Architecture of Grace · Master Documents Series

THE LEGAL AND REGULATORY CROSSWALK

How the Architecture of Grace Meets IDEA, Section 504, FERPA and the Protection of Pupil Rights Amendment — and What Changed on August 26, 2026

An Alignment Statement for AoG. Not Legal Advice, and Not a Substitute for District Counsel.

DOCUMENT 10 OF THE MASTER DOCUMENTS SERIES

Director of Special Education & District Counsel Edition

Pilot Version · 2026 — 2027

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CONFIDENTIAL · FOR DISTRICT REVIEW AND LEGAL REVIEW

A Note to the Director of Special Education and to District Counsel

Foreword

This document is written for two readers who rarely read the same page. The first is the director of special education, the special education coordinator, or the LBS1 case manager who has to decide whether a framework can sit inside an IEP without creating a problem at the annual review. The second is district counsel, the compliance officer, or the outside firm the district calls when a parent's letter arrives on Tuesday. Its register is legal and operational, and it is deliberately unsentimental. Every other volume in this series argues for something. This one only documents what is true, where the lines are, and what the framework will not do.

It exists now for a specific reason. On **August 26, 2026** — seven days before this document was written — the U.S. Department of Education's Student Privacy Policy Office issued its annual back-to-school Dear Colleague Letter to state and local educational agencies. It takes the position that a survey administered by a school official is *required* for purposes of the Protection of Pupil Rights Amendment, that the eight protected categories include a student's emotional and psychological state, and that **an opt-out is not a lawful substitute for written parental consent**. That letter did not name social and emotional learning. It did not have to. Every district in the country that runs a wellbeing check-in is now holding a question it did not have in June.

The Architecture of Grace has an answer to that question, and the answer is not a reassurance. It is an architecture. This document sets it out.

Three things this document is not

- **It is not legal advice, and nothing in it creates an attorney-client relationship.** The author is a special educator, not an attorney. Every citation here should be read by counsel before it is relied upon, and the framework's position on the August 2026 letter is expressly an unsettled one — Chapter 8 says so at length rather than in a footnote.
- **It is not a warranty of compliance with any state's law.** The federal floor is documented here in detail. Chapter 13 maps the states whose requirements sit above that floor, and it is a map, not a survey. A district in Utah, Texas, Arizona, North Carolina, Louisiana, Iowa, Montana or Kansas has obligations this document identifies and does not discharge.
- **It is not a technical manual for the instrument.** The self-reflection's construction, item provenance and scoring are documented elsewhere in this series. What matters here is narrower and harder: what the instrument may lawfully be used *for*, and what it may never be used for no matter how convenient it would be.

How to read this document

Fifteen chapters. Read Chapters 2, 3 and 8 if you read nothing else — they carry the whole argument. Read Chapter 9 if a school year starts in three weeks and a consent packet has to go home. Read Chapter 14 if you want to know what this framework refuses to do, which is usually the fastest way to find out whether it is honest. Chapter 15 is a single-page working reference; it is designed to be printed on its own and taped inside a case manager's binder.

> A curriculum and an instrument are two different legal objects. They are governed by different statutes, they trigger different duties, and they fail in different ways. Almost every compliance problem in this field begins the moment a district stops being able to tell which one it is holding. The Architecture of Grace keeps them apart on purpose, in the product, at the level of what a teacher can switch off.

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Document 10 · The Legal and Regulatory Crosswalk

Statutory and regulatory text in this document is quoted from the United States Code and the Code of Federal Regulations as in force on September 2, 2026, and was verified against primary sources on that date. Framework and

PART ONE · THE GROUND

Chapter 1 · The Working Vocabulary

Six words that decide everything, and the reason districts get them wrong

Six words carry the whole regulatory weight in this field. Each one has a technical meaning that differs from its ordinary one, and in every case the ordinary meaning is broader than the technical one. That asymmetry is why districts get into trouble: a team uses a word loosely in a meeting, the loose meaning gets written into a document, and the document is later read against the technical definition.

Word	What it means in the regulation	What it does *not* mean, and why that matters here
Screening	Under 34 CFR 300.302, the screening of a student by a teacher or specialist *to determine appropriate instructional strategies for curriculum implementation*. Purpose-defined, not instrument-defined.	It does not mean "a short assessment." An instrument does not become a screening because it is brief. It is a screening because of what it is being used to decide.
Evaluation	Under 34 CFR 300.304(b)(1), gathering information that may assist in determining whether a child is a child with a disability *and the content of the child's IEP*.	It does not mean only eligibility testing. The second half of that definition — IEP content — is the half that catches goal-writing tools, and it is the half districts forget.
Survey	Under 20 U.S.C. 1232h, a survey, analysis or evaluation that reveals information in one of eight protected areas. Not defined by length, format or anonymity.	It does not mean "a questionnaire sent to families." A nineteen-statement self-report on a Chromebook is a survey. Utah's statute is explicit that anonymity does not remove it from scope.
Consent	Under 34 CFR 300.9, the parent has been fully informed in their native language, *agrees in writing*, the consent describes the activity and lists the records released and to whom, and the parent understands consent is voluntary and revocable.	It does not mean a signature on a technology acceptable-use policy, an enrollment packet acknowledgment, or a checkbox in a student information system that names no activity and no records.
Opt-out	Under 20 U.S.C. 1232h(c)(2)(C), a parental right the LEA's policy must offer: to opt the student out of participation in a protected-information survey.	It is not consent, and as of August 26, 2026 the Department says so in terms. An opt-out is a right the parent may exercise. Consent is a permission the school must obtain. They run in opposite directions.

Word	What it means in the regulation	What it does *not* mean, and why that matters here
Education record	Under 34 CFR 99.3, records directly related to a student and maintained by an educational agency or institution *or by a party acting for the agency*.	It does not mean "the cumulative folder." The Department's August 2026 letter is blunt: FERPA "does not distinguish between a student's 'official record,' 'cumulative file,' or 'unofficial records.'"

The one distinction underneath all six

Every row above turns on the same hinge: **purpose, not artifact**. Nothing in this field is classified by what it looks like. The same nineteen statements, on the same screen, answered by the same child, are a lawful instructional screening on Monday and an unconsented evaluation on Tuesday — and the only thing that changed is what an adult decided to do with the result.

> **The rule this document runs on.** If you cannot say, in one sentence, what decision an instrument's output is about to inform, you cannot say which statute governs it. Stop and answer that question first. Every chapter that follows is an application of it.

A note on the framework's own vocabulary

The Architecture of Grace calls its nineteen-statement instrument a *self-reflection*, not a screener and not an assessment. That is not marketing. It is the framework's attempt to name the thing by its purpose, which is the only classification the regulations recognise. But a district should be clear-eyed: **the name a publisher chooses has no legal effect.** If a district uses the self-reflection to decide eligibility, it is an evaluation and it was always an evaluation, whatever the label on the button said. Chapter 14 records this as one of the framework's standing refusals — the framework will not argue that its own vocabulary changes a regulatory classification, and any vendor who tells a district otherwise is selling exposure.

PART ONE · THE GROUND

Chapter 2 · The Separation Principle

Curriculum is not instrument, and this framework keeps them apart in the product

This is the load-bearing chapter. Everything defensible about this framework's regulatory position rests on one architectural fact, and it is a fact about the software and the books, not about the argument.

> **The curriculum runs with the instrument switched off.** Every lesson in all six books, every anchor chart, every scenario card, every worksheet, every one of the thirty interactive activity pages, Talk It Out, Quiet Space and the whole of the classroom practice — all of it functions completely without a single student ever answering a single self-reflection statement. The instrument is an option a school adds. It is not a dependency the curriculum has.

Why the separation is the whole legal case

The Protection of Pupil Rights Amendment governs surveys, analyses and evaluations. It has never governed instruction. The statute is explicit about the boundary, twice: the inspection right attaches to "instructional material, excluding academic tests or academic assessments, used by an LEA as part of the educational curriculum," and the educational-products exception at 20 U.S.C. 1232h(c)(4)(A) expressly covers "Curriculum and instructional materials used by elementary schools and secondary schools" and "Tests and assessments used by elementary schools and secondary schools to provide cognitive, evaluative, diagnostic, clinical, aptitude, or achievement information."

So a district that teaches Book 3 to a seventh-grade class is teaching. It is not surveying. Nobody's emotional state is being elicited, recorded, scored or stored. A student reads a chapter, argues about a scenario card, fills in a worksheet, and puts the worksheet in a folder. That is instruction, and the eight protected categories have nothing to say about it.

A district that hands the same class a Chromebook and asks them to rate nineteen statements about overwhelm, self-criticism and whether they have a trusted adult is doing something else entirely — and Chapters 8 and 9 treat it as exactly what it is.

The three legal objects, named

Object	What it is in the product	Governing frame
The curriculum	Six books K through adult, the lessons, anchor charts, scenario decks, worksheet packs, autism-adapted chart sets, Home Editions, Talk It Out, Quiet Space.	Instruction. Board curriculum-adoption policy and state content review. Outside PPRA's survey provisions; expressly within its instructional-materials *inspection* right, which this framework satisfies by publishing the material.
The academic probes	Thirty interactive activity pages — mathematics, number concepts and data, science vocabulary — each producing an item-by-item record of what a student got right.	Academic assessment. Expressly excluded from PPRA's "instructional material" definition at 1232h(c)(6)(A) and covered by the (c)(4)(A) tests-and-assessments exception. These are the least regulated component in the product and the most familiar to a district.
The instrument layer	The nineteen-statement self-reflection, the Daily Check-In, the School-Day Exit Slip, the Home Check-In, Home Observations, the adult team check-in, This Is Me.	Protected-information surveys. This is where PPRA lives, where the August 2026 letter bites, and where every consent obligation in this document attaches. Chapters 8 through 10.

The definitional fight, stated plainly

There is an unsettled question at the centre of this field right now, and a district deserves to have it named rather than smoothed over. It is this: **is Tier 1 universal social-emotional instruction a "survey" at all?**

Two authorities answer it differently, in the same year.

- **Kansas answers no, by statute.** House Bill 2420 (2026) requires written parental consent and both verbal and written notice before a school-based mental health service, with a five-thousand-dollar penalty per violation — and it *expressly excludes Tier 1 universal multi-tiered-system-of-supports interventions* from the consent requirement. A legislature looked directly at this boundary and drew it where this framework draws it.
- **The Department implies yes,** for anything "probing emotional or psychological states," through the August 2026 letter's reach.

Both can be true at once, and under the separation principle they are. Kansas is describing instruction. The Department is describing an instrument. A product that fuses the two has to pick a side and lose either way. A product that separates them can be honest about both: *teach the curriculum under the instruction rules; run the instrument under the survey rules.*

> **The exposure this creates for a district, and it is real.** A separation principle only protects a district that actually honours it. If a building runs the curriculum and the check-in as one

undifferentiated "SEL block," if the consent packet describes them together, or if a teacher tells a class the reflection is part of the lesson, then the district has merged the two objects in its own records and will be read that way. The separation has to appear in the district's paperwork, not only in the publisher's.

PART ONE · THE GROUND

Chapter 3 · Screening Is Not Evaluation

34 CFR 300.302, the one sentence this framework stands on, and the four ways it is lost

One sentence in the IDEA regulations governs whether a classroom teacher may hand a class an instrument without first obtaining consent under Part B. It is short enough to quote whole, and it is worth reading twice.

> "The screening of a student by a teacher or specialist to determine appropriate instructional strategies for curriculum implementation shall not be considered to be an evaluation for eligibility for special education and related services."
>
> 34 CFR 300.302 · authority 20 U.S.C. 1414(a)(1)(E)

Read it again for what it does not say. It does not name an instrument. It does not set a length, a format, or a domain. It does not exempt anything from FERPA. It does not touch PPRA — a separate statute, with a separate trigger, addressed in Chapter 8. It says one thing: **a screening done for instructional purposes is not an evaluation.** The protection attaches to the purpose, and it attaches to nothing else.

The shield cuts both ways, which is the part districts miss

Because 300.302 says a screening "shall not be considered to be an evaluation," a district cannot lean on it in the other direction either. The self-reflection is not an evaluation when a district would rather it were. A district that has run the check-in on a student cannot point to it and say the child has been evaluated. It has not. Chapter 10 of this document and Chapter 5 both turn on that.

The four triggers that lose the shield

Because the exemption is purpose-bound, it is also purpose-lost. There are exactly four ways a lawful screening becomes an unconsented evaluation, and a district should be able to name all four.

The trigger	Authority	What it looks like in a building
Administered to an **individual child** because that child is suspected of a disability, rather than to the class	34 CFR 300.302 by its terms — "for curriculum implementation"	"Just have Marcus do the reflection before the meeting."
Used to determine **eligibility** or educational needs	34 CFR 300.304(b)(1)(i)–(ii)	A domain score quoted in an eligibility report.
Used to determine **the content of the child's IEP**	34 CFR 300.304(b)(1)(ii)	A present-level statement or an annual goal written off the composite.

The trigger	Authority	What it looks like in a building
Used to decide whether the **behavioural components of an existing IEP** need revising	OSEP Letter to Sarzynski, May 6, 2008 — this is a reevaluation	"Let's look at his check-in trend and see if the plan is working."

The fourth one is the dangerous one because it arrives through a conversation nobody thinks of as an evaluation. Reviewing data to decide whether an IEP's behaviour supports are working is, on OSEP's stated reading, a reevaluation — and a reevaluation requires informed parental consent under 34 CFR 300.300(c). It is the most natural sentence in a spring IEP meeting and it is a consent trigger.

Where the framework's own components sit against this line

Component	Side of the line	Why, and the condition attached
The six books, charts, cards, worksheets	Instruction	Not screening at all. 300.302 is not even reached; there is nothing to exempt.
The thirty activity pages	Screening, comfortably	Academic probes, administered to a class, read to decide what to teach next. This is the paradigm case 300.302 was written for.
The nineteen-statement self-reflection	Screening, *conditionally*	Protected only while administered to the class and read for instructional planning. Loses the shield on any of the four triggers above.
Daily Check-In · Exit Slip · Home Check-In	Screening, conditionally	Same condition. Note that a Home Check-In answered by a family is not administered by a school official at all, which matters in Chapter 8.
The teacher observation log · Daily Log	Not screening — *record-keeping*	Governed by Chapter 10, not this one. A teacher's observation is not an instrument administered to a student.
The Goal Builder	Outside the shield	Writing IEP content is, by the plain terms of 300.304(b)(1)(ii), evaluation activity. 300.302 does not protect it and was never going to. See Chapter 7.
IEP Progress · aimline · charts	Neither — *progress reporting*	Reporting progress on goals a team already wrote is 300.320(a)(3) work, not evaluation. This is the framework's strongest and safest ground.

The design consequence, stated as a requirement on the product. A product that lets the same instrument slide silently between universal and individual administration hands a district a

> violation it cannot see. There is no "mostly universal" category in 300.300(d)(1)(ii). Assigning the reflection to one student is a different act with a different consent posture, and the framework treats it as one.

PART TWO · IDEA

Chapter 4 · Consent Under IDEA

What consent actually is, when it is required, and the exception that carries universal administration

IDEA does not treat consent as a signature. It defines it, and the definition is demanding in three specific ways that a district-wide technology agreement does not satisfy.

