

Testimony of Laura Powell

Subcommittee on Early Childhood, Elementary, and Secondary Education

Safeguarding Student Privacy & Parental Rights: A Review of FERPA & PPRA

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Thank you to Chairman Kiley for the invitation to speak at this hearing and to Ranking Member Bonamici and the other distinguished members of the Subcommittee for their time and attention.

My name is Laura Powell. I am the founder of Californians for Good Governance, a nonpartisan group dedicated to protecting civil liberties and promoting government accountability in my home state. I am also an attorney and a mother of two children who are enrolled in public schools in the Mt. Diablo Unified School District in the San Francisco Bay Area.

I am here today to share information about policies and practices in California public schools that may violate both the Family Educational Rights and Privacy Act (FERPA) and the Protection of Pupil Rights Amendment (PPRA). My focus is on statewide policies in California and my own experience as a parent. Keep in mind that roughly twelve percent of all public-school students live in my state, and, as people often say, what happens in California rarely stays in California.

But these issues are not unique to California. Nor are my personal experiences exceptional. What sets me apart is that I am paying close attention to what goes on in my children's schools. I ask questions, I request records, and my children know to tell me when something at school doesn't seem right. Based on the reactions from our school and district officials, I sometimes wonder if I am the only parent paying attention. If more parents scrutinized what happens in their children's classrooms, many would uncover similar problems, but most understandably lack the time and legal background required to challenge their schools effectively.

My testimony today focuses on three areas relevant to the topic of this hearing. First, schools are routinely surveying students about their emotional states in ways that may implicate the PPRA. Second, when parents seek information about what is happening in the classroom, schools suddenly erect barriers that keep even persistent parents in the dark. And third, it is well documented that schools deliberately withhold – and at times actively hide – educational records from parents, in violation of FERPA.

These practices not only may violate federal law, but they also reflect a broader, troubling trend in which educational institutions increasingly intrude into a domain that properly belongs to the family. Schools prioritize developing what they call “the whole child,” while academics become almost an afterthought.¹ Teachers—who are not trained therapists—are taking on roles that involve probing children’s feelings, often through exercises that resemble group therapy and encourage the disclosure of personal information. And when parents seek transparency about curriculum or access to their children’s records, they frequently meet resistance.

Children’s Rights and Parents’ Rights Are Not in Conflict

First, I want to say a few words about the nature of parents’ and children’s rights. There has been a great deal of rhetoric in recent years about “parents’ rights,” often coded as a right-wing cause, while progressives cast themselves as the true defenders of children’s wellbeing. It is true that conservatives tend to view the family as the foundational unit of society, while progressives place greater trust in government institutions to guide the rising generation. But despite these philosophical differences, there long existed a bipartisan consensus, reflected in federal laws like FERPA and PPRA, about the central role of parents as the primary guardians of their children’s rights.

The framing that pits parents’ rights against children’s rights is simply wrong. Only in the thankfully rare circumstance in which a parent cannot provide adequate care do those rights diverge. In those cases, and only those cases, may the government intervene. As the United States Supreme Court has consistently affirmed, the state may not treat every parent as a presumptive threat to their own child.² It is the state’s burden

¹ See, e.g., California Department of Education, *Whole Child Resources*, <https://www.cde.ca.gov/eo/in/wholechildres.asp>; California Department of Education, *Multi-Tiered System of Supports*, <https://www.cde.ca.gov/ci/cr/ri/>.

The California Department of Education has implemented the California’s Multi-Tiered System of Support (MTSS) framework, which consists of five “domains.” Only one—the “Whole Child Domain”—focuses directly on students. And of the three focus areas in that domain, only one focuses on academics; the other two concern behavior and social-emotional development. Orange County Department of Education, *California MTSS Framework*, https://drive.google.com/file/d/1jvy6fZpSshkn7K7YG_Ql1Fd-gxspbLM8.

² “Our jurisprudence historically has reflected Western civilization concepts of the family as a unit with broad parental authority over minor children. Our cases have consistently followed that course; our constitutional system long ago rejected any notion that a child is ‘the mere creature of the State’ and, on the contrary, asserted that parents generally ‘have the right, coupled with the high duty, to recognize and prepare [their children] for additional obligations.’... The law’s concept of the family rests on a presumption that parents possess what a child lacks in maturity, experience, and capacity for judgment

to justify any intrusion into the parent-child relationship.

In the vast majority of cases, parents' rights and children's rights are not just compatible but aligned. The core of children's rights is the right to be protected, nurtured, and guided by the people who know and love them most – their parents.³ Those who seek to diminish the role of parents often insist they are acting to promote children's wellbeing, but isolating children from parental guidance does not empower them. Instead, it leaves them exposed to the influence of unrelated adults – some well-intentioned, others less so – and to complex adult issues they are not equipped to navigate alone. We elevate the role of the parents over teachers, school administrators, and counselors because none of those people can love a child the way a parent does.

FERPA and PPRA reflect this universal understanding of the nature of the relationship between parents and children. Note that while the statutes' purpose is to protect student privacy, they do not grant any rights directly to minor students at the K-12 level. They vest all rights in the parents until the student reaches adulthood or enrolls in a post-secondary institution. Both FERPA and PPRA have been amended several times since enacted in the 1970s, and there is nothing in the legislative history to suggest that lawmakers saw this allocation of authority as problematic, or that they believed parental control over records posed any conflict with children's rights.

Against that backdrop, the current approach represents a radical break from the long-standing consensus that the best way to protect children's rights is to empower their parents.

required for making life's difficult decisions. More important, historically it has recognized that natural bonds of affection lead parents to act in the best interests of their children.

