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## MEMORANDUM ON SOCIAL-EMOTIONAL LEARNING (SEL): AN EXAMINATION UNDER FLORIDA LAW

Parents with children attending Florida public schools have encountered curriculum in contradiction with their religious or moral beliefs. This includes any and all instruction associated with “social and emotional learning” (“SEL”) through which students are exposed to sexual orientation, gender identity, and critical race theory ideology under the guise of objective social and emotional learning principles. As this memorandum seeks to illustrate, this has been done without clear, informed, and expressed parental consent in clear violation of Florida law.

The Collaborative for Academic Social and Emotional Learning (CASEL)<sup>1</sup> is the organization that coined the term SEL in the United States. CASEL has exerted significant influence over state providers of SEL curriculum including FL SEL providers Edgenuity, Imagine Learning, and countless others.<sup>2</sup> According to CASEL, SEL functions as a so-called “lever for equity and excellence,” in which “each and every student—across race, ethnicity....status, gender identity, sexual orientation, and other factors—should have experiences and environments that support healthy social, emotional, and academic development.”<sup>3</sup> Under this model, teachers are encouraged to “validate student experiences of oppression”<sup>4</sup> after an extensive analysis of race, gender identity, and sexual orientation, among other politicized identity categories. This model is taught with the purpose of producing “justice-oriented citizens.”<sup>5</sup> Thus, students are advised, through SEL, and more specifically, its variant, transformative SEL (TSEL), to “reflect [CASEL’s] interest in making explicit issues such as power, privilege, prejudice, discrimination, [and] social justice.”<sup>6</sup>

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<sup>1</sup>From CASEL, “[Our Mission and Work](#)”: “The Collaborative for Academic, Social, and Emotional Learning (CASEL) has been a leader of the SEL movement since first introducing the term more than two decades ago.”

<sup>2</sup>It is worth noting that the Edgenuity/Imagine Learning is based off the teachings from CASEL, making twelve references to the curriculum provider alone in its primer on SEL titled, “[Social and Emotional Learning Research Foundations](#).” Additional SEL curriculum that makes use of CASEL’s teachings, many of which are present in Florida, may be found [here](#).

<sup>3</sup>Dermond, C., et al. (2018). CASEL. “[State Policy Bright Spots: Social and Emotional Learning and Equity](#).”

<sup>4</sup>Rivas-Drake, D. et al. (2021) CASEL. “[Rising Up Together: Spotting Transformative SEL in Practice with Latinx Youth](#).” Note that the “validation of oppression” in the context of gender identity and sexual orientation encourages the idea that gender is a social construct, an idea that contradicts [Florida Statutes: 1000.071: Personal titles and pronouns](#), (1) stating, “It shall be the policy of every public K-12 educational institution that is provided or authorized by the Constitution and laws of Florida that a person’s sex is an immutable biological trait and that it is false to ascribe to a person a pronoun that does not correspond to such person’s sex,” and (3), “an employee or contractor of a public K-12 educational institution may not provide to a student his or her preferred personal title or pronouns if such preferred personal title or pronouns do not correspond to his or her sex.”

<sup>5</sup>Jagers, R., et al. (2018). CASEL District Resource Center. [Equity & Social and Emotional Learning: A Cultural Analysis](#). “Given the prominence of the CASEL framework and its attention to citizenship as a long-term developmental imperative, there is heuristic and practical value in viewing children and youth as the next generation of informed, engaged, and justice-oriented citizens.” (3).

<sup>6</sup>Ibid at 3, “Consistent with the pursuit of educational equity, we recently offered the concept of transformative SEL to reflect our interest in making explicit issues such as power, privilege, prejudice, discrimination, social justice, empowerment, and self-determination in the field of SEL.”

To foster this, educators are instructed to employ a “cultural integration” model of instruction which emphasizes “culturally responsive teaching and culturally relevant pedagogy” and the provocation of “student reflection on their own lives and society.”<sup>7</sup> Beyond this, SEL/TSEL also promotes the idea that students should “critically examine root causes of inequity” and accept the Marxist narrative that “issues of racism derive largely from an over-emphasis on the accumulation of wealth within American culture.”<sup>8</sup>

This concept advances “pursuing social justice through critiques of discourses of power.”<sup>9</sup> One such discourse includes an anti-capitalist critique for “wealth and whiteness,” which CASEL claims is the product of “dominant U.S. cultural norms [that] promote materialism or acquisitive individualism.”<sup>10</sup> The organization defines this latter quality as “an orientation associated with health problems and unethical behavior.”<sup>11</sup> Furthermore, teachers under the SEL/TSEL model are expected to practice an awareness towards how race impacts their teaching, with the goal of aiding instructors “in avoiding the fallacies of color-blindness, power-blindness, and humanist-caring.”<sup>12</sup>

## **ANALYSIS**

### *A. Florida Law Prohibits Racial Discrimination and/or Adverse Treatment on the Basis of Race*

These teachings are in clear violation of Section 1003.42(3)(d) of Florida Statutes prohibiting the teaching that “meritocracy or traits such as a hard work ethic” is racist.<sup>13</sup> It further violates Florida Statutes 1003.42 2(h) stating that “classroom instruction and curriculum may not be used to indoctrinate or persuade students to a particular point of view.”<sup>14</sup> In fact, it was on this basis that the

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<sup>7</sup>Ibid at 9, “The approach of cultural integration involves culturally responsive teaching and culturally relevant pedagogy. These two practices reflect sociocultural and constituent-involving strategies and include the following features: connecting students’ cultural assets and references to academic concepts and skills, employing curricula that encourages student reflection on their own lives and society, supporting student cultural competence by facilitating learning about their own and other cultures, and pursuing social justice through critiques of discourses of power.”