> "(a) The parent has been fully informed of all information relevant to the activity for which consent is sought, in his or her native language, or through another mode of communication;
>
> (b) The parent understands and agrees in writing to the carrying out of the activity for which his or her consent is sought, and the consent describes that activity and lists the records (if any) that will be released and to whom;
>
> (c)(1) The parent understands that the granting of consent is voluntary on the part of the parent and may be revoked at any time."
>
> 34 CFR 300.9

Three requirements, each of which fails a generic form: the consent must **describe the activity**; it must **list the records released and to whom**; and it must be **revocable**, with the parent told so. An acceptable-use policy signed at registration describes no activity and lists no records. It is not consent for anything in this framework, and a district should not treat it as such.

When IDEA consent is required

Activity	Authority	Note
Initial evaluation	300.300(a)(1)(i)	After prior written notice under 300.503 and 300.504. Consent to evaluate is *not* consent to serve.
Initial provision of services	300.300(b)	Separate informed consent. If refused, the district **may not** override it through due process.
Reevaluation	300.300(c)	May be overridden through consent-override procedures, or excused where reasonable efforts are documented and the parent does not respond.

The exception this framework's universal use depends on

> "Parental consent is not required before — (i) Reviewing existing data as part of an evaluation or a reevaluation; or (ii) Administering a test or other evaluation that is administered to all children unless, before administration of that test or evaluation, consent is required of parents of all children."

> 34 CFR 300.300(d)(1)

Both limbs matter, and they do different work.

Limb (i) is where the framework's data belongs. A check-in history, a Daily Log, an exit-slip pattern, an activity probe record — these are existing data, and reviewing them as part of an evaluation requires no consent. That is not a loophole; it is the correct doctrinal home. 34 CFR 300.305(a)(1)(ii)–(iii) names exactly this category as reviewable evaluation input: "Current classroom-based, local, or State assessments, and classroom-based observations" and "Observations by teachers and related services providers." The framework's data is *contributory* to an evaluation. It is never the evaluation.

Limb (ii) is conditional, and the condition is doing real work. The exception holds while the instrument is genuinely "administered to all children." The moment a teacher assigns the reflection to one flagged student, or re-runs it on a subset to monitor an IEP goal, limb (ii) is gone. And note the trailing clause: the exception itself falls away if consent "is required of parents of all children" before administration — which is precisely the posture Chapter 9 recommends the district adopt. That is not a contradiction. It means a district running opt-in consent for everyone is not relying on this exception at all, and does not need to.

> The tension worth naming: a PPRA opt-out, exercised by even one family, means the instrument is no longer administered to *all* children — which is the exact condition IDEA's consent exception depends on. The two regimes have to be reconciled deliberately. Chapter 9 reconciles them by not relying on the exception: obtain consent from everyone, and limb (ii) becomes irrelevant rather than fragile.

PART TWO · IDEA

Chapter 5 · Child Find

What a flag does, what it never does, and the notice a district owes when it says no

Child find is triggered by *suspicion*, not by confirmation, and the obligation is affirmative. The regulation forecloses the most common district defence in advance.

> "Child find also must include — (1) Children who are suspected of being a child with a disability under §300.8 and in need of special education, **even though they are advancing from grade to grade**; and (2) Highly mobile children, including migrant children."
>
> 34 CFR 300.111(c)

"She's passing" is not an answer. It has not been an answer since the regulation was written, and the phrase in that clause exists because districts kept giving it.

What the framework's flags are, in one sentence each

- **The trusted-adult flag (Item 18).** A student answered *Never* or *Rarely / Sometimes* to having at least one trusted adult they could go to. Scored, and flagged independently of the composite, because connection to a trusted adult is protective on its own.
- **The self-protection flag (Item 19).** A student answered low on doing something to protect themselves when someone is unsafe. **Deliberately unscored.** It contributes to no domain and no composite, because a child's safety skills must not be able to raise or lower a wellbeing number.

What a flag does — and the sentence that governs it

> **A flag is a reason to ask. It is never a finding.** That is the framework's own epistemic rule and it is enforced in the product: the exit-slip pattern reader refuses to read a pattern from fewer than a set minimum number of slips, and says so on the screen — "*Counted, not concluded.*" A flag is knowledge, and knowledge starts the child-find clock. It is not, and cannot be, a determination about a child.

Two consequences follow, and they run in opposite directions. Both are law.

First: screening data cannot establish eligibility. 34 CFR 300.304(b)(2) bars any single measure as the sole criterion, and 300.304(c)(1)(iii) requires instruments to be used "for the purposes for which the assessments or measures are valid and reliable." Chapter 6 develops this.

Second, and less often said: screening data cannot defeat child find either. A district may not point at a Tier 1 social-emotional score to argue that no evaluation is warranted, and it may not cycle a student through tiers instead of evaluating. OSEP said so directly in Memorandum 11-07 (January 21, 2011): "*The use of RTI strategies cannot be used to delay or deny the provision of a full and individual evaluation.*" The Ninth Circuit reached the same place from the other side in *Compton Unified School District v. Addison*, 598 F.3d 1181 (9th Cir. 2010), rejecting a reading of IDEA "that left parents without an adequate remedy when a school district unreasonably failed to identify a child with disabilities."

The notice a district owes when it decides not to evaluate

This is the most commonly missed prior written notice in the whole child-find space, and it is missed because a refusal does not feel like an action.

> "Written notice ... must be given to the parents of a child with a disability a reasonable time before the public agency — (1) Proposes to initiate or change the identification, evaluation, or educational placement of the child ...; or (2) **Refuses** to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child."
>
> 34 CFR 300.503(a)

And the notice must include, under 300.503(b)(3), "A description of each evaluation procedure, assessment, record, or report the agency used as a basis for the proposed or refused action." **That is a documentation duty that runs back to the publisher.** If a district relied on this framework's data in deciding not to evaluate, it has to be able to describe the instrument — what it is, what it measures, and what it is valid for. A vendor who cannot supply that leaves a district unable to write a compliant notice. Chapter 6 is the framework's answer to that duty and Chapter 15 is the form of it a case manager can hand to a secretary.

The decision path, as the framework states it

What happened	What it is	What is owed
One low domain, once	Instructional information	Teach differently. Nothing more.
A pattern across several administrations	Instructional information, plus a question	Team conversation. Consider tiered support. Document what was tried.
A trusted-adult flag	A relational finding, not a disability finding	The conversation. A named adult. Follow-up. Never a referral *because of the flag alone*.
A self-protection flag	A safety signal, unscored on purpose	Immediate human follow-up under the building's protocol. Not a data point.

What happened	What it is	What is owed
Suspicion of disability, from any source	**Child find is triggered**	Evaluate, or refuse in writing under 300.503(a)(2). There is no third option, and "keep monitoring" is not one.

PART TWO · IDEA

Chapter 6 · Evaluation Procedures

The single-measure bar, and the validity duty this publisher owes and discharges by disclosure

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Two clauses of 34 CFR 300.304 govern whether an instrument may lawfully appear in an evaluation at all. The first is the one everybody knows and almost everybody quotes short.

> "(b)(2) Not use any single measure or assessment as the sole criterion for determining whether a child is a child with a disability **and for determining an appropriate educational program for the child**."
>
> 34 CFR 300.304(b)(2)

The trailing clause is the half that is usually dropped, and it is the half that matters here. The single-measure bar applies not only to eligibility but to **programming**. An annual goal written from a composite score alone violates 300.304(b)(2) even for a student who is already eligible, already served, and whose eligibility nobody is questioning.

The clause that runs to the publisher

> "(c)(1) Assessments and other evaluation materials used to assess a child under this part — (i) Are selected and administered so as not to be discriminatory on a racial or cultural basis; (ii) Are provided and administered in the child's native language or other mode of communication and in the form most likely to yield accurate information ...; **(iii) Are used for the purposes for which the assessments or measures are valid and reliable;** (iv) Are administered by trained and knowledgeable personnel; and (v) Are administered in accordance with any instructions provided by the producer of the assessments."
>
> 34 CFR 300.304(c)(1)

Clause (iii) is a duty that cannot be discharged by the district alone. A district cannot know what an instrument is valid *for* unless the producer says so. Clause (v) makes the point explicit by referring to "instructions provided by the producer." **The publisher is inside this regulation whether it wants to be or not.**

The framework's disclosure, in the terms 300.304(c)(1) asks for

Stated for the record, and repeated on the instrument's own printed output.