"As with so many other legal presumptions, experience and reality may rebut what the law accepts as a starting point; the incidence of child neglect and abuse cases attests to this. That some parents 'may at times be acting against the interests of their children,' ... creates a basis for caution, but is hardly a reason to discard wholesale those pages of human experience that teach that parents generally do act in the child's best interests. The statist notion that governmental power should supersede parental authority in all cases because some parents abuse and neglect children is repugnant to American tradition."

Parham v. J.R., 442 U.S. 584, 602 (1979). See also *Pierce v. Society of Sisters*, 268 U.S. 510 (1925); *Wisconsin v. Yoder*, 406 U. S. 205 (1972); *Prince v. Massachusetts*, 321 U. S. 158 (1944); *Meyer v. Nebraska*, 262 U. S. 390 (1923).

³ Democrats have long criticized the United States for refusing to ratify the United Nations Convention on the Rights of the Child. Yet even this progressive document recognizes a child's "right to know and be cared for by his or her parents" as central to children's rights, and parents' rights and responsibilities appear throughout the treaty. Convention on the Rights of the Child art. 7, ¶ 1, Nov. 20, 1989.

Schools Are Constantly Probing Children's Emotional States

An opinion from the Third Circuit Court of Appeals from 2000 nicely summarizes the perspective reflected in both laws passed by Congress and legal precedent from courts:

School-sponsored counseling and psychological testing that pry into private family activities can overstep the boundaries of school authority and impermissibly usurp the fundamental rights of parents to bring up their children, as they are guaranteed by the Constitution. Public schools must not forget that “in loco parentis” does not mean “displace parents.”

It is not educators, but parents who have primary rights in the upbringing of children. School officials have only a secondary responsibility and must respect these rights. State deference to parental control over children is underscored by the [Supreme] Court's admonitions that the child is not the mere creature of the State, and that it is the parents' responsibility to inculcate moral standards, religious beliefs, and elements of good citizenship.⁴

The passage of PPRA in 1978 was motivated by concerns about a growing trend of researchers exploiting their access to public school students to conduct psychological testing of children without parental consent. In the decades since, the demand for our children's data has only intensified, and the general impulse from educators to shut parents out of what happens in the classroom is stronger than ever. Much of this new testing is conducted under the banner of supporting children's emotional well-being, based on the premise that poor mental health presents a barrier to learning. While it's true that there seems to be a crisis among young people in terms of behavior and mental health—especially after prolonged school closures in blue states in response to Covid—I am deeply skeptical that the measures that schools are implementing will improve the situation. In fact, there is reason to believe these practices may do more harm than good.

A large share of this probing into children's feelings occurs through what is called “social-emotional learning,” or “SEL.” My district, Mt. Diablo Unified, uses a curriculum from an organization called the Collaborative for Academic, Social, and Emotional Learning, or CASEL.⁵ In a promotional video, one CASEL educator described SEL's goal this way: “We give people the space to explore who they are as

⁴ *Gruenke v. Seip* 225 F.3d 290, 307 (3d Cir. 2000) (internal citations and quotations omitted).

⁵ Mt. Diablo Unified School District, *Social Emotional Learning*, <https://www.mdusd.org/departments/educational-services/partnerships-mtss-grants/social-emotional-learning>.

people, to look at their identity, to recognize how important relationships are. And what it means to be a successful human, not just a successful student.”⁶ On the surface, these sound like positive aims, but should it be the role of public schools to define what it means to be a “successful human”? That question implicates moral and ethical judgments, which are far from universal. In this way, SEL overtly intrudes on a domain that has always been recognized as belonging to parents.

In our district, I see multiple layers of surveying of personal information, most occurring as part of SEL activities. I must note that my understanding is incomplete, because the district has repeatedly denied me access to its full SEL materials, an issue I will discuss more later.

Classroom Circles and Emotional Check-Ins

At the first level, teachers lead SEL activities daily in elementary school and somewhat less frequently in middle and high school.⁷ These often take the form of “community circles” or emotional “check-ins,” where children sit in a circle and take turns answering questions posed by the teacher.⁸ Sometimes the questions are mild, such as “How are you feeling today?” but students are often pressed to explain why they feel that way – information that is undeniably personal. Other prompts are much more intrusive, such as “Share a time when you were in conflict with your parents.”⁹

Even when the prompts sound harmless, these are not casual questions to make conversation. They serve a hidden purpose. CASEL explicitly identifies the purpose of check-ins as building “self-awareness.”¹⁰ But as Abigail Shrier explains in her book *Bad Therapy*, constant emotional probing can backfire, worsening anxiety and depression. She quotes one expert who advises that children struggling with self-regulation need

⁶ CASEL, “What is Social and Emotional Learning (SEL)?”, YouTube (June 23, 2021), <https://www.youtube.com/watch?v=Y-XNp3h4A>, at 0:44-0:57.

⁷ Mt. Diablo Unified School District, *Social Emotional Learning Frequently Asked Questions*, p. 1, archived at https://drive.google.com/drive/u/1/folders/1OArMlxA70CPkot9BwRwufMPJ_t4HILdc.

⁸ *Ibid.*

⁹ Mt. Diablo Unified School District, *Community Building Circle Meeting Prompts*, archived at <https://drive.google.com/file/d/1Ktwx4neEHKIHLgPTcxHotcgQIZ20OqSe>. See also Mt. Diablo Unified School District, *Elementary SEL Activity Manual*, archived at https://drive.google.com/file/d/1yVKPdCbHcpLm1MY_ajjQ-AFQMQtFfGAh; See also Mt. Diablo Unified School District, *Secondary SEL Activity Manual*, archived at <https://drive.google.com/file/d/1H8avYsjHEXluIPDHZV98YztNo5hmIZQC>.

¹⁰ “Daily check-ins build self-awareness by asking students to identify how they are feeling and/or introducing a lesson or activity to focus and set personal goals.” CASEL, *Aligning Social and Emotional Learning With Restorative Practices* (2020), https://schoolguide.casel.org/uploads/sites/2/2020/12/2020.12.11_Aligning-SEL-and-RP_Final.pdf.

the opposite message: “Try to verbalize everything you feel *less*. Try to self-monitor and be mindful of everything you do – *less*.” Yet untrained teachers are encouraged to do exactly the opposite, positioning themselves as amateur therapists.

In her book, Shrier recounts an example of a fifth-grade circle spiraling into an impromptu group therapy session. A child spoke tearfully about his father’s new girlfriend; another disclosed fears that her father hated her because he yelled so often. This was inappropriate on multiple levels – it upset children emotionally when they were supposed to be focused on learning, and it created serious privacy risks. Elementary-aged children cannot be expected to keep classmates’ personal disclosures confidential.

I have my own example of one of these sessions causing harm. Early in fifth grade, a teacher inserted herself into an interaction between my son and another student after my son made an offhand remark about the student’s height. She told him she was sensitive about such comments because another child, Logan,¹¹ cried frequently due to insecurity about his short stature, adding, “We have a lot of deep talks about feelings in my classroom.” This alarmed me because Logan was my son’s close friend, and his mother had repeatedly assured me he was confident and unbothered. Yet after a couple weeks of these classroom “deep talks,” Logan’s attitude had shifted dramatically. Years of his mother’s work to build his confidence had been undone by a teacher who seemed to believe she was better equipped than his own parent to shape his self-image. Sadly, his sudden insecurity even led him to withdraw from his friendship with my son for a time.

Worse, despite the teacher’s claim that Logan had repeatedly cried in class, his parents were never notified of his emotional distress. Instead, the teacher shared this sensitive information with children on the playground. Logan’s mother told me she was upset but hesitant to complain due to her limited formal education. When I asked the principal whether these “deep talks about feelings” were part of the curriculum, she said they appeared to be SEL exercises. I later obtained a district document containing the prompt, “If you could change something about yourself, what would it be?”¹² – the very question Logan’s mother said triggered his newfound insecurity.

Some may argue that the teacher helped by surfacing emotions his mother had overlooked, but this misunderstands what happened. As the book *Bad Therapy* and

¹¹ The child’s name has been changed to protect his privacy.

¹² Mt. Diablo Unified School District, *Ejemplos de preguntas o temas para unir a la comunidad círculos*, <https://drive.google.com/file/d/1-GDNfKR3JADUhaX46R9c8DjPW94niNUZ>. The English version is not publicly available; an automatically translated version appears at <https://drive.google.com/file/d/1hQ607dwfzvBw7CbliArsvcGBLEtxdGku>.

numerous child-development experts warn, pushing ordinary children to hunt for emotional wounds or dwell on perceived flaws can *create* distress rather than relieving it. Children take cues from adults, and when an authority figure suggests they should be troubled by something, many begin to believe they are. And even if a child did need emotional support, a group classroom exercise – conducted in front of peers by a teacher with no training in psychotherapy – is not the appropriate place to address it. The most appropriate way for a teacher to support a child is to focus on academics and allow him to experience the satisfaction that comes from mastering real skills.

Under PPRA, an important question is whether surveys are voluntary. The answers I have received from our district regarding SEL exercises are contradictory at best. My request to excuse my child from these lessons was flatly denied by the principal, who cited district policy. My children report that teachers tell students they do not have to answer personal questions, but they also say that teachers pressure students to respond when they initially decline. In fact, the district’s own guidance instructs teachers to push reluctant students to engage.¹³ For young children, resisting pressure from a teacher is nearly impossible.

Recently, when my middle-schooler declined to participate in one of these “community circles,” the counselor leading the session became upset. She took him aside, insisting participation was required. A second counselor joined her, repeating the demand. My son – having me as a mother – stood his ground. I later received a call home from the counselor who expressed concern about his “behavior.” When I asked whether the activity was optional, the counselor said yes, but later, she refused to confirm that in writing when I followed up by email.

Formal Surveys of Mental States and Behavior

Beyond these daily emotional probes, students are also subjected to more formal assessments. Our district administers SEL surveys three times per year.¹⁴ The questions mirror those commonly used by mental health professionals as screening tools, for example: “I can calm myself down when I am feeling angry or frustrated” and “I make good choices and avoid things that are dangerous or unhealthy.”¹⁵ These surveys serve

¹³ Mt. Diablo Unified School District, *Social Emotional Learning (SEL) Frequently Asked Questions*, p.8, https://drive.google.com/file/d/1iSfqthHfWoNOi5YXroZZAmkvA2Xj_Rwv.

¹⁴ Mt. Diablo Unified School District, *Assessment Calendars*, <https://docs.google.com/document/d/1chU-q7PRXRSI558d4MH-iT1fU5EP3ahF81RGhVmq1hQ>, archived at <https://drive.google.com/file/d/1eGFDliihEa6Y7Sl-JBCu7SWgNeR9zi9H>.

¹⁵ Mt. Diablo Unified School District, *TK-1 SEL Survey*, archived at <https://drive.google.com/file/d/1cEobXADGZm79ZnJ-VfwNxxXj4XAN4Z6Z>; Mt. Diablo Unified School District, *Grade 2-5 SEL Survey*, archived at

two purposes. First, they act as screening tools to identify individual children to be referred for counseling,¹⁶ and second, they contribute to district-level metrics.¹⁷ California law requires districts to prioritize “school climate,” measured in part by these surveys of students’ perceptions of safety and feelings of connectedness to their school.¹⁸

These surveys are conducted online through a third-party platform – Illuminate Education¹⁹ in our district, Panorama in many others.²⁰ Each child’s responses are stored under their name and are accessible to school staff. When I learned this, I requested copies of my child’s responses from the previous year and received them.²¹ This surprised my child, who had assumed that these SEL surveys were anonymous, given that they ask private questions. Teachers are even trained on how to generate individualized SEL reports, including matrices showing each student’s answers to each question.²²

<https://drive.google.com/file/d/1rwNOaU5eXHILrYr3aR0CyU9gIROIEtON>; Mt. Diablo Unified School District, *Secondary SEL Survey*, archived at <https://drive.google.com/file/d/1ssP6Zze9ujonQ3jhZgUWUjmxkpqR4ngA>.