<sup>8</sup>Ibid at 2, “Transformative SEL connotes a process whereby students and teachers build strong, respectful relationships founded on an appreciation of similarities and differences, learn to critically examine root causes of inequity, and develop collaborative solutions to community and societal problems,” and at 3, “Racial/ethnic and class issues continue to vex American society. Cultural analysis suggests that issues of racism derive largely from an over-emphasis on the accumulation of wealth within American culture.”

<sup>9</sup>Ibid at 9; see also footnote 9.

<sup>10</sup>Ibid at 4, “Dominant U.S. cultural norms promote materialism or acquisitive individualism, an orientation associated with health problems and unethical behavior. These norms are even more problematic when wealth and Whiteness are conflated and uncritically accepted as indicators of success. This fosters a sense of White racial entitlement and dominance, as well as negative biases and stereotypes about people of color and those from low-income backgrounds.”

<sup>11</sup>Ibid at 4; see also footnote 12.

<sup>12</sup>Ibid at 13, “Further, teacher racial identity is a relevant but under-examined consideration for equity and SEL. Such awareness would aid teachers in avoiding the fallacies of color-blindness, power-blindness, and humanist-caring, which obscure the sociopolitical realities of youth of color and low-resourced students.”

<sup>13</sup>Florida Statutes. (2023). [Section 1003.42: Required Instruction](#).

<sup>14</sup>Ibid.

Florida Department of Education (FDOE) rejected 41 percent of mathematic textbooks in the state under review in 2022, with references to SEL in the rejected curriculum cited as “unsolicited strategies of indoctrination.”<sup>15</sup> This supports the words of Governor DeSantis, who stated in a press release that the curriculum was removed for containing “indoctrinating concepts like race essentialism, especially, bizarrely, for elementary school students,” all of which were deemed by the FDOE to be “impermissible with Florida’s new standards.”<sup>16</sup>

These standards include the Governor’s Executive Order 19-32 as well as Section 1000.05(4)(a) (2-8) of Florida Statutes prohibiting the subjection of any student to “training or instruction” that advance the belief in systemic, inherent racism (2), that one’s privileged or oppressed status is determined on the basis of race (3), and that “virtues such as merit, hard work, and racial colorblindness are racist or sexist, or created by members of a particular sex to oppress members of another race” (8).<sup>17</sup>

### *B. Florida Law Prohibits Casting Students as Perpetually Oppressor or Oppressed*

According to SEL curriculum, “white elites promulgated racialized and cultural stereotypes to recruit poor and working Whites into a hierarchical economic system that exploited them, but also empowered them to oppress and further exploit people of color.”<sup>18</sup> However, any educational materials that promote this narrative or cause, whereby students are perceived as fundamentally the oppressors or the oppressed, no matter how subtly or explicitly, is prohibited under Rule 6A 10.081(2)(a)(1-10) of the Florida Administrative Code: Principles of Professional Conduct for the Education Profession in Florida, as it could lead to “unnecessary embarrassment or disparagement” sustained by students. This is a scenario from which educators, under 2(a)(5), are to minimize.<sup>19</sup>

Moreover, as outlined in Rule 6A 10.081(2)(a)(1-10), Florida educators are obligated to “make reasonable effort” to both “protect the student from conditions harmful to learning and/or to the student’s mental and/or physical health and/or safety” as well as “to assure that each student is protected from harassment or discrimination.”<sup>20</sup> Under the law, discrimination includes “subjecting any student to training or instruction that espouses, promotes, advances, inculcates, or compels such student to believe any of the concepts listed in Section 1000.05(4)(a), F.S.,” which were previously discussed.

This makes yet another CASEL resource titled, “Guiding Questions for Educators: Promote Equity Using SEL in your District,” similarly problematic given its discussion of the CASEL core competency

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<sup>15</sup>Florida Department of Education (FDOE). (2022). [Florida Rejects Publishers’ Attempts to Indoctrinate Students](#).

<sup>16</sup>Ibid.

<sup>17</sup>Florida Statutes. (2023). [Section 1000.05: Discrimination against students and employees in the Florida K-20 public education system prohibited; equality of access required](#).

<sup>18</sup>Jagers, R., et al. (2018). CASEL. [Equity & Social and Emotional Learning: A Cultural Analysis](#).

<sup>19</sup>Florida Department of Education. [Rule 6A 10.081, Florida Administrative Code, Principles of Professional Conduct for the Education Profession in Florida](#).

