



Honorable Richard Blumenthal  
Chairman  
Committee on Commerce, Science, and Transportation  
Subcommittee on Consumer Protection, Product Safety, and Data Security  
706 Hart Senate Office Building  
Washington, D.C. 20510

Honorable Marsha Blackburn  
Ranking Member  
Committee on Commerce, Science, and Transportation  
Subcommittee on Consumer Protection, Product Safety, and Data Security  
357 Dirksen Senate Office Building  
Washington, D.C. 20510

October 7, 2021

**Re: Parent Concerns Related to the Data Mining of America's Schoolchildren**

Dear Chairman Blumenthal and Senator Blackburn:

In the wake of the Senate Committee on Commerce, Science, and Transportation's October 5, 2021, hearings on "Protecting Kids Online: Facebook, Instagram, and Mental Health Harms," Parents Defending Education respectfully requests that the Subcommittee on Consumer Protection, Product Safety, and Data Security investigate a new practice with serious implications for America's children: the use of intrusive surveys in schools to gather psychological and political data on students under the guise of a new theory called "social and emotional learning" (SEL). Questions on these surveys include detailed requests for students to disclose opinions and feelings about gender identity, racial topics, family structure, and sexuality.

We raise four objections to these surveys:

1. **They are disdainful of parent rights.** Unfortunately, invasive surveys on deeply personal and private topics that have little or no connection to legitimate academic subjects are regularly administered to school children across the country – often without the knowledge or consent of parents or guardians. Indeed, many schools include a blanket release for surveying students in the fine print of student handbooks that must be signed at the beginning of each school year. Burying consent for surveys in fine print and obscuring information about how families can opt out of such programming seems intended to keep parents in the dark so that schools and vendors face as little scrutiny or questions as

possible. This is not how our public schools should operate.

- 2. Collecting survey data creates serious privacy concerns.** The largest and most influential vendor in this space, Panorama Education, says that it works with “more than 12 million K-12 students in 21,000 schools.”<sup>1</sup> This includes (but is not limited to) districts in Arizona, California, Hawaii, Illinois, Indiana, Maine, Massachusetts, Maryland, Michigan, Minnesota, Nevada, New York, North Carolina, Texas, Utah, Vermont, Virginia, and Washington.

Panorama Education’s June 2021 contract with Fairfax County Public Schools (FCPS) in Virginia states<sup>2</sup> that Panorama will have access to the names of students and how they answer questions about what they “think and feel” on an array of issues, including gender, sexuality, race, and politics.

School districts around the country regularly fall victim to hackers and data breaches. For example, earlier this year in Broward County, Florida, hackers gained access to the district’s databases and demanded a multi-million dollar ransom payment.<sup>3</sup>

Yet districts themselves are not the only vulnerability. According to a March 2021 report from the K12 Security Information Exchange and the K-12 Cybersecurity Resource Center, “For the second calendar year running, at least 75 percent of all data breach incidents affecting U.S. public K-12 school districts were the result of security incidents involving school district vendors and other partners.”<sup>4</sup>

The Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. § 1232g; 34 CFR Part 99), protects the privacy of student education records, and the Protection of Pupil Rights Amendment (PPRA) (20 U.S. Code § 1232h) governs the administration to students of a survey, analysis, or evaluation that concerns a number of sensitive topics.

It is shocking, then, that Panorama’s contract with FCPS includes a provision that Panorama will enjoy a special status with the school district that appears precisely designed as an end run around student privacy protections: “the Company and its Authorized Representatives shall be deemed to be school officials of the School Board, and shall maintain FCPS Confidential Student Records in accordance with all federal state and local laws, rules and regulations regarding the confidentiality of such records.”