¹⁶ Mt. Diablo Unified School District, *Social Emotional Learning Screener*, archived at <https://drive.google.com/file/d/1Skj4f4BTfYFHhr1pqO9zQVvLHuzKrr3H>.

¹⁷ See, e.g., Mt. Diablo Unified School District, *Local Control and Accountability Plan 2025-2026*, p. 75, [https://resources.finalsite.net/images/v1749503235/mdusdorg/todmb9hsr4pydsun97ih/2025-26 MDUSD LCAP DRAFT with corrected Budget Overview for Parents graphics--English.pdf](https://resources.finalsite.net/images/v1749503235/mdusdorg/todmb9hsr4pydsun97ih/2025-26%20MDUSD%20LCAP%20DRAFT%20with%20corrected%20Budget%20Overview%20for%20Parents%20graphics--English.pdf), (Metric 4.5: “Percentage of students scoring themselves MidHigh on Social Emotional Learning (SEL) District Survey.”).

¹⁸ California Education Code §§ 52060, subd. (d)(6)(C) & 52066, subd. (d)(6)(C). See also California Department of Education, *LCFF Priority 6 Statement of Model Practices*, <https://www.cde.ca.gov/eo/in/lcff-pri6-practices.asp>.

¹⁹ Illuminate Education’s tagline is “Accelerate Growth & Advance Equity with Whole Child Data and Actionable Insights.” Its homepage states: “The world has changed. There’s an even greater need to use data to drive instructional decisions at the student, school, and system levels. Illuminate provides a streamlined solution that helps educators to accurately assess learning, identify needs, align whole child supports, and drive school improvement in order to equitably accelerate growth for every learner.” Illuminate Education, <https://www.illuminateed.com/>.

²⁰ Timothy R. Snowball, “The battle with my child’s school district over unauthorized ‘social and emotional learning’ survey,” *Legal Insurrection*, Oct. 31, 2025, <https://legalinsurrection.com/2025/10/the-battle-with-my-childs-school-district-over-unauthorized-social-and-emotional-learning-survey>.

²¹ A redacted portion of one of my child’s SEL survey reports is available at: <https://drive.google.com/file/d/1ik3jsISjIOJDSNUTAMz-DXMSfSGFx-n7>. All questions offer the following choices: “Yes, all of the time,” “Yes, most of the time,” “Yes, some of the time,” and “No, never.” If a child admits to sometimes waiting until the last minute to do work or occasionally losing focus when distracted, that answer is marked incorrect.

²² Mt. Diablo Unified School District, *SEL Survey Administration*, archived at https://drive.google.com/file/d/1x7YnNijJlIp_X-8kFMSH15z9GKCrT. Illuminate’s parent company,

Our district has also conducted ad hoc surveys. I discovered one incidentally, buried in our elementary school's newsletter between announcements about fundraising and school spirit events. It required parents to proactively opt out if they didn't want their children to participate. The survey was conducted by a school counselor and asked children as young as sixth grade about their gender identity and sexual orientation.²³ Other questions focused on their feelings about school and whether they had an adult they felt comfortable confiding in.

Then there is the California Healthy Kids Survey, which is used by the majority of school districts in the state to gather data to use as indicators to track progress towards educational goals.²⁴ State law dictates that for grades six and below, children only participate if their parents opt in, and for grade seven and above, all children are given the survey unless their parents contact the school opt out.²⁵ However, despite this clear provision regarding parental consent, my child was given this survey two years in a row against my explicit wishes. These may have been honest mistakes, but the fact that they occurred under different principals and teachers does not inspire confidence that the district takes parental rights seriously.

Although the Healthy Kids Survey is ostensibly anonymous, its content is so deeply personal that anonymity alone can't justify administering it without explicit parental consent. The survey covers gender identity and sexual orientation; illegal drug, alcohol, and nicotine use; criminal conduct, such as carrying a weapon to school; and suicidal ideation.²⁶ Supplemental modules ask about sexual activity, including age at

Renaissance Learning, provides instructions for producing reports from student responses. E.g., Renaissance Learning, *CORE SEL Survey Roster Report*, <https://support.renaissance.com/s/article/CORE-SEL-Survey-Roster-Report-1752675507275>.

²³ Mt. Diablo Unified School District, *Conversations with MDUSD Students - Student Focus Groups 2024*, archived at https://drive.google.com/file/d/1S5-XrrEwKS3pftK03aAZs4tstv_AP9xn.

²⁴ California Department of Education, *CalSCHLS for LCAP Local Indicators*, https://calschls.org/docs/using_calschls_data_for_the_lcap_rev_0821.pdf.

²⁵ California Education Code §§ 51513 & 51938(c); California Department of Education, CalSCHLS, *Parental Consent*, <https://calschls.org/administration/parental-consent/>.

²⁶ California Department of Education, *California Healthy Kids Survey, High School Questionnaire, In-School Core Survey (2025-2026)*, https://calschls.org/site/assets/files/1103/chks-hs-2526-in-school_core_final_watermarked.pdf; California Department of Education, *California Healthy Kids Survey, Middle School Questionnaire, In-School Core Survey (2025-2026)*, https://calschls.org/site/assets/files/1103/chks-ms-2526-in-school_core_final_watermarked.pdf; California Department of Education, *California Healthy Kids Survey, Elementary School Questionnaire, In-School Core Survey (2025-2026)*, https://calschls.org/site/assets/files/1103/chks-es-2526-core_in-school_final_watermarked.pdf.

first intercourse, number of partners, and contraception use.²⁷

While some of the practices I have described may not—strictly speaking—violate the letter of PPRA, taken together, they reveal an educational culture increasingly comfortable treating children as subjects of psychological examination—without parental consent and without regard for the training and ethical standards required of practitioners in the field of psychology. Schools have moved far beyond their core mission of academic instruction into the intimate realm of children’s interior lives. This trend is sowing distrust in conscientious parents, many of whom are leaving the public school system entirely.

Districts Impose Barriers to Parents Learning About the Curriculum

Another area PPRA touches on is the parents’ right to access the curriculum. This is an important issue because parents cannot meaningfully exercise their rights with respect to their children’s educations if they do not know what is being taught to their children. And in modern classrooms, where materials are increasingly digital and rarely come home in backpacks, districts hold all the information while parents are expected to trust blindly. In my experience, merely asking to review instructional materials is treated as an unwelcome intrusion.

As you may know, the United States Supreme Court’s opinion released in June in *Mahmoud v. Taylor* reaffirms the central role of parents in directing the upbringing of their children.²⁸ That case challenges a school district’s decision to have books read to children that were designed to normalize LGBTQ ideology, without parents’ knowledge or consent. The Court held that the district violated the right of the parents to direct their children’s religious development. Although the facts of the case dealt with LGBTQ books, there is nothing in the opinion that limits the holding to that topic.

Parents wishing to assert their constitutional rights as articulated by the *Mahmoud* decision faces significant barriers. School districts in California, following the advice of lawyers for the California School Board Association (CSBA), have seized on language from the opinion that uses the word “specific” in order to justifying imposing burdensome requirements on parents who want to assert their rights. In accordance with the CSBA’s advice, school districts are requiring parents to identify “with

²⁷ California Department of Education, *California Healthy Kids Survey, Middle School Questionnaire, Sexual Behavior Module* (2025-2026), https://calschls.org/site/assets/files/1103/ms-sexbehav-2526_final_watermarked.pdf; California Department of Education, *California Healthy Kids Survey, High School Questionnaire, Sexual Behavior Module* (2025-2026), https://calschls.org/site/assets/files/1103/hs-sexbehav-2526_final_watermarked.pdf.

²⁸ *Mahmoud v. Taylor*, 606 U.S. ____ (2025).

specificity” the instructional content they object to, to describe the “specific religious beliefs, customs and/or practices” that conflict with the instruction, and explain how the “specific instructional content” interferes with the “specific religious beliefs, customs and/or practices.”²⁹ Not only does this requirement appear to be designed to deter parents from exercising their rights, it is practically impossible for parents to comply, because they don’t know what specifically is being taught to their children.

The problem of parents accessing their children’s instructional materials has worsened in recent years, as these materials are now largely online. When all of us were in school, our parents could have looked at the books and papers in our backpacks if they wanted to learn more. Now, at least for my children, very little comes home with them. If I want to find out what my children are being taught, I have to proactively request it and then make an appointment to view the materials during the middle of the day. You might think that having all these resources available in electronic format would make it easier to get access, but in my experience, schools make it unreasonably difficult to view materials, especially when it comes to some of the more controversial aspects of the curriculum. In those cases, I have encountered what feels like an intentional runaround.

In particular, I faced significant barriers in accessing the SEL curriculum, which includes the informal classroom surveys discussed previously. I have submitted numerous requests over the past few years, both pursuant to my rights as a parent under PPRA and state law, and pursuant to the California Public Records Act – our state’s equivalent to the Freedom of Information Act. My requests to three different school principals over the years have yielded little. The requests are either ignored completely, or I am told that someone will be in touch to make arrangements, and no one ever follows up. However, despite the district’s decision to withhold SEL materials from me, I have managed to uncover a number of documents, which are cited in this testimony.

Our district’s general counsel now claims that every document related to SEL is exempt from disclosure under the Public Records Act. The legal explanations are so strained they appear pretextual. I was told the materials could not be produced because they are copyrighted – an argument frequently used to block parents across the state. Even if certain third-party licenses limited duplication, many of the materials at issue were created by the district itself. I was also told that some items were exempt because releasing them would give certain students an “unfair advantage” on SEL “tests.” To

²⁹ California School Boards Association, *Navigating opt-out requests in light of Mahmoud v. Taylor*, <https://publications.csba.org/california-school-news/september-2025/navigating-opt-out-requests-in-light-of-mahmoud-v-taylor/>.

my knowledge, no SEL exercises are graded or tied to academic performance in any way. Finally, the district asserted that all instructional materials are categorically exempt from disclosure under a state statute implementing our version of FERPA, despite the fact that the statute says nothing of the kind.

I initially sought the SEL materials out of curiosity, but the outright refusal to provide them has made me press harder. It is evident that the district is concealing information from parents, and that secrecy fosters profound distrust. I may eventually pry some of these materials loose, but I have no confidence that the district will comply with the law when the next parent asks, especially a parent who cannot devote the hours of time I have spent navigating these obstacles.

Districts frequently claim they want engaged parents. But when parents attempt to become informed about what happens in the classroom, many of us encounter resistance, obfuscation, and delays. The message received is that parent involvement is welcome – only so long as it remains passive.

Schemes to Hide Children’s Educational Records From Parents

Finally, one area in which many California schools consistently violate FERPA involves parents’ rights to access their children’s educational records, in particular records related to a child’s asserted gender identity. Thankfully, this is not an area in which I have personal experience. But it has received significant attention in California over the past two and a half years and has resulted in litigation involving the Attorney General and the California Department of Education (CDE), some of which is still ongoing.

Under FERPA, parents have a fundamental right to inspect all education records maintained by a school, defined broadly as any records directly related to a student and maintained by the educational agency. This includes documents that affect a child’s educational experience, such as counseling notes or individualized plans. California has exploited the narrow exceptions to the FERPA definition of “educational records” to create a system of so-called “unofficial” records – files in which materials relating to a child’s gender identity are concealed while parents are shown only the “official” cumulative file, which functions as a curated dummy record to mislead parents.³⁰

³⁰ California School Boards Association, *Recently Asked Questions: Parental and student rights in relation to transgender and gender nonconforming students*, Aug 2023, <https://www.csba.org/-/media/CSBA/Files/Advocacy/LegalAdvocacy/RAQ-Parental-Student-Rights-Gender-08222023.ashx>. CSBA asserts that “official records” correspond to “mandatory permanent” student records, while “unofficial records” correspond to “permitted” student records.

This practice dates back to 2013, when Assembly Bill (AB) 1266 was enacted.³¹ Although that statute addressed only access to sex-segregated facilities and activities, the CDE issued guidance asserting that AB 1266 required schools to conceal a child's gender identity from parents upon the child's request.³² Under these policies, if a student expressed a desire to be treated as a different gender at school but did not want their parents informed, the school was required to hide any records reflecting that new identity. The CDE's guidelines emphasized that "the student's age is not a factor," even asserting that "children as early as age two are expressing a different gender identity."

This formal guidance from the state was widely disseminated for years, and districts throughout the state came to believe this secrecy was legally required. The CSBA reinforced this understanding by issuing sample policies and administrative regulations based on the state guidance, which were adopted by nearly every district in California.³³ Likewise, the two law firms that represent nearly every school district in the state have disseminated guidance that encourages schools to hide evidence of a child's new identity from parents.³⁴

A "Dear Colleague" letter sent from the U.S. Department of Education this year regarding possible FERPA violations clarified that so such distinction exists under federal law:

"FERPA does not distinguish between a student's 'official student record' or 'cumulative file.' Rather, all information, with certain statutory exceptions, that is directly related to a student and maintained by an educational agency or institution, is part of the student's 'education records' to which parents have a right to inspect and review."

Letter from Frank E. Miller Jr., Acting Director, Student Privacy Policy Office, to Chief State School Officers & Superintendents, Mar 28, 2025,

https://studentprivacy.ed.gov/sites/default/files/resource_document/file/Secretary_Comb_SPPO_DC_L_Annual_Notice_0.pdf.

³¹ 2013 Cal. Stat. ch. 85 (Assemb. B. 1266, 2013–2014 Leg., Reg. Sess. (Cal. 2013)).

https://leginfo.ca.gov/faces/billNavClient.xhtml?bill_id=201320140AB1266.

³² California Department of Education, *School Success and Opportunity Act (Assembly Bill 1266) Frequently Asked Questions*, archived at <https://archive.ph/CazUw>. The CDE has since removed the document from its website.

³³ California School Boards Association, *Providing a Safe, Nondiscriminatory School Environment for Transgender and Gender-Nonconforming Students*, Feb 2014,

<https://www.csba.org/~media/e68e16a652d34eada2bfdcd9668b1c8f.ashx>; California School Boards Association, *Final Guidance: AB 1266, Transgender and Gender Nonconforming Students, Privacy, Programs, Activities & Facilities*, Mar 2014, https://www.csba.org/Advocacy/~media/CSBA/Files/Advocacy/ELA/2014_03_AB1266_FinalGuidance.ashx.

³⁴ Fagen Friedman & Fulfroft, "My Name Is: A Legal and Practical Framework for Affirming Students' Identities in their Records and in the School Setting," p.33, https://www.sbcsepa.org/wp-content/uploads/2022/02/12-6-21_IPA_Agenda.pdf, relevant portion archived at <https://drive.google.com/file/d/1gAwlFOFi2mcTTIXzKQR2FBoRmuC6tVFJ/>. The presentation advises educators that if a student does not want parents to see records reflecting a new gender identity, staff

In many cases, the preference of a student who has claimed a new gender identity is documented in a “gender support plan.” A widely used model form, created by the activist nonprofit Gender Spectrum, includes questions about whether parents are “aware” and “supportive,” and “what considerations must be accounted for in implementing this plan?” if they are not.³⁵ Although the form does not explicitly instruct schools to hide it, the implication is clear – it is not to be placed in the official file, which parents may access. At least two districts have modified the form to make this concealment explicit. My own district, Mt. Diablo Unified, allows students to choose where the form will be stored, noting that only documents placed in the cumulative file will be accessible to parents.³⁶ And a version used by Oakland Unified warns staff that the document “should not be placed in the student’s file to maintain privacy” if parents do not support the plan, citing AB 1266,³⁷ which, again, has nothing to do with withholding information from parents.

I also discovered that some districts have used an online “Gender Support Plan” created by Gender Spectrum and hosted on the third-party platform.³⁸ School staff could enter students’ personally identifiable information, including name, birthdate, sex, sibling information, and notes on gender identity. A 2021 training video from

should consider “[m]aintaining any documentation in personal possession,” or “[h]aving verbal conversations with other staff on a ‘need to know’ basis.”

Atkinson, Andelson, Loya, Ruud & Romo likewise recommended implementing a “segregation policy” to “restrict access and maintain privacy.” *Student Gender in Schools: What Practitioners Need to Know*, <https://drive.google.com/file/d/1e3TaTCMaec74unMIyZexEHBOVZkq6y-X>, archived at <https://drive.google.com/file/d/1FAA-pvOmnLotVlfWr7HcwRYnmOi24tml>.