<sup>20</sup>Florida Department of Education. [Rule 6A 10.081, Florida Administrative Code, Principles of Professional Conduct for the Education Profession in Florida](#).

model which comprises of five qualities that include self-awareness and social awareness.<sup>21</sup> Under the self-awareness prong, educators are supposed to “reflect on their own identities, assets and biases, and engage in culturally-relevant practices and conversations around equity” in their examination of disaggregated data that seeks to illuminate disparities in student experiences on the basis of race.<sup>22</sup> This rumination is performed as a type of “anti-bias” activity assisting individuals to “actively challenge stereotyping, bias, and all forms of discrimination.”<sup>23</sup> This, in turn, informs how students are treated by educators in their fulfillment of the “social awareness” competency wherein educators are specifically prompted to identify cultural, racial, and gender differences among students for purposes of conferring differential treatment on the basis of identity categories. In a CASEL manual titled, “Teacher Small Group Discussion Guide: Building a Supportive Learning Environment for Middle and High School Students,” educators are instructed to “examine disciplinary data from an equity lens” and “write a reflection” that addresses whether there are “any patterns or trends by demographic group,” or “how biases and assumptions may be contributing to our school’s discipline data.”<sup>24</sup>

Another module featured in this resource includes, “Becoming an Antiracist Educator: Introducing Antiracism,” in which educators are asked to consult a compendium of resources focused on “outcomes of discussion” that include “1) a clear understanding of racial identity, 2) a shared understanding that the concept of colorblindness is not realistic in challenging racism, and 3) the recognition of ways that interpersonal, institutional, and structural racism are operating in the school community and commitment to notice and challenge it.”<sup>25</sup>

The ideas of both colorblindness and structural racism, both unlawful under Florida Statutes Sections 1003.42 and 1000.05, respectively, are predicated on The National Equity Project’s “Lens of Systemic Oppression,” which CASEL cites in its report, “Emerging Insights: Advancing SEL as a Lever for Equity and Excellence.”<sup>26</sup> This framework was purportedly designed to “sharpen focus on the ways in which any given form of oppression (race, gender, class, language, sexual orientation, etc.) may be negatively impacting people’s ability to make progress on the things they care about and/or preventing individual or collective action toward the achievement of a particular goal.”<sup>27</sup> It is precisely this sense of differentiation attributed to an oppressed marginalized identity that informs the implementation of CASEL recommendations such as “micro-affirmations,” which the organization describes as “simple, small, yet overtly positive and welcoming interactions between students of different races, ethnicities, genders, and abilities.” Once more, this further promotes differential treatment shown towards students on the basis of different identity categories, thereby thwarting equality.<sup>28</sup>

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<sup>21</sup>CASEL. [Guiding Questions for Educators: Promote Equity Using SEL in your District.](#)

<sup>22</sup>CASEL. [Equity and SEL.](#)

<sup>23</sup>CASEL. [Anti-bias.](#)

<sup>24</sup>CASEL. [Teacher Small Group Discussion Guide: Building a Supportive Learning Environment for Middle and High School Students.](#)

<sup>25</sup>Ibid.

<sup>26</sup>Schlund, J., Jagers, R.J, Schlinger, M. (2020). [Emerging Insights: Advancing Social and Emotional Learning \(SEL\) as a Level for Equity and Excellence.](#) For The National Equity Project’s “Lens of Systemic Oppression,” see [here](#).

<sup>27</sup>Ibid.

<sup>28</sup>Ibid.

Importantly, a February 2023 memorandum by the Florida Department of Education counters these ideas, in which Education Commissioner Manny Diaz called for the superintendents of Florida school districts to “immediately cease using any materials that conflict with Florida law,” that included SEL curriculum providers Edgenuity and Imagine Learning, arguing that said curricula constituted “divisive and discriminatory content” declared to have “no place in Florida’s classrooms.”<sup>29</sup>

### *C. Understanding Trauma-Informed SEL and the Eradication of Educator-Student Boundaries*

Yet another aspect of SEL that undermines Florida’s Principles of Professional Conduct and the duty to protect students is the “Relationship Skills” paradigm associated with CASEL’s 5 Core Competency Categories, which urges educators to “make every effort to get to know” their students and their families, and to invite students to, in turn, “get to know” them.<sup>30</sup> According to CASEL’s “Teacher Small Group Discussion Guide,” “The most powerful *weapon* available to secondary teachers who want to foster a favorable learning climate is a positive relationship with our students” (emphasis added).<sup>31</sup> This manifests itself in the affirmation of student identities and the promotion of “belonging and emotional safety.”<sup>32</sup> Put alternatively, this involves the weaponization of relationships, whose foundation is rooted in the transactional unearthing of trauma and espousing oppressed identity between educators and students, for purposes of supposedly fostering the emotional and mental welfare of both parties altogether.

CASEL endorses a number of strategies to facilitate this process, including the conducting of surveys that operate as a type of “student check-in” advancing “belonging and emotional safety,” and assisting educators in becoming more “responsive” to the mental and emotional needs of their students.<sup>33</sup> The Center for Disease Control’s Youth Risk Behavior is one such example survey, which asks middle school children, among other questions, their age during the first time they engaged in sexual intercourse, or whether or not they identify as transgender.<sup>34</sup> In response to the administration of this survey in Duval County, for instance, Florida Education Commissioner Manny Diaz, indicated the state

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<sup>29</sup>Florida Department of Education. (2023). [Memorandum on Edgenuity/Imagine Learning Purpose Prep](#).

<sup>30</sup>CASEL. (2019). [Guiding Questions: Promote Equity Using SEL](#); CASEL. (2021). [Guiding Questions for Educators: Promote Equity Using SEL in your School](#).

<sup>31</sup>CASEL’s [Teacher Small Group Discussion Guide: Building a Supportive Learning Environment for Middle and High School Students](#).

<sup>32</sup>Ibid.

<sup>33</sup>CASEL. [Guide to Schoolwide SEL: Belonging and Emotional Safety](#). In the section titled, “Responding to Students’ Perspectives and Needs,” CASEL notes, “To feel emotionally safe, students need teachers who are responsive to their needs. Responsiveness is grounded in trusting relationships between the teacher and students, and an understanding of how classroom life is experienced by students (Darling-Hammond et al, 2017; Steele and Cohn-Vargas, 2013). To develop a responsive environment, teachers can: conduct regular surveys to provide feedback on classroom activities, instruction and climate.”

<sup>34</sup>2023 National Youth Risk Behavior Survey, [available here](#); see, for example, question 63 which asks, “How old were you when you had sexual intercourse for the first time? A. I have never had sexual intercourse B. 11 years old or younger C. 12 years old D. 13 years old E. 14 years old F. 15 years old G. 16 years old H. 17 years old or older,” and question 72 stating, “Some people describe themselves as transgender when their sex at birth does not match the way they think or feel about their gender. Are you transgender? A. No, I am not transgender B. Yes, I am transgender C. I am not sure if I am transgender D. I do not know what this question is asking.”

of Florida would no longer be participating in the specific CDC survey, aptly describing it as “inflammatory” and “sexualized” for containing “leading questions” that encourage exposure to and rumination upon sexually explicit concepts.<sup>35</sup>

As noted by attorney and journalist Abigail Shrier in her bestseller *Bad Therapy*, there is a dangerous correlation between the dissemination of these surveys and the development of the behaviors and attitudes associated with these resources altogether. Citing a CDC study that demonstrates the link between the repetitive or excessive discussion of suicide, including details of methods to deal with suicidal ideation, and the manifestation of suicidal ideation in young people, Shrier notes, “Asking someone a series of leading questions, or making certain statements to them, can reliably provoke certain emotional responses” that make it easy to manipulate a person emotionally, especially adolescents.<sup>36</sup>

Beyond surveys, workbook activities are also utilized to stimulate student reflection on their emotional struggles and compel the expression of pent up trauma and emotional angst. This includes SEL provider Second Step’s handout packet focused on “empathy and communication” that asks questions such as “Has someone close to you died?”, “Have you ever worried about the safety of a loved one?”, and “Have you ever been really embarrassed?” All of these are more likely to induce rumination associated with emotional distress including anxiety, depression, neuroticism, and shame.<sup>37</sup> With the focus on what SEL enthusiasts call “trauma-informed SEL,” students devote a significant amount of time contemplating adversity, hardship, and experiences of “systemic oppression.”<sup>38</sup> CASEL has also endorsed resources available through the “Trauma Learning Policy Initiative” and “Identity Safe Classrooms,” the latter of which explicitly references organizations like the Gay, Lesbian & Straight Education Network (GLSEN) and Gender Spectrum whose work conforms to an approach boasting that “gender identity can change over time as words change and develop, and as an individual discovers more possibilities.”<sup>39</sup> This damaging behavior is also antithetical to Florida Statutes § 1012.796(1)(b) whereby educators are to refrain from any “misconduct... which affects the health, safety, or welfare

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<sup>35</sup>Commissioner Manny Diaz Jr. 2023 letter to Dr. Diana Greene, Superintendent of Duval County Public Schools, available [here](#). For further discussion of the harmfulness of these surveys, or “mental health assessments” upon youth, see Shrier, A. (2024). *Bad Therapy: Why the Kids Aren't Growing Up*. Swift Press, Chapter 7: Hunting, Fishing, Mining: Mental Health on “Survey Mischief” in which Shrier details the correlation between leading questions around suicide such as “During the past year, did you do something to purposely hurt yourself without wanting to die, such as cutting or burning yourself on purpose?” or “Have you ever made a plan about how you would kill yourself?” and the phenomenon in which “the subject of the suicide is valorized; where talk of suicide is repetitive or excessive and can become a preoccupation among at-risk youth; where suicide is presented as a means of coping with life’s problems, and where details of methods are provided.”

<sup>36</sup>Stack, S., “[Suicide Contagion and the Reporting of Suicide: Recommendations from a National Workshop](#),” *Morbidity and Mortality Weekly Report* 54, no. 2 (April 1994): 9–17. As cited in Shrier, A. (2023). *Bad Therapy*.

<sup>37</sup>Second Step. “[Empathy and Communication: Working in Groups](#),” grade 8, lesson 6, “Additional Handout: Building Empathy,” Committee for Children, 2008, 251, as cited in Shrier, A. (2023). *Bad Therapy*.