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<sup>1</sup> Panorama Education website, <https://www.panoramaed.com/>, accessed October 7, 2021

<sup>2</sup> Fairfax County Public Schools Acceptance Agreement Contract Number 4400010525, June 8, 2021 <https://defendinged.org/wp-content/uploads/2021/09/Panorama-Education-Fairfax-County-Public-Schools-2021-Agreement.pdf>

<sup>3</sup> Goodhue, David. “Hackers breach Broward schools’ computer system. They’re demanding millions in ransom,” Miami Herald, April 1, 2021 <https://www.miamiherald.com/news/local/community/broward/article250344061.html>

<sup>4</sup> Levin, Douglas A. “The State of K-12 Cybersecurity: 2020 Year in Review.” K-12 Cybersecurity Resource Center and the K12 Security Information Exchange, March 10, 2021 <https://k12cybersecure.com/wp-content/uploads/2021/03/StateofK12Cybersecurity-2020.pdf>

In response to a parent inquiry about Panorama’s contract, Deborah E. Scott, director of intervention and prevention services at Fairfax County Public Schools, responded that “Third-parties who are considered ‘school officials’ are permitted to receive student data absent parent consent.”

The fact that student data can be shared with a third-party vendor *absent parent consent* is troubling, as it will serve to further damage the fraying relationship between schools and parents. This loophole should be closed immediately, in order to better safeguard parental rights.

3. **The survey questions are designed to create a pretext for introducing divisive political and social issues into every aspect of education.** The company’s surveys include questions such as:

- “How confident are you that students at your school can have honest conversations with each other about race?”
- “How well does your school help students speak out against racism?”<sup>5</sup>
- “Currently, I most strongly identify as: Genderqueer, nonbinary or fluid; Female; Male; Transgender; Prefer not to answer”
- “Currently, I identify as: heterosexual/straight; LGBTQ+; prefer not to answer.”<sup>6</sup>

These are intrusive questions being asked in some cases of children as young as five years old. Large numbers of parents would opt their kids out of being subjected to such questioning if they knew it was happening, or the reasons why it is happening. The questions are premised on radical, unscientific, and politicized theories about sexuality and gender, conveying to students that these obscure views are normal and mainstream. And the questions themselves are designed to create a pretext for schools to adopt divisive new curricula on race and gender topics. Panorama itself touts “SEL as Social Justice” and as a “vehicle” to promote Critical Race Theory, “intersectionality,” and “equity.” SEL is yet another euphemistically named practice whose real goal is to promote an array of toxic and politically extreme subjects in our public schools.

4. **The vendors promoting the surveys may have conflicts of interest.** It is worth noting that one of the main investors in Panorama Education is the Chan Zuckerberg Initiative,<sup>7</sup> particularly in light of the Wall Street Journal’s recent investigative series on Facebook

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<sup>5</sup> Panorama Education User Guide: Panorama Equity and Inclusion Survey <https://panorama-www.s3.amazonaws.com/files/sel/SEL-User-Guide.pdf>

<sup>6</sup> Panorama Education SEL: Student Self-Awareness and Efficacy <https://maine207.org/wp-content/uploads/2020/10/Panorama-Student-Self-Awareness-and-Efficacy.pdf>

<sup>7</sup> Chan Zuckerberg Initiative, Panorama Raises \$60M to Enhance EdTech Tools, September 2, 2021 <https://chanzuckerberg.com/newsroom/panorama-raises-60m-to-enhance-edtech-tools/>

exposing how the company is actively studying preteens in order to determine “the long-term business opportunities presented by these potential users.”<sup>8</sup>

We respectfully request that the subcommittee hold a hearing in order to gather information about these “social-emotional learning” surveys, the vendors administering them, and the privacy, parent rights, and political questions raised by them. We believe it is worth exploring whether there is a role for increased federal oversight in order to better protect students and families.

Thank you for your attention to this matter, and please do not hesitate to contact us if you have any questions.

Sincerely,

Nicole Neily  
President  
Parents Defending Education

Asra Nomani  
Vice President for Strategy and Investigations  
Parents Defending Education

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<sup>8</sup> Wells, Georgia and Horwitz, Jeff. “Facebook’s Effort to Attract Preteens Goes Beyond Instagram Kids, Documents Show,” the Wall Street Journal, September 28, 2021 <https://www.wsj.com/articles/facebook-instagram-kids-tweens-attract-11632849667>