different rates. Before the 2014 Letter, an investigation would stop if the allegations were not substantiated. *But after the letter, even if the allegation were found false, it still triggered a years-long, district-wide investigation.*”⁶
- **Multiple, politically diverse sources have described how dangerous classrooms are for students trying to learn and staff trying to teach in and promote a safe, orderly school environment:**
 - “Students are threatening teachers with violence and in many cases are physically attacking teachers without consequences.”⁷
 - “...teachers [have] said that such policies keep dangerous children in schools, posing a physical threat to students and staff and creating a disruptive learning environment.”⁸

¹ <http://www.will-law.org/wp-content/uploads/2018/06/2018-06-12-devos-dear-colleague-letter-final.pdf>

² Sandoval, 532 U.S. at 281 at 281 (alteration in original) (quoting Alexander v. Choate, 469 U.S. 287, 293 (1985)) as quoted in footnote 18 of Ibid.

³ <https://truthinamericaneducation.com/federalized-education/federal-influence-on-state-and-local-school-discipline-policies/>

⁴ <https://thenationalpulse.com/commentary/stunning-report-parkland-superintendent-misled-public-shooters-past/>

⁵ <https://thenationalpulse.com/commentary/new-report-parkland-school-shooting-leaves-many-questions-unanswered/>

⁶ <https://www.manhattan-institute.org/html/testimony-max-eden-house-judiciary-preventable-violence-law-enforcement-11124.html>

⁷ Buffalo Teachers Federation, “Disruptive Behavior Results 2018,”

2018, http://www.btfny.org/press/disruptive_behavior_results_2018.pdf, as quoted in Ibid.

- “States and districts ought to intervene when schools unfairly target minorities for punishment. But basing that judgment on whether schools have higher rates of punishment for minorities than for white students applies a dangerously blunt standard, which runs the risk of leading schools to be too tolerant of disruptive and dangerous behavior.”⁹
- **Positive Behavioral Interventions and Supports (PBIS), especially the school-wide version of the program, is far from the best idea for improving discipline for many reasons, including:**¹⁰
 - Much of the evaluation, intervention and data collection occurs before a formal Individuals with Disabilities Education Act (IDEA) evaluation requiring parental consent takes place. Despite the vagueness of the criteria, there is much data collected on each and every student that goes into state longitudinal databases that follows students for life and there is little to nothing in the various documents discussing FERPA or parental consent.¹¹
 - There is no discussion of what behaviors are chosen for each tier. “At risk” behaviors in tiers 2 and 3 are not defined.
 - *The federal support center for PBIS admits it is still experimental,¹² meaning that untrained school personnel are engaging in very **sensitive personality-changing interventions without any evidence of improvement, but even more importantly without parental consent:***
 - Most experts agree that **school-wide PBIS is in its infancy.** [Emphasis added]
 - “Because the roots of PBS are in applied experimental analysis of behavior, the evidence for PBS, at this time, is primarily derived from single subject designs...”

2. Strongly oppose the expansion of mental health screening and social emotional learning (SEL) programs based on these programs’ inaccuracy leading to the over-prescription of ineffective and harmful psychiatric drugs.¹³ – Despite the recommendation of Dr. Mark Olfson during the July 11th commission hearing,¹⁴ there are many reasons that school-based mental screening should not be expanded.

- **In many cases, problems of perpetrators of school shootings are already known to school or health systems. Increased mental screening would not have stopped that tragedy.**

For example, the Parkland shooter’s mental instability and blatant signs of his violent tendencies were evident for years, and multiple felonious actions were ignored.¹⁵ He had been diagnosed as developmentally delayed since age three. He attended a school for the emotionally disturbed until the year before high school and then was expelled for behavior issues. Many at the school, the sheriff’s department, and the Department of Children and Families knew his mental health problems.