<sup>38</sup>Portell, M. (2021). [Harnessing the Synergy Between Trauma-Informed Teaching and SEL](#). *Edutopia*. “Trauma-informed education is genuinely about the educators/adults in schools thoroughly understanding the impact that stress and trauma play on students’ physiological, psychological, neurological, and emotional responses.”

<sup>39</sup>CASEL. [Guide to Schoolwide SEL: Belonging and Emotional Safety](#). See “[Trauma Learning Policy Institute](#)” and “[Identity Safe Classrooms](#).” For more on Gender Spectrum’s approach titled “The Three Dimensions of Gender,” see “[Our Approach](#).”

of a student.”<sup>40</sup> This includes any and all offenses outlined in Florida Statutes § 800.101 which prohibits authority figures from soliciting or engaging students in a variety of inappropriate activities.<sup>41</sup>

Importantly, Shrier is also quick to note that these types of examinations and inquiries into a student’s emotional health are “very different from asking a kid the sorts of things adults have always asked kids” such as “How is school going” or “What are you learning in school?”<sup>42</sup> In fact, according to the CASEL guide, “5 minute chats with students,” educators are told to go deeper than this: “Be more specific than ‘how’s it going?’ [because] often we are socialized to answer that question with little thought or detail.”<sup>43</sup> However, the ultimate purpose of replacing traditional questions like this with more personalized ones is the solicitation of certain emotional experiences from students that warrant reflection on identity, trauma, and other facets of a student’s personal life.

However, to do this effectively, educators are first asked to open themselves up to students, so as to forge an emotional identification or bond. As noted in CASEL’s “5 minute chat” resource, “students shared that they feel more comfortable having discussions with staff who know them and have shared a little about their own lives,” with trust being “built over time.”<sup>44</sup> Shrier cites an account from a seventh-grade teacher whose commitment to SEL involved telling her “eleven-and-twelve-year-old students what it’s like to be a single mom after the death of her son’s father.”<sup>45</sup> These kinds of revealing interactions could also include sharing details about one’s sexual orientation, gender identity, or any other meaningful aspect of one’s sense of self.<sup>46</sup>

CASEL notes that questions like “What would you say is your biggest source of joy at school right now? What about a source of stress?” should be accompanied by “probing” that includes making statements like, “Tell me more about that,” or asking follow-up questions like “I want to make sure I understand what you’re saying, can you explain a little more?” After this, educators are instructed to “validate emotions” (“That must be really difficult” or “It sounds like that had a big impact on you” are recommended reactions) and to “be attentive to student body language” throughout the interaction.<sup>47</sup> If educators already have some level of familiarity or access into the student’s life, they are encouraged to mention it in order to further build relational trust (“If you already know something about their lives, bring it up as appropriate. For example, “Your sister is in college now, right? How have you been adjusting?” or “Isn’t it baseball

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<sup>40</sup>Florida Statutes. (2023). [Section 1012.796: Complaints against teachers and administrators; procedure; penalties.](#)

<sup>41</sup>Florida Statutes (2023). [§ 800.101: Offenses against students by authority figures.](#)

<sup>42</sup>Shrier, A. (2023). [Bad Therapy: Why the Kids Aren't Growing Up](#). Swift Press, Chapter 7: Hunting, Fishing, Mining: Mental Health on “Survey Mischief.”

<sup>43</sup>CASEL. [5-Minute Chats with Students](#).

<sup>44</sup>Ibid.

<sup>45</sup>Klein, Alyson, “[Why It's So Hard to Weave Social-Emotional Learning into Academics](#),” Education Week, November 7, 2022, as cited in Shrier, A. (2023). *Bad Therapy*.

<sup>46</sup>Any conversations with students around sexual orientation and gender identity within an education setting may be in contravention of [Rule 6A-10.081, Florida Administrative Code, Principles of Professional Conduct for the Education Profession in Florida](#), Principles 6 and 7 containing prohibitions on instruction pertaining to sexual orientation or gender identity.

<sup>47</sup>CASEL. [5-Minute Chats with Students](#)

season already? How has it been for you balancing practice with everything else you have going on?”<sup>48</sup>

In addition to scheduling these intimate check ins with students, other advice given by CASEL includes developing familiarity with the “Creating Opportunities through Relationships” (OCR) modules that encourage “relationship building” and include, among its recommendations, “engaging in social conversations” with students, finding “moments to play,” “noticing their cues,” and “drawing connections to their lives.”<sup>49</sup>

Likewise, CASEL’s “Teacher Small Group Discussion Guide” under its “Connection” rubric contains the exercise “Seeing Ourselves in Others” guided by “four critical questions” that include “Am I enough for you, or do you need me to be better in some way?” and “Can I tell that I’m special to you by the way you look at me?”<sup>50</sup> To reinforce this, the module assigns the article, “How to Change Your Life in One Second Flat,” that contains an anecdote from author Toni Morison who “noted that she made sure to allow the love she felt inside be animated on the outside when her children walked in the room” after observing that “children were looking to see if your face lights up when they walk in the room.”<sup>51</sup>