³⁵ Gender Spectrum, *Gender Support Plan*, https://gender-spectrum.cdn.prismic.io/gender-spectrum/8f79a6e0-5f5c-4434-a4d3-facb33a95cda_Fillable_Student_Gender_Support_Plan_Oct2022.pdf, archived at <https://archive.ph/9PS8W>.

³⁶ Mt. Diablo Unified School District, *Gender Support Plan*, https://drive.google.com/file/d/12J6Vq_jluKakLsPlqGseykkJRywGG8H6, archived at https://drive.google.com/file/d/14Bg-J67tR8_x5d7Las4V2clpZ_JNQZ-Z.

³⁷ Oakland Unified School District, *Gender Support Plan*, https://cdn01.dailycaller.com/wp-content/uploads/2025/05/Gender-Support-Plan_Redacted.pdf, cited in Megan Brock, “School District Piped Taxpayer Cash Into Clandestine Clubs Turning Kids Into LGBT Activists,” *Daily Caller News Foundation*, May 21, 2025, <https://dailycaller.com/2025/05/21/exclusive-oakland-unified-school-district-clandestine-clubs-lgbt>.

³⁸ Gender Spectrum, *Gender Support Plan*, archived at <https://web.archive.org/web/20230622182812/https://www.tfaforms.com/4745264>; Gender Spectrum, *Gender Communication Plan*, archived at <https://web.archive.org/web/20210616192430/https://www.tfaforms.com/4770529>. See also Defending Education, “San Ramon Valley Unified School District expands GSA clubs to elementary schools, refuses to share materials with parents, hides students’ new gender identities from parents,” Jan 12, 2022, <https://defendinged.org/incidents/san-ramon-valley-unified-school-district-expands-gsa-clubs-to-elementary-schools-and-incorporates-restorative-justice-practices/>.

Glendale Unified shows an Assistant Superintendent instructing staff on how to complete the online form.³⁹ While there is no evidence that Gender Spectrum actually accessed the submitted data, the fact that it was possible raises concerns under FERPA, as well as the Children’s Online Privacy Protection Act, which generally requires agreements with vendors, parental notice, and appropriate security measures. The use of this online form may have further facilitated concealment of records from parents by storing them with a third party, beyond parental reach.

Technology has enabled other methods of hiding educational records. Most districts use a third-party student information system to maintain records. At a Chula Vista Elementary School District board meeting last year, one board member raised concerns that parents accessing PowerSchool had discovered that their child’s name had been changed to facilitate a “social transition” without parental consent.⁴⁰ She noted that other districts had flagged the same issue and suggested that disclosing such changes might violate California law. Assistant Superintendent Sharon Casey responded that the district had created a “workaround” by adding a code to a student’s file when their name had been changed – ensuring parents could not see the change.

Similar discussions have occurred on message boards hosted by Aeries, another major student information system provider. Educators – many apparently posting under their real names – complained that parents were able to view records showing their child’s preferred name or asked the company to add features that would make concealment easier.⁴¹ Many cited their belief that California law required these practices, demonstrating how thoroughly the CDE’s erroneous guidance had permeated schools statewide.

While I am on the topic of technology, I want to bookmark another massive

³⁹ Board Transforming Family, “Spotlight Q&A: Implementing a Gender Support Plan at School,” Aug 3, 2021, <https://youtu.be/LEc0m02QgG4>.

⁴⁰ Chula Vista Elementary School District, Board Meeting, Apr 17, 2024, <https://www.youtube.com/watch?v=Y-XNp3h4A>, at 6:01:20-06:02:41.

⁴¹ Christina Winn, “Ability to hide a ‘preferred name’ and gender from parent accounts as well as hide email accounts due to name/gender change,” *Aeries Ideas*, Nov 1, 2021, <https://archive.ph/66jlK> (and replies); cchrisko, “Option to hide sex/gender on Student Emergency Cards,” *Aeries Ideas*, Oct 12, 2021, <https://archive.ph/7eM9n>; Shonette Brown-Silva, “Do not print student alias when parents Print Emergency Card from PDC,” *Aeries Ideas*, Aug 8, 2022, <https://archive.ph/B5qCc>; Suzette Kellar, “Updating Student Preferred Names Without Parental Portal Visibility,” *Aeries Ideas*, Aug 24, 2022, <https://archive.ph/PY2J4>; Andrea Rose, “Check box to allow or disallow parents to view student alias,” *Aeries Ideas*, Nov 10, 2022, archived at <https://archive.ph/yXrz7>; Hadley Elmore, “Subject AB 1266 Transgender rights,” *Aeries Ideas*, Aug 24, 2023, <https://archive.ph/07iSQ>; Suzette Kellar, “Updating Student Names Without Parent Authorization: A Guide,” *Aeries Ideas*, Jul 3, 2024, <https://archive.ph/EMcMi>.

loophole that schools are exploiting to evade FERPA requirements. I recently discovered that our district's position is that emails are not subject to FERPA because they are not "maintained" by the school, and several lower courts have agreed with their position.⁴² In my opinion, this approach is clearly wrong given how we use technology in modern times. Just because a document is not printed on a piece of paper and stored in a physical file does not mean that it is not a "record." I know the U.S. Department of Education has said that one of the concerns that came out of listening sessions held in 2022 was the applicability of FERPA to digital records,⁴³ and although there is a proposed rule change pending, it's not clear to me whether there is any provision to address the problem.⁴⁴

Returning to the story of challenges to secrecy policies in California, this issue came to a head in 2023, when several school boards in California rescinded their secrecy policies and replaced them with policies requiring parental notification of changes to a child's educational records.⁴⁵ In response, the Attorney General launched an investigation and then filed a lawsuit against one of the districts, arguing that children have a constitutional right to keep their names and gender identities secret from their parents.⁴⁶ The state's position is frankly, ridiculous. A person's name and gender are not private facts, let alone so sensitive that they must be concealed from parents – while being known to peers, teachers, and school staff. A pending federal case illustrates the extreme measures teachers were compelled to take to comply with student requests that parents be deceived, with regularly updated emailed lists of each child's preferences

⁴² E.g., *S.A. v. Tulare Cnty. Ofc. of Educ.*, 2009 U.S. Dist. LEXIS 88007, 2009 WL 3126322, at *5-7 (E.D. Cal. Sept. 24, 2009); *E.D. v. Colonial School District*, 2017 U.S. Dist. LEXIS 50173, 2017 WL 1207919, at *10 (E.D. Pa. Mar. 31, 2017).

⁴³ U.S. Department of Education, *Family Educational Rights and Privacy Act*, RIN 1875-AA15 (Fall 2024), <https://www.reginfo.gov/public/do/eAgendaViewRule?pubId=202410&RIN=1875-AA15>.

⁴⁴ U.S. Department of Education, *Family Educational Rights and Privacy Act*, RIN 1875-AA15 (Fall 2025), <https://www.reginfo.gov/public/do/eAgendaViewRule?pubId=202504&RIN=1875-AA15>.

⁴⁵ E.g., Chino Valley Unified School District, Board Policy 5020.1 (Parental Notification), Jul 20, 2023, <https://libertyjusticecenter.org/wp-content/uploads/Chino-Valley-Unified-School-District-Parental-Notification-Policy.pdf>.

⁴⁶ Letter from California Attorney General Rob Bonta to Chino Valley School Board, Jul 20, 2023, https://oag.ca.gov/system/files/attachments/press-docs/7.20.23_Item%20II.A.1%20on%20July%2020%2C%202023%20Agenda%20-%20E2%80%9CNew%20Board%20Policy%205020.1%20%E2%80%93%20Parental%20Notification%E2%80%9Ddocx%20%282%29.pdf; *People v. Chino Valley Unified School District*, Complaint, Aug 28, 2023, <https://oag.ca.gov/system/files/attachments/press-docs/Stamped%20-%20CVUSD%20Complaint.pdf>.

sent around to teachers.⁴⁷

While litigation was underway, the Legislature intervened with Assembly Bill 1955 in 2024, which has only muddied the waters.⁴⁸ AB 1955 prohibits school districts from adopting policies that require staff to notify parents when a student asks to be treated as a different gender at school. Proponents claim it doesn't conflict with FERPA because it doesn't expressly prohibit schools from informing parents of information in educational records. But its confusing language has led many districts to believe that it bans any disclosure to parents without permission of the child, in line with the state's prior contested interpretation of AB 1266 from 2013.

The result is a statewide environment in which secrecy is justified as necessary to protect a child's supposed right to privacy, even though it directly conflicts with FERPA's core guarantees. Schools in California are now navigating the tension between federal law that requires parental access to educational records and the consistent message from state officials that disclosure is unlawful and unconstitutional.

Although a final resolution of the matter will take time, I've followed the litigation closely and feel optimistic that the courts will reaffirm parents' rights under both FERPA and the Constitution.⁴⁹ The ongoing cases provide an overdue opportunity for courts to correct the policies of school districts that have veered wildly off course, losing sight of the basic core value that parents, not the state, hold the rights and responsibility when it comes to their children's upbringing.

Conclusion

The practices I have described blur the line between the authority of schools and the rights of families. When schools probe children's private thoughts, withhold curriculum, or hide educational records, they treat parents not as partners but as obstacles. Most parents are not lawyers, and even those of us who have limited time to navigate bureaucratic roadblocks. Parents should not have to file repeated requests or complaints just to know what their children are being taught or how their personal

⁴⁷ *Mirabelli v. Olson*, No. 3:23-cv-00768-BEN-WVG, Verified Compl. Ex. 21-23, ECF No. 1 (S.D. Cal. Apr. 27, 2023), relevant portion archived at <https://drive.google.com/file/d/173M8ZBauHxHwzgHY5PUu1Hd3FtbF8gmb>.

⁴⁸ California AB 1955 (2023–2024 Reg. Sess.), 2024 Cal. Stat. ch. ____ (adding Educ. Code §§ 217–220.6 (West 2025)) (approved July 15, 2024, eff. Jan. 1, 2025).

⁴⁹ A federal court has recently certified a class-action lawsuit that seeks a declaration that parental exclusion policies violate FERPA, among other remedies. Order Granting Class Certification, *Mirabelli v. Olson*, No. 3:23-cv-00768-BEN-WVG, ECF No. 286 (S.D. Cal. Oct. 15, 2025), https://cdn.prod.website-files.com/63d954d4e4ad424df7819d46/68f13eaab7e4b90a13f9fc1f_Dkt.286_Order_Certifying_Class.pdf.

information is handled.

Schools overstep these boundaries because some educators believe they are better positioned than parents to shape a child's development, and because enforcement of laws like FERPA and PPRA is limited. Technology and modern educational practices – cloud-based records, third-party platforms, and embedded social-emotional assessments – have made it easier for schools to assume authority beyond instruction, while Congress has yet to update these statutes to address today's realities.

Federal laws recognize parents as the primary stewards of a child's wellbeing. Teachers are not parents, and schools are not families. When schools stray far beyond their core mission of teaching reading, writing, and arithmetic, they risk treating children as “mere creatures of the State,” a notion the Supreme Court resoundingly rejected a century ago.⁵⁰ This principle should not be a partisan issue: The central role of families in shaping children's development and moral values has been universally recognized, with perhaps a few exceptions among modern authoritarian societies. When parents are undermined, children are left vulnerable to the will of government institutions that cannot replace the loving care of a family. Safeguarding parents' rights is the only way to protect children.

⁵⁰ *Pierce v. Society of Sisters*, 268 U.S. 510, 535 (1925).