⁸ <https://www.politico.com/newsletters/morning-education/2018/03/13/trump-school-safety-plan-targets-obama-discipline-directive-130118>

⁹ <https://www.bloomberg.com/view/articles/2018-09-06/leave-school-discipline-up-to-the-schools>

¹⁰ <https://thenationalpulse.com/commentary/obama-school-discipline-policies-causing-widespread-chaos/>

¹¹ <https://www.pbis.org/Common/Cms/files/pbisresources/PBIS%20Technical%20Brief%20on%20Systems%20to%20Support%20Teachers%20Implementation%20of%20Positive%20Classroom%20Behavior%20Support.pdf>

¹² <https://www.pbis.org/research/swpbs-mental-health>

¹³ <http://edlibertywatch.org/wp-content/uploads/2018/07/USED-Danger-of-School-Mental-Health-Letterhead.pdf>

¹⁴ Federal School Safety Commission Hearing Transcript (7/11/18) available at <https://www2.ed.gov/documents/school-safety/transcript-07-11-2018.pdf>, p. 41

¹⁵ <https://www.buzzfeednews.com/article/remysmidt/cruz#.yvQyRWgqZ>

- **Mental health diagnostic criteria are readily admitted to be subjective and difficult to use in children and teens, who undergo rapid developmental changes.** Under the right circumstances, everyone could be considered "at risk" for mental-health problems. This assessment comes from multiple prominent psychiatric organizations including the World Health Organization, the U.S. Surgeon General, and the American Psychiatric Association.¹⁶
- The July 11th commission hearing witness, Ms. Doris Fuller, a researcher, advocate and family member; strongly emphasized that **only a tiny minority of people struggling with mental illness will become violent:**
 - "We are here today because of concerns about school safety and the impact of mental health on it. *It cannot be repeated often enough that most violent acts are not committed by people with mental illness. And most people with mental illness are not violent. We could eliminate all the murders associated with mental illness, in this country, and 96 percent of the nation's murders would still occur.*"¹⁷
- In addition, **psychiatric experts trained for years readily admit that their efforts to predict which patients will become violent are only slightly better than chance, so it is unwise to train already overburdened school staff for a few hours and place this responsibility on them.** Here are quotes from some of the many experts with perspectives completely opposite to that of Dr. Olfson on screening:
 - "*But unfortunately, it's impossible for any of us to predict who is going to go from being troubled and isolated to actually harming others...It really means we can't rely on prediction and identifying the bad guys. Because we'll misidentify some who aren't bad guys, and we'll fail to identify others who may become bad guys.*"¹⁸
 - "*Over the years, studies have shown that psychiatrists' accuracy in identifying patients who would become violent was slightly better than chance — 'obviously not good enough, given what's at stake for public safety as well as for civil liberties,* said John Monahan, a University of Virginia psychologist who helped direct the MacArthur study."¹⁹
 - "*There is no instrument that is specifically useful or validated for identifying potential school shooters or mass murderers,'* said Stephen D. Hart, a psychologist at Simon Fraser University in Vancouver who is the co-author of a widely used evaluation tool. "There are many things in life where we have an inadequate evidence base, and this is one of them..."²⁰
 - "..."*I think people are going toward wanting all their kids to be screened in high school for mental illness and violence risk — and that's a bad idea,'* said Gina M. Vincent, a forensic psychologist at the University of Massachusetts Medical School."²¹
 - "*We can't go out and lock up all the socially awkward young men in the world,"* said Jeffrey W. Swanson, a professor of psychiatry and behavioral sciences at Duke University."²²

¹⁶ "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. (World Health Organization (2001) *World Health Report*, Chapter 2, p. 36 at http://www.who.int/whr/2001/en/whr01_ch2_en.pdf?ua=1) and "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." [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]

¹⁷ Federal School Safety Commission Hearing Transcript (7/11/18) available at <https://www2.ed.gov/documents/school-safety/transcript-07-11-2018.pdf>, p. 71

¹⁸ <http://www.latimes.com/science/sciencenow/la-sci-sn-florida-shooter-psychology-20180226-htmlstory.html>

¹⁹ https://www.washingtonpost.com/national/health-science/predicting-violence-is-a-work-in-progress/2013/01/03/2e8955b8-5371-11e2-a613-ec8d394535c6_story.html?utm_term=.7e36a27fa84d

²⁰ Ibid.

²¹ Ibid.

- **Mental screening itself is notoriously inaccurate**, with several commonly used instruments having approximately 60-84% false positive rates. Any other medical screening test that inaccurate would be laughed out of existence — or its developers sued for malpractice.
 - Dr. David Schaffer, who was Dr. Olfson’s co-director at TeenScreen admitted in a journal article that that mental screening instrument was extremely inaccurate, stating that *the survey “would result in 84 non-suicidal teens being referred for evaluation for every 16 youths correctly identified.”*²³
 - There are many other mental screening instruments that have similarly high false positive rates.²⁴
 - After one administration of TeenScreen in Tennessee, 56% of students taking the survey were referred for psychiatric evaluation.²⁵ That is far higher than the generally accepted, though debatable figure of 10-20% of youth having a diagnosable mental illness.²⁶
 - Dr. Olfson mentioned the over-prescription of antipsychotics and there is similar evidence of over-prescription of antidepressants, with one study documenting that 59% of children and adolescents with depression are being treated with these medications²⁷ that have the dangerous side effects discussed below and listed in the FDA labels, in dozens of books, and in many research articles, the most dangerous of which are suicide, violence and mania.
- **Expanding mental screening makes absolutely no sense given Dr. Olfson’s admission in his testimony that psychiatric drugs, especially antipsychotics, are overprescribed for children and teens, with “the overall increase in youth psychotropic medication use occurring among those with less severe or no impairment.”**²⁸ **This over-prescription is directly related to the high false positive rate of TeenScreen and similar instruments that cause so many unnecessary referrals of children with “less severe or no impairment.”**
 - Although he should be commended for promoting talk therapy first, given these *drugs’ very serious side effects that he mentioned in his testimony of obesity, high cholesterol levels, and diabetes and the uncertainty of over the long-term effects of these drugs on the developing brain*, his testimony did not discuss the evidence of even more severe side effects. *These other severe and life threatening effects include brain damage, movement disorders, suicide, and a 25 year shortened life span associated with the antipsychotics.*²⁹

²² Ibid.

²³ [https://www.jaacap.org/article/S0890-8567\(09\)61129-1/fulltext](https://www.jaacap.org/article/S0890-8567(09)61129-1/fulltext)

²⁴ https://www.aap.org/en-us/advocacy-and-policy/aap-health-initiatives/Mental-Health/Documents/MH_ScreeningChart.pdf Those percentages are obtained by subtracting the low positive predictive values, which mean that a person actually has the condition being tested or screened, from 100 percent. In the case of the TeenScreen instrument discussed above, the Positive Predictive value is only 16%, meaning that the false positive rate is 84% as described by Dr. Schaffer.

²⁵ <http://ahrp.org/teenscreen-angel-of-mercy-or-pill-pusher-for-drug-industry/>

²⁶ <https://www.unric.org/en/latest-un-buzz/31147-up-to-20-of-youth-have-mental-health-issues>

²⁷ Robinson, LM et. al. Poster session at the 2006 meeting of the American Academy of Child And Adolescent Psychiatry (2006) as reported in Brunk, D “Diagnoses of Depression Doubled in a Decade” (12/06) *Pediatric News*

²⁸ Federal School Safety Commission Hearing Transcript (7/11/18) available at <https://www2.ed.gov/documents/school-safety/transcript-07-11-2018.pdf>, pp. 38-40

²⁹ Effrem, K. “Ineffectiveness and Harm of Psychiatric Drugs” Education Liberty Watch (2018) compilation of research available at <http://edlibertywatch.org/wp-content/uploads/2018/10/Lack-of-Effectiveness-and-Harm-of-Psychiatric-Medication.pdf>

- In addition to violent rages, which will be discussed below, the other major side effect for the antidepressant class of drugs is suicide, which has or is likely to increase more if screening is expanded.³⁰ Dr. Carlson unfortunately tried to dismiss this very real concern during her testimony, claiming “Although we worried about whether these medications caused suicide, more evidence is on the side of their preventing suicide, with benefits clearly outweighing risks.”³¹ Here is evidence contradicting her statement:
 - ***Dr. Carlson was one of the psychiatrists who penned her name to the ghost written and discredited study³² that falsely claimed that paroxetine (Paxil) was safe and effective.***³³ When that study was re-evaluated by independent researchers who fought for years to obtain the actual clinical trial data, ***the drug was found to have no effectiveness and a rate of suicidal thoughts and behavior 8 times greater than placebo.***³⁴ The false nature of the original study was a significant part of the basis for paroxetine’s manufacturer, Glaxo Smith Kline, being fined over \$3 billion³⁵ by the federal government for illegal marketing practices.
 - If her claims were true, then paroxetine should have been approved to treat depression in children and adolescents and that has not happened,³⁶ nor has the FDA’s most serious Black Box Warning been lifted from any of the antidepressants after fourteen years.
 - An analysis published in 2016 by another independent researcher and head of the Nordic Cochrane Center, Dr. Peter Gotszche, in introducing his new book, *Deadly Psychiatry and Organised Denial*, said, found that **the number of suicides among adults and children taking antidepressant drugs is actually 15 times greater than the number calculated by the U.S. drugs watchdog, the Food and Drug Administration.** This raises great concerns about both the transparency and validity of the data Dr. Carlson referenced.
- These medications, despite the statements of Dr. Carlson, are *not* effective for depression:

³⁰ Ibid.

³¹ Federal School Safety Commission Hearing Transcript (7/11/18) available at <https://www2.ed.gov/documents/school-safety/transcript-07-11-2018.pdf>, p. 31

³² Evidence of ghost writing documented in this letter from Vera Sharav, president of the Alliance for Human Research Protection to FDA Commissioner Andrew Eschenbach (4/25/08) available at http://ahrp.org/wp-content/uploads/2009/08/articles_fda-double-agent2008.pdf

³³ Keller MB, Ryan ND, Strober M, Klein RG, Kutcher SP, Birmaher B, Hagino OR, Koplewicz H, **Carlson GA**, Clarke GN, Emslie GJ, Feinberg D, Geller B, Kusumakar V, Papatheodorou G, Sack WH, Sweeney M, Wagner KD, Weller EB, Winters NC, Oakes R, McCafferty JP. "Efficacy of Paroxetine in the Treatment of Adolescent Major Depression: A Randomized, Controlled Trial" *J. Am. Academy Child Adolescent Psychiatry*, 2001; 40(7):762-72, abstract available at <https://www.ncbi.nlm.nih.gov/pubmed/11437014>

³⁴ Le Noury, J; Nardo, J; Healy, D; Jureidini, J; Raven, M; Tufanaru, C; Abi-Jaoude, E. "Restoring Study 329: efficacy and harms of paroxetine and imipramine in treatment of major depression in adolescence" *British Medical Journal* (9/16/2015), abstract available at <https://www.bmj.com/content/351/bmj.h4320> as discussed at Sharav, V. "May 2016: The State of Psychiatry — Child Psychiatrists at APA Meeting" Alliance for Human Research Protection (7/10/2016) available at <http://ahrp.org/june-2016-the-state-of-psychiatry-revealed-at-2-different-meetings-of-psychiatrists/>

³⁵ <https://www.justice.gov/opa/pr/glaxosmithkline-plead-guilty-and-pay-3-billion-resolve-fraud-allegations-and-failure-report>

³⁶ Food and Drug Administration label for paroxetine, accessed 10/16/2018 at https://www.accessdata.fda.gov/drugsatfda_docs/label/2005/20031s045_20936s020lbl.pdf says the following: “Pediatric Use—Safety and effectiveness in the pediatric population have not been established (see BOX WARNING and WARNINGS—Clinical Worsening and Suicide Risk). Three placebo-controlled trials in 752 pediatric patients with MDD have been conducted with Paxil, and the data were not sufficient to support a claim for use in pediatric patients.”

- Only two newer SSRI antidepressant medications, fluoxetine (Prozac) and escitalopam (Lexapro)³⁷ are approved by the FDA for treating depression in children under 18 and still remain under that agency’s most serious Black Box Warning.
 - A 2013 study in “JAMA Psychiatry, found that **55 percent of suicidal teenagers had received some therapy before they thought about suicide, planned it or tried to kill themselves, contradicting the widely held belief that suicide is due in part to a lack of access to treatment.**” This also shows that most psychiatric treatments are not helpful for depression, especially antidepressants that can cause suicide separate from depression, as well as homicidal rages, and many other potentially life-threatening side effects.³⁸
 - ***With such a high false positive rate of screening combined with the harm and ineffectiveness of the medications just described that would be exacerbated by expanded screening, increasing mental screening would be quite harmful and not helpful to troubled youth.***
- **These screening programs cause a severe drain of resources that should be spent on students that actually have problems, not on the high percentage that are incorrectly referred for psychiatric evaluation due to an inaccurate screening.** Even the San Francisco school district rejected Dr. Olfson’s TeenScreen screening program due to the high false positive rate, because it would have depleted scarce resources.³⁹
- **These programs have a very poor track record on obtaining parental consent for such evaluations.** A lawsuit⁴⁰ against the school that used TeenScreen to mentally screen an Indiana teenager without parental knowledge or consent ultimately helped to bring down the nationwide use of the TeenScreen program.⁴¹
- **Mental screening has already been “weaponized” in some instances to require students to align with certain political orthodoxies,** thus violating the inalienable right of freedom of conscience. Combined with minimal FERPA protections, inaccurate screening instruments, and the frenzy for gun control, such assessments could result in deleterious and unmerited effects on college admission, career advancement, military service, and 2nd Amendment rights.⁴²

³⁷ <https://www.fda.gov/ForConsumers/ConsumerUpdates/ucm413161.htm>

³⁸ Carey, B. “Study Questions Effectiveness of Therapy for Suicidal Teenagers” (1/8/13) *New York Times* at <https://www.nytimes.com/2013/01/09/health/gaps-seen-in-therapy-for-suicidal-teenagers.html> discussing Nock, M. et. al. “Prevalence, Correlates, and Treatment of Lifetime Suicidal Behavior Among Adolescents: Results From the National Comorbidity Survey Replication Adolescent Supplement” *JAMA Psychiatry* (3/2013) at <https://jamanetwork.com/journals/jamapsychiatry/fullarticle/1555602?resultClick=1>

³⁹ “Local public schools have resisted TeenScreen. San Francisco Unified School District, for example, passed on TeenScreen because it can generate false positives and drain counseling resources, said spokeswoman Gentle Blythe.” (San Francisco Chronicle – January 22, 2007).

⁴⁰ Effrem K. “Report on the Use of TeenScreen in CR available at <http://edlibertywatch.org/wp-content/uploads/2014/11/Rutherford-Report-Final-Redacted.pdf> The author was an expert witness in this case.

⁴¹ <http://ahrp.org/teenscreen-operations-have-shut-down/>

⁴² One 2016 example involving gun control is available at http://www.nj.com/somerset/index.ssf/2016/09/high_school_student_reportedly_suspended_for_anti.html. Other examples are available in this article: <http://thefederalist.com/2016/10/19/schools-ditch-academics-for-emotional-manipulation/>

3. Undertake a forensic medical evaluation, including all psychiatric medications taken by the perpetrator, after each school shooting based on the clear connection between psychiatric drugs and violence.

- The Parkland perpetrator was on medication for Attention Deficit Hyperactivity Disorder,⁴³ abusing Xanax,⁴⁴ and possibly taking antidepressants⁴⁵ after a suicide attempt related to a break-up with a girlfriend. All of these drugs are documented by the FDA to be associated with increased or new aggression, hostility, mania and violent reactions in patients taking them.⁴⁶ Xanax is also known to cause hallucinations, which the Parkland perpetrator was experiencing on the day of the shooting.⁴⁷
- Dr. Sheryl Kataoka staunchly defended the use of these drugs during her July 11th testimony: “In terms of drugs, certainly drugs of sub - you know, substance abuse, are important to rule out as well. But the medications that we provide have not been related to violent threats.”⁴⁸ Her blanket denial of any connection between medications and school shootings is flat out wrong and ignores many case reviews, such as in the well-researched book by Dr. Peter Breggin titled *Medication Madness*;⁴⁹ media documentation collated at sites like *SSRIStories.org* and analyzed in other articles;⁵⁰ multiple journal articles; and the FDA labels for these drugs themselves.⁵¹ Here are quotes or summaries from a few of those important articles:
 - 2015 - The National Center for Health Research discussion of anti-depressants mentioned a **2015 Swedish study of their entire population ages 15 and older, which reported that those taking antidepressants had twice the percentage of conviction for violent crimes. The risk of being convicted of a violent crime was the highest among the youngest age group aged 15-24.**⁵²
 - 2015 - “After reviewing the research and thinking critically about the effects of psychiatric drugs and their minimal benefits, it is clear that the risks involved are significant. **Even though the drugs do not cause violence in all situations and for all people taking them, and the actual risk ratio may be relatively small, the practical meaning of subsequent violent behavior is too serious to ignore and of such a consequential level to question their continued use as the first line of treatment for emotional and behavioral problems.**”⁵³

⁴³ <https://www.nytimes.com/2018/02/17/us/nikolas-cruz-florida-shooting.html>

⁴⁴ <http://www.sun-sentinel.com/local/broward/parkland/florida-school-shooting/fl-school-shooting-nikolas-cruz-cutting-snapchat-20180216-story.html>

⁴⁵ <https://www.miamiherald.com/news/local/crime/article216161130.html>

⁴⁶ See the FDA monograph for Prozac as an example of the violence concern for SSRI antidepressants at https://www.accessdata.fda.gov/drugsatfda_docs/label/2017/018936s103,021235s023lbl.pdf. See the FDA Monograph for Ritalin as an example of violence concerns for the class of drugs used to treat ADHD at

https://www.accessdata.fda.gov/drugsatfda_docs/label/2017/018936s103,021235s023lbl.pdf. Similar information for Xanax in the benzodiazepine class is available at https://www.accessdata.fda.gov/drugsatfda_docs/label/2016/018276s052lbl.pdf

⁴⁷ Ibid for benzodiazepines

⁴⁸ Federal School Safety Commission Hearing Transcript (7/11/18) available at <https://www2.ed.gov/documents/school-safety/transcript-07-11-2018.pdf>, p. 52

⁴⁹ Breggin, P. *Medication Madness: The Role of Psychiatric Drugs in Cases of Violence, Suicide, and Crime* (2009) New York, New York, St. Martin's Press available at https://www.amazon.com/Medication-Madness-Psychiatric-Violence-Suicide/dp/031256550X/ref=sr_1_1?ie=UTF8&qid=1532314511&sr=8-1&keywords=medication+madness+breggin&dpID=51u9%2BknBckL&preST= SY291_B01.204.203.200_QL40_&dpSrc=srch

⁵⁰ <https://thenationalpulse.com/commentary/turning-teachers-psychotherapists-will-not-prevent-school-shootings/>

⁵¹ See Footnote 31.

⁵² Molero Y, Lichtenstein P, et al. Selective Serotonin Reuptake Inhibitors and Violent Crime: A Cohort Study. *PLoS Med* 12(9): e1001875. doi:10.1371/journal.pmed.1001875 as discussed in Diana Zuckerman, PhD, Sarah Miller, RN, Madeline Levin, MPH, Nicolas J. Jury, PhD “Do Antidepressants Increase Suicide Attempts? Do They Have Other Risks?” National Center for Health Research available at <http://www.center4research.org/antidepressants-increase-suicide-attempts-risks/>

⁵³ Ruby, C. “Psychiatric Drugs and Violence” International Society for Ethical Psychology and Psychiatry (Archived 8/8/15) available at <http://psychintegrity.org/wp-content/uploads/2015/08/White-Paper-Psychiatric-Drugs-and-Violence.pdf>

- 2011 – **"Of the 129 persons who experienced drug-induced adverse effects, 8 had committed homicide, 3 had committed suicide, and one had sleepwalked to her death⁵⁴..."****"In all of the cases presented here, the subjects were prescribed antidepressants that failed to mitigate distress emerging from their predicaments,** which encompassed psychosocial stressors such as bereavement, marital and relationship difficulties, and work-related stress. Every subject's emotional reaction worsened while their prescribing physicians continued the "trial and error" approach, increasing from standard to higher dose and/or switching to other antidepressants, with disastrous consequences. **In some cases the violence ensued from changes occasioned by withdrawal and polypharmacy."**⁵⁵
- 2010 – **"We identified 1527 cases of violence disproportionately reported for 31 drugs. Primary suspect drugs included varenicline (an aid to smoking cessation), 11 antidepressants, 6 sedative/hypnotics and 3 drugs for attention deficit hyperactivity disorder."**⁵⁶

4. Given the many issues discussed above and a host of other issues with major privacy implications, an increase in mental health and behavioral data sharing via FERPA and HIPAA should be undertaken in only the most limited of circumstances, if at all.⁵⁷

- In addition to mental screening data discussed above, there are enormous amounts of socio-emotional and behavioral data already being collected on children in schools with examples including:
 - Social emotional learning data via various curricula and assessments⁵⁸
 - Behavior data via PBIS already discussed
 - Personality profiling⁵⁹
 - New state laws and federal programs⁶⁰ that combine behavioral and social media data⁶¹
 - New education technology applications that provide near constant behavioral and socioemotional monitoring of students via cell phone and tablet by multiple school staff including bus drivers and cafeteria workers⁶² with data sharing of sensitive data so rampant that the FBI issued a public service announcement warning the public about the associated privacy dangers.⁶³

⁵⁴ Summary of results of the study by Lucire, Y and Crotty, C "Antidepressant-induced akathisia-related homicides associated with diminishing mutations in metabolizing genes of the CYP450 family" in *Pharmacogenomics and Personalized Medicine* (2011) available at <http://ahrp.org/the-truth-about-psychiatric-drugs/Pharmacogenomics%20and%20Personalized%20Medicine> as discussed in Sharav, V. "The Truth About Psychiatric Drugs" The Alliance for Human Research Protection (2011) available at <http://ahrp.org/the-truth-about-psychiatric-drugs/>

⁵⁵ Quote from the research article linked in Ibid.

⁵⁶ Moore T, Glenmullen J, & Furberg C "Prescription Drugs Associated with Reports of Violence Towards Others" Public Library of Science (12/15/10) available at <https://journals.plos.org/plosone/article?id=10.1371/journal.pone.0015337>

⁵⁷ <https://thenationalpulse.com/commentary/students-privacy-under-serious-threat-era-school-shootings/>

⁵⁸ Effrem, K. "Psychological Profiling of Students Ramps Up — And Parents Have No Idea" *The National Pulse* (8/7/17) available at <https://thenationalpulse.com/commentary/psychological-profiling-students-ramps-up-parents-have-no-idea/>

⁵⁹ Effrem, K. "OECD Pushes Facebook-Style Personality Profiling of Students Worldwide" *The National Pulse* (4/6/18) available at <https://thenationalpulse.com/commentary/oecd-pushes-facebook-style-personality-profiling-students-worldwide/>

⁶⁰ National Institute of Justice "Comprehensive School Safety Initiative Awards for FY 2014" available at

<https://www.nij.gov/topics/crime/school-crime/documents/comprehensive-school-safety-initiative-awards-fy-2014.pdf>

⁶¹ Comprehensive data analytics for Miami Dade School district that combined social media behavioral data monitoring quoted and discussed at <https://www.flstopccoalition.org/blog/more-revelations-air-involvement-miami-dade-pasco-mental-screening-attitudinal-profiling> before documents were removed from district website.

⁶² Robbins, J & Effrem, K "Goodbye, Privacy? How New EdTech Is Turning Students Into Lab Rats" *American Spectator* (6/29/18) available at <https://spectator.org/goodbye-privacy-how-new-edtech-is-turning-students-into-lab-rats/>

⁶³ <https://www.ic3.gov/media/2018/180913.aspx>

- **The privacy weaknesses of both FERPA and HIPAA already allow way too much data sharing without consent in an environment of poor data protection.**
 - According to joint guidance from the U.S. Departments of Education and Health and Human Services, all student records, including health records, in a school are considered education records that are covered by FERPA and not by HIPAA.⁶⁴
 - Even if mental health/SEL data were covered by HIPAA, it would not be very private.⁶⁵
 - FERPA was enacted in 1973 and greatly weakened in 2012, so its protections are not very strong.⁶⁶
 - The U.S. House Oversight and Government Reform Committee held two hearings discussing the very poor level of student data protection.⁶⁷

5. Given high rates of behavior problems, gun use, delinquency, and imprisonment among fatherless youth, as well as the mistaken attribution of high suspension and expulsion rates among fatherless youth to racism; work to reverse federal policies that subsidize fatherlessness and promote policies that engender two-parent family formation.

- The Dear Colleague letter guidance is based on the view that disparate discipline rates are due to racism instead of the far more likely cause of growing up in fatherless homes.
 - Only 17 percent of black teenagers reach age 17 in a family with both their biological parents married⁶⁸
 - 85% of all children that exhibit behavioral disorders come from fatherless homes⁶⁹
 - Individuals from father absent homes were found to be 279% more likely to carry guns and deal drugs than peers living with their fathers.⁷⁰ The Parkland shooter admitted to abusing drugs, including Xanax that is documented to increase hostility. (see below)
 - 70% of juveniles in state-operated institutions come from fatherless homes⁷¹
- Promoting two-parent family formation will help solve and prevent the emotional difficulties found in a large percentage of the school shooters such as those from Parkland, Newtown and Columbine. It will also go a very long way to reducing the behavior issues leading to suspension and expulsion that were incorrectly attributed to racial discrimination in the Dear Colleague letter discussed under Recommendation 1.

⁶⁴ <https://www2.ed.gov/policy/gen/guid/fpco/doc/ferpa-hipaa-guidance.pdf>

⁶⁵ <http://www.cchfreedom.org/files/files/Twenty%20Two%20HIPAA%20Harms%20Website.pdf>

⁶⁶ Robbins, J. Testimony before the U.S. House Committee on Education and the Workforce. American Principles Project (1/30/18) at https://edworkforce.house.gov/uploadedfiles/testimony_jane_robbins_1.30.18.pdf and Comments of the Electronic Privacy Information Center to the Department of Education “Notice of Proposed Rulemaking” RIN 1880-AA86 (5/23/11) at https://epic.org/privacy/student/EPIC_FERPA_Comments.pdf

⁶⁷ See <https://oversight.house.gov/hearing/u-s-department-of-education-information-security-review/> and <https://oversight.house.gov/hearing/u-s-department-of-education-investigation-of-the-cio/>

⁶⁸ Fagan, P. & Hadford, C. “The State of the Black Family in America” Marriage and Religion Research Institute (2015) available at <http://marri.us/wp-content/uploads/The-State-of-the-Black-Family-in-America.pdf> as discussed in Hudson, L. “The Real Fix to School Shootings: Bring Back the Missing Fathers” *The National Pulse* (3/13/18) available at <https://thenationalpulse.com/commentary/real-fix-school-shootings-bring-back-missing-fathers/>

⁶⁹ Source listed as the Center for Disease Control and Prevention in “Fatherless Statistics” at Families Civil Liberties Union at <http://www.fclu.org/parentless-statistics/> as discussed by Hudson, Ibid.

⁷⁰ Allen, A. N., & Lo, C. C. (2012). Drugs, guns, and disadvantaged youths: Co-occurring behavior and the code of the street. *Crime & Delinquency*, 58(6), 932-953 cited in <https://fatherhoodfactor.com/us-fatherless-statistics/> and discussed by Hudson in footnote 67.

⁷¹ The source listed is “The U.S. Department of Justice” and cited and discussed as in footnote 67.