Developing this level of sensitivity and attenuation to a student’s emotional needs positions the educator as the provider of this attention, validation, and support. CASEL’s “Community Building Circles” resource, under its “planning considerations,” includes the task of “understanding your students’ needs” that entails consideration of their “particular social, emotional, cognitive, learning or language needs.”<sup>52</sup> This is also more likely to allow for the easier creation of “an environment, activities, and interactions that affirm students’ diverse identities and cultures” that benefits from the sharing and learning of “each other’s [teachers and students’ shared] lives and backgrounds.”<sup>53</sup>

This targeting of young people for the collection of this information should compel an examination of whether or not SEL directives aimed at encouraging educators to “probe” for insights about adversity, trauma, or identity at-large exceeds the realm of what should be accepted as appropriate for those within these roles.<sup>54</sup> What’s more, the weaponization of educator trauma, problematically assumed to be integral to the advancement of student safety, may obscure educator-student boundaries arising

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<sup>48</sup>Ibid.

<sup>49</sup>CASEL. [Guide to Schoolwide SEL: Belonging and Emotional Safety](#). See example module, [Creating Opportunities through Relationships, “The COR Model.”](#)

<sup>50</sup>Other questions include “Do you see me?” and “Do you care that I’m here?” For more, see CASEL’s [Teacher Small Group Discussion Guide: Building a Supportive Learning Environment for Middle and High School Students](#).

<sup>51</sup>Schafner, K. (2017). [How to Change Your Life in One Second Flat](#), as cited in CASEL’s [Teacher Small Group Discussion Guide: Building a Supportive Learning Environment for Middle and High School Students](#).

<sup>52</sup>CASEL. [Guide to Schoolwide SEL: Community-building circles](#).

<sup>53</sup>CASEL’s [Teacher Small Group Discussion Guide: Building a Supportive Learning Environment for Middle and High School Students](#).

<sup>54</sup>For more, see Guardians for New Futures’ [“8 ways predators prey on children,”](#) which includes techniques affiliated with grooming such as offering special, isolated (1-on-1) attention to build trust with a child, using authority or a position of trust (including teachers) to take advantage of a child, and exploiting emotional vulnerabilities wherein “predators may present themselves as understanding allies, exploiting the child’s need for emotional support.”



from the “befriending a child and establishing an emotional connection with him or her.”<sup>55</sup> And, to reiterate, while not every educator who altruistically seeks this understanding of their students should, by default, be perceived as bad actors, SEL curriculum providers that promulgate “probing” inquiries may open the door to those who may be driven to manipulate this intimate knowledge of their students to perpetuate child abuse and exploitation against them.<sup>56</sup>

Furthermore, while CASEL’s directive for teachers to “get to know their students” is vague, thereby making it challenging to assess which behaviors could potentially exceed what is behaviorally appropriate under Florida law at this time, it should still be noted that the development of an emotional bond with students logically leads to the blurring of power dynamics that similarly increases improper access to children.<sup>57</sup> As SEL places the critique of power relations at the core of examining inequities, it becomes easier to eradicate the boundary that exists between educator and student which has historically existed to protect students from the perils associated with behaviors like oversharing.<sup>58</sup>

#### *D. Parental Rights*

SEL weakens the sovereignty of parental discretion above other authority figures in determining which content is deemed indispensable to a child’s social and emotional development. This is because SEL promotes educators to the role of “co-creator” in sharing caregiver responsibilities in the production of moral values. The basis for the right of parents to preeminently determine these values may be found in Chapter 1014 of Florida Statutes: Parents’ Bill of Rights, 1014.02(1) establishing the “fundamental right of parents to direct the upbringing, education, and care of their minor children,” and Florida Statutes 1014.04(1) affirming that “all parental rights are reserved to the parent of a minor child in this state without obstruction or interference from the state, any of its political subdivisions, any other governmental entity, or any other institution.”<sup>59</sup> As enumerated in Florida Statutes 1014.04(b), one such unfettered right includes “the right to direct the upbringing and the moral or religious training or his or her minor child.”<sup>60</sup>

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<sup>55</sup>Christensen, L., et al. (2020). [Grooming: What parents should know and what schools should do if they suspect it](#). *The Conversation*.

<sup>56</sup>Ibid.

<sup>57</sup>Efforts to add “lewd or lascivious grooming” to amend [Florida Statute 800.04: Lewd or lascivious offenses committed upon or in the presence of persons less than 16 years of age](#) were proposed via [HB 1135](#) to broaden the scope of possibilities aimed at “overtly sexually themed communication.” This was later replaced by [HB 1545](#): Child Exploitation Offenses, instead amending [Florida Statute 847.01385](#) by creating the offense of harmful communication to a minor. However, as these provide modifications to criminal statutes, there may still be avenues for civil penalties for grooming behaviors that may not culminate in sexual misconduct, but could still nonetheless jeopardize a student’s safety in violation of [Florida’s Principles of Professional Conduct](#) to which educators are expected to abide.

