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1	SURVEYS IN PUBLIC SCHOOLS
2	1999 GENERAL SESSION
3	STATE OF UTAH
4	Sponsor: David L. Hogue
5	AN ACT RELATING TO PUBLIC EDUCATION; PROVIDING THAT A PARENT HAVE
6	ACCESS TO A COPY OF QUESTIONS TO BE ASKED OF THE PARENT'S CHILD IN
7	CONNECTION WITH SURVEYS OR TESTS IN THE PUBLIC SCHOOLS WHICH CAUSE
8	THE CHILD TO REVEAL SENSITIVE INFORMATION; MODIFYING WRITTEN CONSENT
9	PROVISIONS; AND MAKING CERTAIN TECHNICAL CHANGES.
10	This act affects sections of Utah Code Annotated 1953 as follows:
11	AMENDS:
12	53A-13-302, as last amended by Chapter 318, Laws of Utah 1996
13	Be it enacted by the Legislature of the state of Utah:
14	Section 1. Section 53A-13-302 is amended to read:
15	53A-13-302. Activities prohibited without prior written consent Validity of consent
16	Qualifications.
17	(1) Policies adopted by a school district under Section 53A-13-301 shall include
18	prohibitions on[: (1)] the administration to a student of any psychological or psychiatric
19	examination, test, or treatment, or any survey, analysis, or evaluation without the prior written
20	consent of the student's parent or legal guardian, in which the purpose or evident intended effect
21	is to cause the student to reveal information, whether the information is personally identifiable or
22	not, concerning the student's or any family member's:
23	(a) political affiliations or, except as provided under Section 53A-13-101.1 or rules of the
24	State Board of Education, political philosophies;
25	(b) mental or psychological problems;
26	(c) sexual behavior, orientation, or attitudes;
27	(d) illegal, anti-social, self-incriminating, or demeaning behavior;

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28	(e) critical appraisals of individuals with whom the student or family member has close	
29	family relationships;	
30	(f) religious affiliations or beliefs;	
31	(g) legally recognized privileged and analogous relationships, such as those with lawyers,	
32	medical personnel, or ministers; and	
33	(h) income, except as required by law.	
34	(2) Prior written consent under Subsection (1) is required in all grades, kindergarten	
35	through grade 12.	
36	[(2)] (3) The prohibitions under Subsection (1) shall also apply within the curriculum and	
37	other school activities unless prior written consent of the student's parent or legal guardian has	
38	been obtained.	
39	[(3)] (4) Written parental consent is valid only if a parent or legal guardian has been first	
40	given written notice, including notice that a copy of the h EDUCATIONAL OR STUDENT SURVEY	
40a	questions to be asked of the student in	
41	obtaining the desired information is made available at the school, and a reasonable opportunity to	
42	obtain written information concerning:	
43	(a) records or information, including information about relationships, that may be	
44	examined or requested;	
45	(b) the means by which the records or information shall be examined or reviewed;	
46	(c) the means by which the information is to be obtained;	
47	(d) the purposes for which the records or information are needed;	
48	(e) the entities or persons, regardless of affiliation, who will have access to the personally	
49	identifiable information; and	
50	(f) a method by which a parent of a student can grant permission to access or examine the	
51	personally identifiable information.	
52	[(4)] (5) (a) Except in response to a situation which a school employee reasonably believes	
53	to be an emergency, or as authorized under Title 62A, Chapter 4a, Part 4, Child Abuse or Neglect	
54	Reporting Requirements, or by order of a court, disclosure to a parent or legal guardian must be	
55	given at least two weeks before information protected under this section is sought.	
56	(b) Following disclosure, a parent or guardian may waive the two week minimum	
57	notification period.	
58	[(c) Parental authorization shall be valid until the commencement of the subsequent school	

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59	year or until one of the fallowing account
39	year or until one of the following occurs.

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- [(i)] (c) [the child completes or withdraws from the course, activity, or program] <u>Unless</u> otherwise agreed to by a student's parent or legal guardian and the person requesting written consent, the authorization is valid only for the activity, for which it was granted[; or].
- [(ii) a] (d) A written withdrawal of authorization [is] submitted to the school principal by the authorizing parent or guardian terminates the authorization.
- [(d)] (e) A general consent used to approve admission to school or involvement in special education, remedial education, or a school activity does not constitute written consent under this section.
- [(5)] (6) (a) This section does not limit the ability of a student under Section 53A-13-101.3 to spontaneously express sentiments or opinions otherwise protected against disclosure under this section.
- [(6) (a)] (b) (i) If a school employee or agent believes that a situation exists which presents a serious threat to the well-being of a student, that employee or agent shall notify the student's parent or guardian without delay.
- (ii) If, however, the matter has been reported to the Division of Child and Family Services within the Department of Human Services, it is the responsibility of the division to notify the student's parent or guardian of any possible investigation, prior to the student's return home from school.
- [(b)] (iii) The division may be exempted from the notification requirements described in this Subsection [(a)] (6)(b)(ii) only if it determines that the student would be endangered by notification of his parent or guardian, or if that notification is otherwise prohibited by state or federal law.
- (7) Local school boards shall provide inservice for teachers and administrators within their respective school districts on the implementation of this section.
- \hat{h} THE BOARD SHALL PROVIDE PROCEDURES FOR DISCIPLINARY ACTION FOR VIOLATIONS OF THIS SECTION. \hat{h}

Legislative Review Note as of 11-6-98 10:53 AM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel