

STUDENT AND FAMILY PRIVACY RIGHTS

The No Child Left Behind Act of 2001 (P.L. 107-110, Section 1061) significantly amended 20 USC 1232h, the Protection of Pupil Rights Act (PPRA), to mandate that any district receiving funds from a USDOE-administered program adopt a policy regarding the (1) administration of surveys and physical exams/screenings, (2) right of parents to inspect instructional materials, and (3) collection of personal information for marketing purposes.

The Board of Education believes that personal information concerning district students and their families should be kept private in accordance with law.

(cf. 0000 - Vision)

(cf. 0100 - Philosophy)

(cf. 0200 - Goals for the School District)

(cf. 5020 - Parent Rights and Responsibilities)

(cf. 5125 - Student Records; Confidentiality)

(cf. 6000 - Concepts and Roles in Instruction)

(cf. 6162.8 - Research)

The superintendent or designee shall consult with parents/guardians regarding the development and adoption of this policy.

Collection of Personal Information for Marketing Purposes

The board prohibits district staff from administering or distributing to students survey instruments that are designed for the purpose of collecting personal information for marketing or for selling that information.

Legal Reference: (see next page)

STUDENT AND FAMILY PRIVACY RIGHTS (continued)

Legal Reference:

EDUCATION CODE

49450-49457 Physical examinations

49602 Confidentiality of pupil information

51101 Parents Rights Act of 2002

51513 Personal beliefs

51938 Sexual Health and HIV/AIDS Prevention Education Act; Notice and parental excuse

UNITED STATES CODE, TITLE 20

1232g Family Educational Rights and Privacy Act

1232h Protection of pupil rights

Management Resources:

WEB SITES

CSBA: <http://www.csba.org>

CDE: <http://www.cde.ca.gov>

USDOE, Family Policy Compliance Office: <http://www.ed.gov/offices/OM/fpco/>

STUDENT AND FAMILY PRIVACY RIGHTS

Definition

Personal information means individually identifiable information, including a student's or parent's/guardian's first and last name, a home or other physical address (including street name and the name of the city or town), a telephone number, or a social security identification number. (20 USC 1232h)

Surveys Requesting Information about Beliefs and Practices

Education Code 51513 provides that districts shall not administer exams, surveys, or questionnaires containing questions about a student's or his/her family's personal beliefs or practices in sex, family life, morality, and religion, unless the student's parent/guardian has provided prior written consent (i.e., "active consent").

A student's parent/guardian shall provide prior written consent before the student participates in a survey containing one or more of the following items: (20 USC 1232h; Education Code 51513)

1. Political affiliations or beliefs of the student or his/her family
2. Mental or psychological problems of the student or his/her family
3. Sexual behavior or attitudes or personal beliefs and practices in family life or morality
4. Illegal, anti-social, self-incriminating, or demeaning behavior
5. Critical appraisals of other individuals with whom the student has close family relationships
6. Legally recognized privileged or analogous relationships, such as those of lawyers, physicians, or ministers
7. Religious practices, affiliations, or beliefs of the student or his/her parent/guardian
8. Income, except to the extent that income is required to be disclosed by law for participation in a program or for receiving financial assistance under such a program

STUDENT AND FAMILY PRIVACY RIGHTS (continued)

If a student participates in a survey regarding information about beliefs and practices as identified above, school officials and staff members shall not request or disclose the student's identity.

(cf. 6162.51 - Standardized Testing and Reporting Program)

(cf. 6162.8 - Research)

Education Code 51938, as added by SB 71 (Ch. 650, Statutes of 2003), creates an exception to the above requirements by authorizing districts to administer to students in grades 7-12 anonymous, voluntary surveys regarding student health behaviors and risks upon providing written parent/guardian notification and allowing a parent/guardian to opt his/her child out of participation (i.e., "passive consent").

Exceptions to Collection of Personal Information

Any district restriction regarding collection of personal information shall not apply to the collection, disclosure, or use of personal information collected from students for the purpose of developing, evaluating, or providing educational products or services for, or to, students or educational institutions, such as the following: (20 USC 1232h)

1. College or other postsecondary education recruitment or military recruitment
2. Book clubs, magazines, and programs providing access to low-cost literary products
3. Curriculum and instructional materials used by elementary and secondary schools
4. Tests and assessments to provide cognitive, evaluative, diagnostic, clinical, aptitude, or achievement information about students (or to generate other statistically useful data for the purpose of securing such tests and assessments) and the subsequent analysis and public release of the aggregate data from such tests and assessments
5. The sale by students of products or services to raise funds for school-related or education-related activities

(cf. 1321 - Solicitation of Funds from and by Students)

6. Student recognition programs

(cf. 5126 - Awards for Achievement)

STUDENT AND FAMILY PRIVACY RIGHTS (continued)

Parent/Guardian Access to Surveys and Instructional Materials

Before school staff administers a survey or evaluation containing personal information as identified above or distributes an instrument to a student for the purpose of collecting personal information, the student's parent/guardian may: (20 USC 1232h; Education Code 51938)

1. Upon written request, inspect that survey or instrument before it is administered or distributed to his/her child or any instructional material used as part of his/her child's educational curriculum.

(cf. 5020 - Parent Rights and Responsibilities)

20 USC 1232h requires that the district provide parents/guardians reasonable access to surveys, instruments, and instructional materials within a reasonable amount of time after the written request has been received.

Within 10 working days of receiving a written request, the principal or designee shall permit a parent/guardian to view a survey, instrument, or instructional material. A parent/guardian may view the document any time during normal business hours.

2. Refuse to allow his/her child to participate in the activity.

Students whose parents/guardians exercise this option shall not be penalized by the district. (20 USC 1232h)

Health Examinations

No school official or staff member shall subject a student to a non-emergency, invasive physical examination as a condition for school attendance, except as permitted or required under California law. (20 USC 1232h)

Invasive physical examination means any medical examination that involves the exposure of private body parts or any act during such examination that includes incision, insertion, or injection into the body, but does not include a properly authorized hearing, vision, or scoliosis screening. (20 USC 1232h)

(cf. 5141.3 - Health Examinations)

STUDENT AND FAMILY PRIVACY RIGHTS (continued)

Notifications

At the beginning of the school year, the superintendent or designee shall notify parents/guardians of: (20 USC 1232h)

1. The district's policy regarding student privacy
2. The process to opt their children out of participation in any activity described in this policy and administrative regulation
3. The specific or approximate dates during the school year when the following activities are scheduled:
 - a. Survey requesting personal information
 - b. Physical exams or screenings

Prior to administering anonymous and voluntary surveys regarding health risks and behaviors to students in grades 7-12, the district shall provide parents/guardians with written notice that the survey is to be administered. (Education Code 51938)

Parents/guardians shall also be notified of any substantive change in this policy and administrative regulation within a reasonable period of time after adoption of the change. (20 USC 1232h)

(cf. 5145.6 - Parental Notifications)