<sup>58</sup>See CASEL. (2021). [Guiding Questions for Educators: Promote Equity Using SEL in your School](#), which advocates for the interrogation of “power dynamics that discourage engagement,” thereby framing power dynamics as something negative that interferes with engagement when said differential can often exist to protect students from abuses of power. For this reason, there should be some concern raised towards the acceptance of teachers as “co-learners” with students which erodes the student-educator boundary further. For these reasons, it is sensible to consider how this framing of the power dynamic between student and teacher as something which thwarts “engagement” and equalizing the “power play” between students and teachers could potentially render children vulnerable to inappropriately intimate relationships with educators.

<sup>59</sup>Florida Statutes. (2023). [Chapter 1014: Parents Bill of Rights](#).

<sup>60</sup>Ibid.

Further, Florida law on parental rights is further bolstered by existing legal precedents, including the Supreme Court's *Troxel v. Granville*, 530 U.S. 57 (2000), which affirms "the fundamental right of parents to make decisions concerning the care, custody, and control of their children."<sup>61</sup> For this reason, Florida Statutes 1001.42 (c)(1) supports parental notification at the school level to "reinforce the fundamental right of parents to make decisions regarding the upbringing and control of their children by requiring school district personnel to encourage a student to discuss issues relating to his or her well-being with his or her parent or to facilitate discussion of the issue with the parent."<sup>62</sup>

Additionally, as stated by the Supreme Court in *Prince v. Massachusetts*, 321 U.S.158 (1944), "It is cardinal...that the custody, care and nurture of the child reside first in the parents, whose primary function and freedom include preparation for obligations the state can neither supply nor hinder."<sup>63</sup> Put alternatively, the decision-making ability of the school is not to surpass the discretion which unequivocally lies with the parents in these matters.

The U.S. Supreme Court first examined the issue of parental rights in the context of a state action infringing upon that right 100 years ago in *Meyer v. Nebraska*, 262 U.S. 390 (1923).<sup>64</sup> Prior to this infringement, no controversy existed between the state and parents, as the deeply rooted historical and legal traditions of the United States recognized the family as the backbone of American society. The Supreme Court held in its *Meyer* decision that "it is the natural duty of the parent to give his children education suitable to their station in life."<sup>65</sup> The Supreme Court explained that "[t]he individual has certain fundamental rights which must be respected. ... [The individual] cannot be coerced by methods which conflict with the Constitution — a desirable end cannot be promoted by prohibited

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<sup>61</sup>*Troxel v. Granville*, 530 U.S. 57 (2000), [available here](#).

<sup>62</sup>Florida Statutes. [1001.42. Powers and Duties of District School Board](#). It is worth noting that this law has been addressed in 2024 settlement agreement between Florida Attorney General and Equality Florida, et ano, available [here](#). This settlement then was cited most recently in a Title IX Office for Civil Rights (OCR) Complaint filed against Collier County by the National Women's Law Center, available [here](#). However, this settlement agreement, importantly, is not codified in any of the Florida Statutes or case law with precedential value (*stare decisis*). Thus, the case, as between *other* parties, has arguably limited legal application and scope. One of the parties, FLDOE, however has promised to advise districts to interpret 1001.42 in light of the settlement terms. Nonparties to the suit may be able to argue the legislation stands as written by the legislature. Further, it may well be argued that the settlement cannot be accepted to exceed existing law, as this would constitute the usurpation of legislative authority of the State Legislature as protected by and granted under Florida law. Additional salient sections of law in this area include [Florida Statutes 1003.46: Health education; instruction in acquired immune deficiency syndrome\(2\)\(a\)](#) stating that instruction in human sexuality must affirm that male and female "reproductive roles are binary, stable, and unchangeable." Beyond this, [Florida Statutes 1000.071\(1\)](#) similarly avows "It shall be the policy of every public K-12 educational institution that is provided or authorized by the Constitution and laws of Florida that a person's sex is an immutable biological trait."

<sup>63</sup>*Prince v. Massachusetts*, 321 U.S. 158 (1944), [available here](#).

<sup>64</sup>*Meyer v. Jackson*, 262 U.S. 390 (1923), [available here](#).

<sup>65</sup>*ibid* at 400.

means.”<sup>66</sup> Significantly, the Court found that parental rights are a substantive due process right within the Fourteenth Amendment.<sup>67</sup>

Since *Meyer*, the Supreme Court has explained repeatedly that parents have the fundamental right to make decisions concerning the care, custody, and control of their child.<sup>68</sup> This included *Parham v. JR.*, 442 U.S. 584 (1979), in which the Court held

"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 required for making life's difficult decisions. Historically it has been recognized that natural bonds of affection lead parents to act in the best interests of their children."<sup>69</sup>

While the importance of social and emotional learning is not the subject of dispute here, the appropriateness of *who* is ultimately providing this type of learning *is*, indeed, being contested.

As expressed in a study published in the peer-reviewed journal *Development and Psychopathology*, "Children's ability to regulate attention, emotion, and arousal develops in the context of their primary caregiving relationships during infancy and appears to be fundamental for the balance of the life span in organizing behavior, social relationships, and adaptive functioning."<sup>70</sup> However, SEL challenges the authority of parents to provide this type of social and emotional learning to their children by replacing it with a set of standards for SEL that instead affirm the prerogatives of a morally progressive agenda as opposed to the values of the parents.

Furthermore, the right of parents to shield their children from instruction in disagreement with their beliefs would also apply to any invasive surveys targeted at adolescents soliciting the disclosure of information pertaining to race, sexual orientation, gender identity, socio-economic status, political affiliation, psychological problems, or any other categories. Currently, Florida Statutes 1014.05(f)(1) states, "Pursuant to s. 1002.20(3)(d), the right to opt his or her minor child out of any portion of the school district's comprehensive health education required under s. 1003.42(2)(o) that relates to sex education instruction in acquired immune deficiency syndrome education or any instruction regarding

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<sup>66</sup>*Ibid.* at 401.

<sup>67</sup>*Ibid.* at 398.

<sup>68</sup>For more parental rights SCOTUS precedent, see also *Pierce v. Society of Sisters*, 268 U.S. 510, 534– 35 (1925) (holding that parents have the right "to direct the upbringing and education of children under their control"), [available here](#); *Wisconsin v. Yoder*, 406 U.S. 205, 232 (1972) ("The history and culture of Western civilization reflect a strong tradition of parental concern for the nurture and upbringing of their children. This primary role of the parents in the upbringing of their children is now established beyond debate as an enduring American tradition."), [available here](#); *Santosky v. Kramer*, 455 U.S. 745, 753 (1982) (recognizing the "fundamental liberty interest of natural parents in the care, custody, and management of their child"), [available here](#); *Moore v. East Cleveland*, 431 U.S. 494 (1977), "It is through the family that we inculcate and pass down many of our most cherished values, moral and cultural," [available here](#); and *Troxel v. Granville*, 530 U.S. 57, 65 (2000) (observing that "the interest of parents in the care, custody, and control of their children is perhaps the oldest of the fundamental liberty interests recognized by this Court"), [available here](#).

<sup>69</sup>*Parham v. JR.*, 442 U.S. 584 (1979), [available here](#).

<sup>70</sup>Bornstein, M., et al. (2012). [Emotional relationships between mothers and infants: Knowns, unknowns, and unknown unknowns](#). *Development and Psychopathology*, 24(1), 113-123.

sexuality.”<sup>71</sup> Presumably, this would implicate participation in data-mining surveys that compromise the privacy of students.<sup>72</sup>

However, concerns have rightly been raised around “opt out” provisions which may inadvertently allow for the circumvention of parental rights otherwise afforded under the Protection of Pupil Rights Amendment (PPRA), which mandates parental consent to the surveying of subject matter that includes, among other categories, “sex behavior or attitudes.”<sup>73</sup> The deficiencies of these “opt out” provisions have largely been attributed to cases in which surveys have been administered in a less-than-transparent manner, whereby districts have failed to fully divulge to parents the information collected within them altogether.<sup>74</sup> Alternatively, an “opt in” might accord parents with a clearer and fuller understanding to which they may or may not offer consent.

For this reason, as parents are entitled to full transparent disclosure of any contents, including surveys, that are made available on electronic devices provided to students, parents should accordingly be fully notified and informed of the content accessible to their children on these devices. This would entail schools providing parental notification and obtaining clear parental consent in the form of written agreement that would establish acceptable use of technology whenever SEL-themed content pertaining to race, sexual orientation, gender identity, socio-economic status, political affiliation, psychological problems, or any other categories is exposed to their children. Therefore, it would be the responsibility of the educational institution to provide this parental notification and obtain parental consent both at the beginning of the school year and any time thereafter upon any additional exposure to SEL-themed content is offered.

## **CONCLUSION**

In response to the concerns that SEL is the vehicle through which outlawed concepts related to progressive racial and gender ideology are imparted, and which remain inconsistent with the religious or moral beliefs of parents, Citizens Defending Freedom and Florida Citizens Alliance seek to notify and inform parents, school districts, educators, and concerned members of the public alike both of the statutory authority in Florida outlawing the teaching of SEL-related concepts, in addition to existing law on the rights accorded to parents in maintaining involvement in their children’s education.

Recipients of this memorandum are therefore encouraged to dedicate thoughtful consideration of this matter and observe strict adherence to parental rights in the State of Florida, which begins with an acknowledgement that SEL as a vehicle for imparting progressive racial and gender ideology that remains incongruous with Florida prohibitions against the teaching of such topics.

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<sup>71</sup>Florida Statutes. (2023). [1014.05: School district notifications on parental rights.](#)

<sup>72</sup>As detailed by attorney and journalist Abigail Shrier in her bestseller, *Bad Therapy: Why the Kids Aren’t Growing Up*, “Whatever children divulge, teachers can easily store. Companies like Panorama Education provide the software that allows teachers to record their own observations of students’ social and emotional capacities and whatever they may have learned from the regular, unofficial group therapy sessions. In this way, an incident once confessed may follow a child for the rest of her academic life.”

<sup>73</sup>Sanzi, E. (2022). [Make Intrusive School Surveys “Opt-In” Rather than “Opt-Out.”](#) *American Enterprise Institute.*

<sup>74</sup>*Ibid.* For this reason, Sanzi recommends the following prescription, that “federal or state legislators should allow students’ parents to opt in rather than opt out of surveys that deal with these protected areas to ensure parents are fully aware of the information about their children that districts are collecting and storing.”