- **What it is.** A nineteen-statement self-report reflection across three domains — Emotional Regulation & Well-Being, Self-Compassion & Growth Mindset, Social Competency & Repair. Eighteen statements are scored. Item 19 is asked and displayed, contributes to no domain and no composite, and exists to raise a safety flag.

- **What it is valid for.** Instructional planning at the class and individual level: deciding what to teach next, which competency to emphasise, and which student to have a conversation with. That is the purpose it was built for and the only purpose it is offered for.
- **What it is not valid for, and is expressly not offered for.** Determining whether a child has a disability. Determining a disability category. Determining eligibility for special education or related services. Determining placement. Serving as the basis, alone, for any IEP goal, present level, or service decision. Diagnosis of any kind.
- **Independent validation status. The instrument has not been independently validated.** It is disclosed as such, in this document, on the framework's own site, and in every administrator packet the framework produces. A district evaluating this framework should weigh that fact and should not be told a softer version of it.
- **Who may administer it.** Any teacher, for instructional screening under 300.302. *Nobody*, for evaluation purposes — because 300.304(c)(1)(iv) requires trained and knowledgeable personnel for an evaluation instrument, and this is not one.

That disclosure is the point of this chapter. A framework that names the boundary of its own validity is not weakening its case; it is the only version of the case that survives a hearing. The alternative — a vendor implying more than it can support, and a district writing that implication into an eligibility report — is how a district ends up funding an independent educational evaluation it cannot avoid. Chapter 7 sets out that trap in full.

Where the framework's data legitimately belongs in an evaluation

It belongs at 34 CFR 300.305(a)(1) — review of existing data — and it belongs there strongly. 300.304(c)(4) lists "social and emotional status" among the areas in which a child must be assessed where relevant to a suspected disability, and 300.306(c)(1)(i) directs the eligibility group to draw on "teacher recommendations" and information about "adaptive behavior." Well-documented, dated, longitudinal social-emotional information from a classroom is genuinely useful to that group. The line is **contributory, never determinative**, and it is a line the framework's printed reports state on their face.

PART TWO · IDEA

Chapter 7 · The IEP

Where this framework is strongest, and the exact point at which the Goal Builder stops

The strongest ground first

> "A description of — (i) How the child's progress toward meeting the annual goals described in paragraph (2) of this section will be measured; and (ii) When periodic reports on the progress the child is making toward meeting the annual goals … will be provided."
>
> 34 CFR 300.320(a)(3)

This is the requirement the framework serves best and most defensibly. Progress monitoring with dated measurements, a baseline, a target, an aimline and a four-point decision rule, producing a periodic report concurrent with report cards, is a direct and unstrained answer to 300.320(a)(3)(i) and (ii). No consent question arises, because reporting progress on goals a team already wrote is not evaluation. No validity question arises, because the measure is whatever the team chose when it wrote the goal. It is low-risk, high-value, and it is where a district should start.

And now the boundary

> **The Goal Builder is the highest-risk component in this product, and 300.302 does not protect it.** Evaluation is defined at 34 CFR 300.304(b)(1)(ii) to include gathering information that may assist in determining "the content of the child's IEP." Writing IEP content *is* evaluation activity by the plain terms of the regulation. A screening shield written for "curriculum implementation" was never going to reach it.

Three regulations converge on the same point. 300.304(b)(2) bars a single measure from determining an appropriate educational program. 300.304(c)(1)(iii) requires validity for purpose. And the Supreme Court's standard in *Endrew F. v. Douglas County School District RE-1*, 137 S. Ct. 988 (2017), requires an IEP "reasonably calculated to enable a child to make progress appropriate **in light of the child's circumstances**." An automatically generated goal is, by construction, not individualised to a child's circumstances. It is the paradigm *Endrew F.* failure.

What the framework therefore holds the Goal Builder to

The rule	Why
It drafts. It does not decide.	The output is proposed language for a team to accept, edit or reject. The team is the author of the goal in law and must be in fact.

The rule	Why
A goal is never emitted from the instrument alone.	300.304(b)(2). A composite is one measure. Team-entered information from more than one source is what a defensible goal rests on.
Provenance travels with the goal.	So that a prior written notice under 300.503(b)(3) can describe what the agency actually used, and so a parent reading the IEP can see it.
It writes social-emotional goals. It says so.	The product's own copy already directs a user elsewhere for reading, mathematics, writing, functional and transition goals. A tool that overstates its range invites a team to use it outside its competence.
The standard tag is a reference, not a justification.	Illinois SEL benchmark tagging tells a team where a goal sits in the standards. It says nothing about whether the goal fits this child.

The trap that closes from both sides

Suppose a district characterises the self-reflection as its evaluation. Five things go wrong at once: an evaluation conducted without consent under 300.300(a); without prior written notice under 300.503; in breach of the single-measure bar at 300.304(b)(2); using an instrument not validated for that purpose under 300.304(c)(1)(iii); administered by personnel not trained for it under (c)(1)(iv).

And the same act opens the other jaw. Under 34 CFR 300.502(b)(1) a parent who disagrees with an evaluation obtained by the agency may request an independent educational evaluation at public expense; under (b)(2) the district must then either fund it or file a due process complaint to show its own evaluation was appropriate. **It cannot win that hearing.** 34 CFR 300.302 says on its face that a screening "shall not be considered to be an evaluation" — the district's own instrument disqualifies its own defence. The district pays for the independent evaluation and has no evaluation of its own to stand on.

> **The posture that avoids all of it, and it costs nothing.** Say in writing, before a parent asks, that the self-reflection is not an evaluation and was not used as one. Put it in the instrument's printed output. Put it in the consent packet. Put it in the district's own procedures. A boundary asserted in advance is a defence; the same boundary asserted after a letter arrives is an argument.

PART THREE · PRIVACY AND CONSENT

Chapter 8 · PPRA and the August 26, 2026 Letter

What it says, what it changes, what is contested, and why this framework treats it as binding anyway

The statute first, because the letter is an interpretation of it

The Protection of Pupil Rights Amendment, 20 U.S.C. 1232h, has two operative halves and the difference between them is the whole story.

> "No student shall be required, as part of any applicable program, to submit to a survey, analysis, or evaluation that reveals information concerning — (1) political affiliations or beliefs of the student or the student's parent; **(2) mental or psychological problems of the student or the student's family;** (3) sex behavior or attitudes; (4) illegal, anti-social, self-incriminating, or demeaning behavior; (5) critical appraisals of other individuals with whom respondents have close family relationships; (6) legally recognized privileged or analogous relationships, such as those of lawyers, physicians, and ministers; (7) religious practices, affiliations, or beliefs of the student or student's parent; or (8) income ... — without the prior consent of the student (if the student is an adult or emancipated minor), or in the case of an unemancipated minor, without the prior written consent of the parent."
>
> 20 U.S.C. 1232h(b)

Subsection (c) covers everything subsection (b) does not: for surveys of protected information generally, the LEA must adopt policies giving parents the right to inspect the survey before administration, annual notice at the beginning of the school year, and — at 1232h(c)(2)(C)(ii) — **an opportunity to opt the student out**.

Until August 2026 the Department's own materials drew the line by funding. Its published PPRA complaint form still says an LEA must obtain written consent for a protected-area survey "*if the survey is funded in whole or in part by the Department*," and that for surveys not so funded the school must instead notify parents annually and offer an opt-out. That was the settled operating understanding across the field.

What the letter does

On August 26, 2026 the Student Privacy Policy Office issued its annual back-to-school Dear Colleague Letter to state and local educational agencies, signed by the Office's Director. It makes two moves.

The first move redefines "required."

> "When an educator, counselor, or other school official administers a survey, evaluation, or analysis, students commonly feel obligated to participate. ... Accordingly, any survey, evaluation, or analysis administered that addresses one or more of the eight protected areas listed above will be considered

> by this Office as 'required,' and therefore subject to PPRA's advance parental notification and written parental consent requirements."
>
> SPPO Back to School Dear Colleague Letter, August 26, 2026

The second removes the funding nexus.

> "The PPRA parental consent requirements apply to surveys whether or not a specific survey is exclusively or directly administered with Department funds."
>
> SPPO Back to School Dear Colleague Letter, August 26, 2026

And then the sentence that reaches every district in the country running a wellbeing check-in:

> "Please note the opt-out provisions in PPRA do not apply as a way of securing parental consent for student participation in such a survey."
>
> "Because many mental health screening instruments, or professionals who utilize them require students to answer questions about their emotional wellbeing, internalized distress, social interactions, and other indicators of psychological or mental states or conditions, the Department considers these instruments to elicit information that falls within the 'mental or psychological problems of the student or the student's family,' one of the categories protected under the Protection of Pupil Rights Amendment."
>
> "Accordingly, when educational agencies or institutions use behavioral health screeners that probe students' emotional or psychological states, they must ensure that written parental consent is obtained prior to administration, in alignment with Federal requirements and the Department's existing guidance."
>
> SPPO Back to School Dear Colleague Letter, August 26, 2026

Two things the letter does not say, and one district should know both

It never says "social and emotional learning." Not once. The words SEL, wellness, check-in, climate survey and universal screening do not appear in it. The letter reaches this framework's instrument layer by implication, through the phrase "emotional wellbeing, internalized distress, social interactions" — which is broad enough to capture almost any social-emotional instrument, and is nowhere stated as such.

It says nothing about IDEA or Section 504. There is no carve-out for special education evaluations, none for teacher-administered classroom formative practice, and none for individually administered diagnostic instruments. Neither is there an exclusion. The letter is simply silent, and silence in sub-regulatory guidance repeals nothing: **34 CFR 300.302 is untouched and remains in force.**

What is contested — stated plainly, because a district is entitled to it

> **This is guidance, not law, and its reading of the statute is an expansion.** The letter asserts a subsection (b) consent obligation while citing, in its footnote, only subsection (c) — and specifically (c)(2)(A)–(C), the opt-out provision, offered as authority for the proposition that opt-out is unavailable. Subsection (b)'s own text conditions the consent requirement on the survey being "part of any applicable program." The letter's rationale — peer pressure, the authority a teacher holds — is a factual premise about children, not a canon of statutory construction, and it carries no supporting citation.

Three further facts belong in the same paragraph as that one.

- **It went through no notice and comment.** It is not codified, and it amends neither 34 CFR Part 98 nor Part 99. Its own framing is that the Office "will consider" administered surveys to be required — an enforcement-posture statement.
- **A comparable letter was vacated a year ago.** In *American Federation of Teachers v. U.S. Department of Education*, No. 25-cv-00628 (D. Md., August 14, 2025), the court vacated the Department's February 2025 Dear Colleague Letter and the certification requirement built on it, holding it "a final agency action that violated the APA by altering the legal landscape without first undergoing necessary procedural steps, such as public notice and comment." The August 2026 letter, notably, imposes no certification requirement — which may well be deliberate, and which makes the same challenge harder.
- **Nothing about it has been tested.** As of the date of this document no litigation, petition or formal challenge to the August 2026 letter had been identified, and no statement on it had been issued by CASEL, NASP, AASA, ASCA or NSBA. It is seven days old.

Enforcement is real even where the reading is contested

The letter opens by reciting that "Failure to comply with FERPA or PPRA can result in loss of Federal financial assistance," and states that a point of emphasis in the Office's enforcement work this year will be the clarity of annual notifications. That is not theoretical. In July 2026 the Office found a Massachusetts district in violation of PPRA for administering a risk-behaviour survey over parents' opt-out requests, and the proposed resolution required the district to distribute the survey questions to all parents, review its policies district-wide, and **submit future sensitive surveys to the Department for review**. In January 2026 it made a first-ever FERPA violation finding against a state educational agency. A parent complaint must be in writing, must be filed within 180 days, and for PPRA must first be raised with the district.

The framework's position, and why it is the conservative one

The Architecture of Grace treats the August 2026 letter as binding on the instrument layer, and recommends that districts do the same — while stating clearly that its statutory basis is contested.

The reasoning is not deference. It is asymmetry of consequence. If the letter's reading is eventually held to exceed the statute, a district that obtained written consent has lost nothing but paperwork. If the reading holds and a district ran an opt-out, the district is out of compliance for a full school year on an instrument that touched every student in the building, with a 180-day complaint window running from each parent's discovery. Those two errors are not the same size.

There is a second reason, and it is the better one. Written consent, in advance, with the questions attached, is what this framework would want a district to do if no letter had ever been written. Chapter 14 records it as a standing refusal: the framework does not ask a child about overwhelm, self-criticism or whether they have a trusted adult without the child's family knowing exactly what was asked.

A note on verification. The quotations above were taken from the Department's published letter and its accompanying press release on September 2, 2026. Counsel should read the letter in full before relying on any characterisation in this chapter; it is five pages and fifteen footnotes, and this document does not reproduce it whole.

PART THREE · PRIVACY AND CONSENT

Chapter 9 · The Consent Protocol

Opt-in first, opt-out underneath — and the twelve elements a packet needs to survive eight states

The framework ships a consent packet, published separately as the *Parental Consent and Disclosure Protocol*, which a district may adopt, adapt, or hand to counsel as a starting draft. This chapter states its design and its reasoning; the packet itself carries the forms, the full item list in English and Spanish, and the refusal-handling script.

The two-layer design

Layer one is opt-in. Written parental consent, obtained before any student answers any statement in the instrument layer, with the questions supplied in advance. This is the default and the framework's recommendation everywhere, in every state, whatever the local floor.

Layer two is the opt-out, kept underneath. The opt-out does not go away when consent is adopted, and it is not redundant. It does three jobs: it is what a parent who consented in September uses to withdraw in February; it is the mechanism 20 U.S.C. 1232h(c)(2)(C)(ii) requires an LEA policy to contain regardless; and it is the fallback for the components that are not surveys at all — the curriculum itself, where a parent's objection is a curriculum-exemption question under board policy, not a PPRA question.

> Why keep both. Consent and opt-out answer different questions. Consent asks *may we*. An opt-out asks *may we stop*. A family that has said yes still needs a way to say no later, in a hurry, without a conversation — and a protocol that collects consent and then offers no exit has made the consent worse, not better.

Tiered, because one signature for four different things is not informed

34 CFR 300.9(b) requires a consent that "describes that activity and lists the records (if any) that will be released and to whom." A single yes-or-no for an entire framework describes nothing. The packet separates four decisions, each with its own box.

The decision	What the parent is agreeing to	If they decline
A · The curriculum	Their child takes part in the lessons, discussions, charts and worksheets.	Board curriculum-exemption policy applies. No PPRA question arises. Alternative work is provided.
B · The reflection	Their child answers the nineteen statements, reproduced in full in the packet.	The child does the lesson and skips the reflection. Nothing is recorded. No adult mentions it to them.

The decision	What the parent is agreeing to	If they decline
C · The record	Their child's individual answers are kept in the student's record and visible to their teacher and case manager.	Participation without an individual record. Aggregate class information only.
D · The sync	Their child's data is written to the school's connected spreadsheet under the district's data agreement.	The data stays on the device and is exported by the teacher only if and when the district asks.

Boxes C and D are the two most districts never think to separate, and they are the two a privacy-attentive parent asks about first. A family may be entirely willing for a child to answer and entirely unwilling for the answers to leave the classroom. That is a coherent position and the form should be able to hold it.

The twelve elements

Assembled from the four strictest state statutes, the Department's own model notice, and four real district and state templates. A packet built to satisfy this list satisfies Utah, Texas, Arizona, North Carolina, Louisiana, Iowa, Montana and Kansas without redrafting.

#	Element	Because
1	The instrument named, with version and publisher, and a live address for the item bank	Louisiana requires the tool named and its website. A district that cannot name what it administered cannot defend having administered it.
2	The full item list attached — not summarised, not characterised	Utah requires the questions themselves; Texas requires an advance copy of the questionnaire. A description of the questions is not the questions.
3	Lead time stated in days. Default fourteen.	Utah's floor is two weeks; Arizona's is seven days. Fourteen clears both.
4	One master form with a switchable consent block	So a district in an opt-out state and a district in an opt-in state run the same paperwork with one setting changed, rather than two documents that drift apart.
5	Tiered boxes — the four above	34 CFR 300.9(b). Informed consent has to be about something specific.
6	A student assent script	The right to skip, the right to stop part-way, an alternative activity, no effect on grades, and how to reach a counsellor. The layer almost every packet omits.
7	Who sees results, by role, in the district's own words	Not "authorised personnel." The actual roles: this teacher, this case manager, this counsellor.
8	Retention and destruction stated as a number, configurable	Illinois holds this as a temporary record for a five-year minimum; Louisiana requires destruction within thirty days. Retention is a per-state setting, not a product constant.

#	Element	Because
9	Vendor and data-flow disclosure	Subprocessors, security standard, breach-notice window. In Illinois this is a website posting obligation under SOPPA, not a line on a form.
10	A response-capacity statement	What happens after a flag, who owns it, and the crisis protocol. The ethical constraint most vendors ignore: **do not screen more students than the building can follow up with.**
11	Translation of the consent *and the item list*, with a log of which version each family received	The clearest common gap in every real template reviewed. 34 CFR 300.9(a) requires the parent be informed in their native language.
12	Revocability through a standing register, re-affirmed annually with a stated validity window	The single most transferable mechanic found in district practice: a digital consent register a parent can change at any time, not a one-shot paper form in an August folder.

Refusal handling — the part that decides whether any of this is real

> **A child whose family declined must not be able to tell, from anything that happens in the room, that their family declined.** No list. No waiting by the door. No "we'll catch you up later." The alternative activity is a real activity, prepared in advance, that a child would plausibly have been given anyway. If a school cannot do this, it should not run the instrument — not because of a regulation, but because a consent regime that costs a nine-year-old their standing in the room has failed at the thing it was for.

Three operational rules follow. **A non-response is not a consent.** Silence returns the child to the alternative activity; it never returns them to the instrument. **A revocation is retroactive in effect where the framework can make it so** — the record is removed, not merely stopped, and the framework's removal function is symmetric with its backup so that nothing survives a deletion in a file the district later restores. **And no adult raises it with the student.** The conversation, if there is one, is with the family.

PART THREE · PRIVACY AND CONSENT

Chapter 10 · Records

FERPA, Part 300 Subpart F, the spreadsheet, and the claim this framework does not make

The claim this framework does not make

A teacher's private notes are excluded from FERPA's definition of an education record under a narrow exception, and it is the most misused exception in school data practice.

> "Records that are kept in the sole possession of the maker, are used only as a personal memory aid, and are not accessible or revealed to any other person except a temporary substitute for the maker of the record."
>
> 34 CFR 99.3, "Education records," exclusion (b)(1)

Three conditions, all of which must hold, and hold continuously. The Department's Family Policy Compliance Office stated the consequence directly in a 1999 Letter of Finding: "*Once the contents or information recorded in sole possession records is disclosed to any party other than a temporary substitute for the maker of the records, those records become education records subject to FERPA.*"

> **The Architecture of Grace does not claim, and district staff should not be told, that the teacher observation log is a sole possession record.** It fails the test on at least four independent grounds, any one of which is fatal: it can be synced to a spreadsheet; it prints into an IEP meeting brief; it feeds the progress charts, which makes it decisional rather than a memory aid; and it is visible to a co-teacher or administrator where a district configures it so. **Treat everything the framework records as an education record by default.** A vendor claiming otherwise would be inducing a district into a violation, and the framework will not make the claim in order to sound more private than it is.

What Part 300 Subpart F adds on top of FERPA

Provision	The duty
300.611	Defines "participating agency" as any agency or institution that collects, maintains or uses personally identifiable information under Part B. **A vendor processing IEP-linked data can meet this definition**, which imports Subpart F duties directly rather than by contract.
300.613(a)	Parents must be permitted to inspect and review education records, "in no case more than 45 days after the request has been made," and before any IEP meeting or hearing. **A store that cannot produce a record on demand puts the district in breach of a forty-five-day mandate.**

Provision	The duty
300.613(b)(1)	Parents have the right to "reasonable requests for explanations and interpretations of the records." A chart a parent cannot get explained is not compliant.
300.622(a)	Parental consent before personally identifiable information is disclosed to parties other than officials of participating agencies, unless disclosure is authorised without consent under Part 99.
300.623	Confidentiality safeguards at collection, storage, disclosure and destruction; **one named official** responsible; training for all who collect or use the information; and a current listing, maintained for public inspection, of employees who may have access.
300.624	Parents must be informed when the information is no longer needed, and **it must be destroyed at their request**, subject to a narrow permanent-record exception.

The educator-owned spreadsheet — named as an exposure, not defended

The framework stores records on the device by default and offers an optional sync to a Google Sheet the educator owns, reached through an Apps Script endpoint the educator configures. That design solved a real problem: it meant no district ever had to mail a write key to a publisher, and no school's data ever passed through the framework's hands. It creates a different problem, and this document names it rather than describing it as a feature.

FERPA's school-official exception at 34 CFR 99.31(a)(1)(i)(B) admits a contractor only where it performs an institutional service the agency would otherwise use employees for, **is under the direct control of the agency with respect to the use and maintenance of education records**, and is subject to the redisclosure limits of 99.33(a). The August 2026 letter restates the direct-control requirement in the same terms. A spreadsheet owned by an individual educator — potentially under a personal account, outside district records governance, outside the 300.623 safeguards, and outside whatever retention schedule the district runs — does not sit comfortably inside "direct control."

> **The framework's position on it, stated as a requirement on the district rather than a disclaimer.** Where the sync is used with identifiable student data, the destination spreadsheet must be **district-administered**: owned by a district account, inside the district's domain, covered by the district's data agreement and retention schedule, and with a named official under 300.623(b). An educator-owned personal spreadsheet is appropriate for a teacher's own de-identified practice data and for nothing else. Districts should treat this as a configuration decision made once, at adoption, in writing — and the framework's own setup guidance now says so.

Illinois adds two numbers a district has to hold

Under the Illinois School Student Records Act, 105 ILCS 10, what this instrument produces is a **temporary record**: retained a minimum of five years; disclosable to third parties only on prior specific dated written consent naming the recipient; inspectable within ten business days of a request, extendable by five; and destroyable only after reasonable prior notice and an opportunity for the family to copy it first. Information shared in confidence with a school psychologist, social worker or counsellor is privileged.

Separately, the Student Online Personal Protection Act, 105 ILCS 85, treats a K–12 digital tool as an *operator*: no sale or rental of student information, reasonable security meeting or exceeding industry standards, deletion on request, a written agreement with the school before covered information is received, and breach notification within thirty days — with a matching set of district duties to post the agreement, list every operator and subcontractor with business addresses, and answer parent inspection and correction requests within ninety days.

Note the collision, because it is not hypothetical: Illinois sets a five-year retention floor for the same category of record that Louisiana requires be destroyed within thirty days. Retention must be a per-state configurable setting in any product used across state lines, and a district should confirm which number governs it before the first administration rather than after the first request.

PART FOUR · THE ADJACENT DUTIES

Chapter 11 · Section 504

The parallel duty, the more welcoming clause, and the stricter word

Section 504 runs alongside IDEA and reaches further: a student may be a person with a disability under 504 without being a child with a disability under IDEA. Two features of 34 CFR 104.35 matter to this framework, and they pull in opposite directions.

The more welcoming clause

> "[A] recipient shall (1) draw upon information from a variety of sources, including aptitude and achievement tests, **teacher recommendations**, physical condition, **social or cultural background, and adaptive behavior**, (2) establish procedures to ensure that information obtained from all such sources is documented and carefully considered, (3) ensure that the placement decision is made by a group of persons, including persons knowledgeable about the child, the meaning of the evaluation data, and the placement options …"
>
> 34 CFR 104.35(c)

This is more hospitable to classroom social-emotional information than IDEA's evaluation provisions are. Teacher recommendations and adaptive behaviour are named on the face of the regulation. A 504 team may legitimately consider a documented pattern of check-in data as one of the "variety of sources" — and (c)(2) requires that it be documented and carefully considered, not merely glanced at.

The stricter word

> "Tests and other evaluation materials have been **validated for the specific purpose for which they are used** and are administered by trained personnel in conformance with the instructions provided by their producer."
>
> 34 CFR 104.35(b)(1)

IDEA asks that instruments be "valid and reliable" for the purpose. Section 504 asks that they be *validated* — a stronger word, and one this framework's instrument cannot meet, because it has not been independently validated and says so. The conclusion follows without strain: **the self-reflection may inform a 504 team's thinking as one of several documented sources under (c)(1); it may not function as an evaluation material under (b)(1).** That is the same line Chapter 6 draws under IDEA, drawn a little tighter.

The trap that is specific to 504

> 34 CFR 104.35(a) requires evaluation before "any subsequent **significant change in placement**." Using a flag or a band to move a student between settings, supports or service levels without the (c)(3) group process is a Section 504 violation entirely independent of anything in IDEA — and it happens in buildings where nobody thought a placement decision was being made, because a schedule change does not feel like one. A single teacher acting on a dashboard colour is not a placement team.

PART FOUR · THE ADJACENT DUTIES

Chapter 12 · Behavior

What IDEA actually requires, five things it does not, and the consent trigger that looks like note-taking

What IDEA actually requires

The functional behavioural assessment obligation in IDEA is **disciplinary and reactive**. It attaches on a change of placement for a code-of-conduct violation, at 34 CFR 300.530(d)(1)(ii) — a removed child receives, "as appropriate, a functional behavioral assessment, and behavioral intervention services and modifications" — and at 300.530(f), where a manifestation determination finds the conduct was a manifestation, requiring the team to conduct an FBA and implement a behavioural intervention plan, or review and modify an existing one.

Separately, and much more mildly, 34 CFR 300.324(a)(2)(i) directs the IEP team, for a child whose behaviour impedes learning, to **consider** the use of positive behavioural interventions and supports. Note the verb. It is a consideration mandate. It is not a mandate to adopt any particular intervention and it is emphatically not a mandate to purchase a curriculum.

Five things IDEA does not require, corrected here because vendors get them wrong

- An FBA merely because a student has behavioural needs, absent a disciplinary change of placement.
- A BIP as a standard IEP component.
- Any prescribed FBA methodology, format or instrument — Part 300 specifies none.
- An FBA triggered by a social-emotional screening flag. Nothing in Part 300 connects those two events.
- An automatic FBA even in the disciplinary posture — 300.530(d)(1)(ii) says "as appropriate," and the qualifier is doing work.

The consent trigger that arrives through a feature nobody thinks about

When an FBA *is* conducted, it is an evaluation. OSEP has said so twice, in terms.

- **Letter to Gallo, April 2, 2013.** An FBA is generally understood to be an individualised evaluation under 34 CFR 300.301 through 300.311 when used to determine disability status or special education needs; "Parental consent is required for an FBA to be conducted as part of the initial evaluation or a reevaluation."
- **Letter to Sarzynski, May 6, 2008.** An FBA conducted to determine whether the positive behavioural interventions in a current IEP would be effective, or whether the behavioural

component of the IEP would need to be revised, **is a reevaluation requiring written parental consent**.

> **This is the least visible consent trigger in the entire product, because it arrives through a feature that looks like note-taking.** A teacher observation log structured to capture antecedent, behaviour and consequence, used at a spring meeting to decide whether the behaviour supports in an IEP are working, is a reevaluation on OSEP's reading — and requires informed parental consent under 34 CFR 300.300(c) that nobody in the room thought to obtain. The framework's answer is Chapter 14's refusal: the observation log is offered as a record of what a teacher saw, never as a functional behavioural assessment, and the framework does not market it as FBA support.

PART FOUR · THE ADJACENT DUTIES

Chapter 13 · The State Overlay

Eight states above the federal floor, Illinois in an unresolved middle, and the vocabulary that flexes

Federal law is a floor. Eight states currently sit meaningfully above it for an instrument of this kind, and a packet built to satisfy the strictest four satisfies the rest. This is a map for counsel, not a compliance opinion, and every citation should be read against the current text before it is relied on.

State	Instrument	What it requires that federal law does not
Utah	U.C.A. 53E-9-203	The strictest drafting found. Prior written consent for any psychological examination, test or treatment and for surveys in eight protected categories — Utah's list adds sexual orientation and gender identity. Valid consent requires the parent receive **a copy of the actual questions**, what records may be examined, how the information will be used, who receives it, and **at least two weeks' notice**. **Anonymous surveys still require consent** if they could reveal protected information. No incentive for participating; no penalty for refusing.
Texas	SB 12 (2025), Tex. Educ. Code 26.009	From the 2025–26 school year: before administering "a student well-being questionnaire or health screening form" to any student PK–12, the district must **provide a copy to the parent and obtain consent**. Also consent for psychological examination, test or treatment.
Arizona	A.R.S. 15-117	Written informed consent, with the survey copy and consent form supplied **at least seven days** in advance; revocable at any time; twelve enumerated categories. **Civil penalty up to $500 per violation**, borne by the school.
North Carolina	G.S. 115C-76.40, 115C-76.50	Parental review and **affirmative consent** before a protected-information survey; and for kindergarten through grade three, advance copies of any well-being questionnaire or health screening form with a means to consent.
Louisiana	R.S. 17:416.24	Screening permitted only with **written opt-in consent**; the consent form must name the tool and its website; results confidential and **destroyed within thirty days**; no metadata; results may not affect academics or discipline. R.S. 17:281 separately bars surveying students on personal or family beliefs in sex, morality or religion.
Iowa	Iowa Code 279.79	Prior written consent for the eight PPRA categories, and — distinctively — a separate bar on employees or contractors answering survey questions **about a student's social or emotional abilities** without disclosure and written authorisation. IEP-related questions are exempt.

State	Instrument	What it requires that federal law does not
Montana	HB 599 (2025); MCA 40-6-701, 40-6-702	Notice of the right to opt out of physical and mental health surveys and screenings; **opt-in required wherever personally identifiable information is collected**; parents receive results. No mental health evaluation "in a clinical or nonclinical setting" without parental permission.
Kansas	HB 2420 (2026)	Written consent plus verbal and written notice before a school-based mental health service, at **$5,000 per violation**, attorney-general enforceable — and it **expressly excludes Tier 1 universal MTSS interventions**. The most useful precedent in the country for the separation principle in Chapter 2.

Illinois — the unresolved middle

Illinois does the opposite of restricting. Public Act 104-0032, effective January 1, 2026, amends 105 ILCS 5/2-3.203 to have mental health screening offered to students in grades three through twelve at least annually beginning with the 2027–28 school year — conditioned on the State successfully procuring a screening tool with a student self-report option, available to districts at no cost. The Act's model procedures must address family communication, confidentiality, storage, follow-up, and **"the option to opt-out."**

> **Illinois state law says opt-out. The August 2026 federal letter says opt-out is not enough. The conflict is live, it is unresolved, and Illinois has no general school-survey consent statute to fall back on** — it appears on neither the active-consent nor the notice-and-opt-out lists in the current fifty-state scan. Illinois districts therefore sit directly on the federal floor plus local board policy, which is exactly where the letter lands hardest. The framework's recommendation for an Illinois district is unchanged and is Chapter 9's: **run written consent anyway.** State law is a floor, not a ceiling; consent satisfies both readings; and it travels to Texas, Utah and North Carolina without redrafting.

The vocabulary, which flexes where the architecture does not

No state has banned the term "social and emotional learning" by statute. What has happened is migration, and a district in one of these states may need the same content under a different name: Texas teaches "character traits and personal skills" under Tex. Educ. Code 29.906; Florida requires "resiliency education" — a minimum of five hours of data-driven instruction a year in grades six through twelve, under Rule 6A-1.094124(4); Georgia runs "character education"; Pennsylvania, "Career Ready Skills"; Arkansas, "G.U.I.D.E. for Life"; Hawaii, "Nā Hopena Aʻo." Illinois, California and New York retain the term openly.

The competency map underneath is the same in every case. What has to flex is the label on the folder, not the architecture in it — and a publisher that cannot express its map in a state's own vocabulary is asking a district to fight a naming argument on its behalf.

For context a district may find steadying: adoption is rising, not falling. Eighty-three percent of principals reported using an SEL curriculum in 2023–24, up from seventy-six percent two years earlier, and forty-nine states and the District of Columbia maintain at least one policy promoting it. Of the restrictive bills introduced in the 2026 sessions, the three most prominent — in Utah, Iowa and Arizona — all died, one by veto. The binding constraint in this field is consent procedure around instruments. It is not an existential threat to teaching the content.

PART FIVE · THE POSITION

Chapter 14 · What the Framework Refuses to Do

Nine standing refusals, and the reason a refusal is more useful to a district than a promise

A district evaluating a framework can verify a refusal. It cannot verify an intention. What follows is written as commitments the framework may be held to, and each one is a place where the easier product decision was available and was not taken.

#	The refusal	Why, and what it costs
1	**It will not argue that its own vocabulary changes a regulatory classification.**	Calling the instrument a "self-reflection" describes its purpose honestly. It has no legal effect. If a district uses it to decide eligibility it is an evaluation and always was. Any vendor telling a district otherwise is selling exposure.
2	**It will not emit an IEP goal from the instrument alone.**	34 CFR 300.304(b)(2) bars a single measure from determining an educational program, and *Endrew F.* requires individualisation. A one-click goal would be the most requested feature this product has and it is the one that would put a district in a hearing.
3	**It will not claim sole-possession status for the observation log.**	The log syncs, prints and feeds charts. The claim would sound more private and would be false, and a district acting on it would be the one in breach.
4	**It will not score Item 19.**	A child's safety skills must not be able to raise or lower a wellbeing composite. The item is asked, displayed, and flagged — and contributes to no number anywhere. It is the single clearest expression of the framework's stance on measurement.
5	**It will not produce a diagnosis, a disability category, or a risk score presented as a finding.**	The instrument's own printed output says it is a reflective screener and not a diagnosis. The pattern reader refuses to read a pattern below a minimum number of records and prints "counted, not concluded" where a lesser product would print a conclusion.
6	**It will not let the instrument slide silently between universal and individual administration.**	There is no "mostly universal" category in 34 CFR 300.300(d)(1)(ii). Assigning it to one child is a different act with a different consent posture, and a product that hides that difference hands a district a violation it cannot see.
7	**It will not claim independent validation it does not have.**	The instrument is disclosed as AI-developed and not independently validated, here and everywhere else the framework describes it. That disclosure is what makes the rest of the framework's claims believable, and softening it would cost more than it bought.

#	The refusal	Why, and what it costs
8	**It will not ship a consent form that describes the questions instead of attaching them.**	Utah requires the questions; Texas requires the copy; and a parent who has not read the nineteen statements has not consented to them. The full item list travels with the form, in both languages.
9	**It will not route one school's data into another's, and it will not ask a district for a write key.**	Every link carries its own destination and a connection the device itself saved is the only thing that may outrank it. A framework that asks a district to mail a credential to a person has already failed the review it is asking for.

One further commitment, which is not a refusal but belongs beside them. **Do not screen more students than the building can follow up with.** An instrument that surfaces a child with no trusted adult and produces no adult response has done harm, not diligence — and no regulation in this document will catch it. It is the constraint a district has to impose on itself, and it should be written into the implementation plan before the first administration, not after the first flag.

PART FIVE · THE POSITION

Chapter 15 · The Working Compliance Summary

One page. Print it, and keep it where the case managers are.

The three objects, and what governs each

Object	Examples	Governed by	Consent posture
Curriculum	Six books, charts, cards, worksheets, Talk It Out, Quiet Space	Instruction. Board curriculum policy.	None required. Curriculum exemption on request.
Academic probes	The thirty activity pages	Academic assessment — expressly excluded from PPRA's instructional-material definition	None required.
Instrument layer	The nineteen-statement reflection, Daily Check-In, Exit Slip, Home Check-In, This Is Me	PPRA protected-information survey; IDEA 300.302 screening	**Written consent, in advance, questions attached.**

The five sentences to know by heart

- **Purpose classifies, not format.** The same nineteen statements are a screening on Monday and an evaluation on Tuesday. Only the decision changed.
- **Evaluation includes writing IEP content.** 34 CFR 300.304(b)(1)(ii). This is what catches goal-writing tools.
- **The single-measure bar covers programming, not only eligibility.** 300.304(b)(2), trailing clause.
- **A flag is knowledge, and knowledge starts the child-find clock.** "Advancing from grade to grade" is not a defence — 300.111(c)(1).
- **Refusing to evaluate is an action that owes prior written notice.** 300.503(a)(2), and the notice must describe what the agency relied on.

The four consent triggers, in the order they are missed

If someone in the building does this…	…this is what it became
Runs the reflection for one flagged student	An individual evaluation. 300.300(a) consent, 300.503 notice.
Writes a present level or a goal off the composite	Evaluation activity. 300.304(b)(1)(ii) and (b)(2).
Reviews behaviour data to decide if the IEP's supports are working	A reevaluation. 300.300(c). *Letter to Sarzynski*, 2008.
Uses a flag or band to change a student's setting or supports	A significant change in placement under 504. 34 CFR 104.35(a).

Before the first administration — the seven-item check

1	Written consent obtained, with the nineteen statements attached, in the family's language, at least fourteen days ahead.
2	The four boxes separated: curriculum · reflection · individual record · sync.
3	An alternative activity prepared that does not identify who declined.
4	The sync destination is a **district-owned** spreadsheet under the district's data agreement — or the sync is off.
5	One named official under 34 CFR 300.623(b), and the access list maintained for public inspection.
6	Retention set to the number this state requires — five years in Illinois, thirty days in Louisiana.
7	The response pathway named in writing: who owns a trusted-adult flag, who owns a self-protection flag, and by when.

What to say when a parent asks

> "It is a set of nineteen statements your child rates about themselves — how they handle big feelings, how they talk to themselves after a mistake, and whether they have an adult they could go to. Here they are; read them. It tells your child's teacher what to teach next. **It is not a test, it is not a diagnosis, and it is not used to decide whether your child qualifies for special education** — that takes a full evaluation with your written consent, and this is not one. You can say no to any part of it, you can change your mind at any time, and nothing about your child's day changes either way."

This summary is a working reference and not a legal opinion. Where it and the chapters differ, the chapters govern; where the chapters and your district counsel differ, counsel governs. Architecture of Grace · Document 10 · Pilot Version 2026–2027.