

**PUBLIC SCHOOLS SURVEYS AMENDMENTS**

2000 GENERAL SESSION

STATE OF UTAH

**Sponsor: Robert F. Montgomery**

AN ACT RELATING TO PUBLIC EDUCATION; PROVIDING FOR THE CREATION OF A STATE STUDENT SURVEY REVIEW COMMITTEE; PROVIDING FOR COMMITTEE MEMBERSHIP; PROVIDING COMMITTEE DUTIES; PROVIDING FOR THE REVIEW OF SURVEYS CONDUCTED TO OBTAIN DATA FOR THE DEVELOPMENT OR IMPLEMENTATION OF GOVERNMENTAL POLICIES OR LEGISLATION, SUBJECT TO MEETING SPECIFIED CRITERIA; PROVIDING CONDITIONS FOR APPROVAL AND USE OF SURVEYS; AND MAKING CERTAIN TECHNICAL CHANGES.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

**53A-13-302**, as last amended by Chapter 284, Laws of Utah 1999

ENACTS:

**53A-13-303**, Utah Code Annotated 1953

*Be it enacted by the Legislature of the state of Utah:*

Section 1. Section **53A-13-302** is amended to read:

**53A-13-302. Activities prohibited without prior written consent -- Validity of consent -- Qualifications -- Training on implementation.**

(1) [Policies] Except as otherwise provided in Section 53A-13-303, policies adopted by a local school [district] board under Section 53A-13-301 shall include prohibitions on the administration to a student of any psychological or psychiatric examination, test, or treatment, or any survey, analysis, or evaluation without the prior written consent of the student's parent or legal guardian, in which the purpose or evident intended effect is to cause the student to reveal information, whether the information is personally identifiable or not, concerning the student's or any family member's:

28 (a) political affiliations or, except as provided under Section 53A-13-101.1 or rules of the  
29 State Board of Education, political philosophies;

30 (b) mental or psychological problems;

31 (c) sexual behavior, orientation, or attitudes;

32 (d) illegal, anti-social, self-incriminating, or demeaning behavior;

33 (e) critical appraisals of individuals with whom the student or family member has close  
34 family relationships;

35 (f) religious affiliations or beliefs;

36 (g) legally recognized privileged and analogous relationships, such as those with lawyers,  
37 medical personnel, or ministers; and

38 (h) income, except as required by law.

39 (2) Prior written consent under Subsection (1) is required in all grades, kindergarten  
40 through grade 12.

41 (3) The prohibitions under Subsection (1) shall also apply within the curriculum and other  
42 school activities unless prior written consent of the student's parent or legal guardian has been  
43 obtained.

44 (4) Written parental consent is valid only if a parent or legal guardian has been first given  
45 written notice, including notice that a copy of the educational or student survey questions to be  
46 asked of the student in obtaining the desired information is made available at the school, and a  
47 reasonable opportunity to obtain written information concerning:

48 (a) records or information, including information about relationships, that may be  
49 examined or requested;

50 (b) the means by which the records or information shall be examined or reviewed;

51 (c) the means by which the information is to be obtained;

52 (d) the purposes for which the records or information are needed;

53 (e) the entities or persons, regardless of affiliation, who will have access to the personally  
54 identifiable information; and

55 (f) a method by which a parent of a student can grant permission to access or examine the  
56 personally identifiable information.

57 (5) (a) Except in response to a situation which a school employee reasonably believes to  
58 be an emergency, or as authorized under Title 62A, Chapter 4a, Part 4, Child Abuse or Neglect

59 Reporting Requirements, or by order of a court, disclosure to a parent or legal guardian must be  
60 given at least two weeks before information protected under this section is sought.

61 (b) Following disclosure, a parent or guardian may waive the two week minimum  
62 notification period.

63 (c) Unless otherwise agreed to by a student's parent or legal guardian and the person  
64 requesting written consent, the authorization is valid only for the activity for which it was granted.

65 (d) A written withdrawal of authorization submitted to the school principal by the  
66 authorizing parent or guardian terminates the authorization.

67 (e) A general consent used to approve admission to school or involvement in special  
68 education, remedial education, or a school activity does not constitute written consent under this  
69 section.

70 (6) (a) This section does not limit the ability of a student under Section 53A-13-101.3 to  
71 spontaneously express sentiments or opinions otherwise protected against disclosure under this  
72 section.

73 (b) (i) If a school employee or agent believes that a situation exists which presents a  
74 serious threat to the well-being of a student, that employee or agent shall notify the student's parent  
75 or guardian without delay.

76 (ii) If, however, the matter has been reported to the Division of Child and Family Services  
77 within the Department of Human Services, it is the responsibility of the division to notify the  
78 student's parent or guardian of any possible investigation, prior to the student's return home from  
79 school.

80 (iii) The division may be exempted from the notification requirements described in this  
81 Subsection (6)(b)(ii) only if it determines that the student would be endangered by notification of  
82 his parent or guardian, or if that notification is otherwise prohibited by state or federal law.

83 (7) ~~[Local]~~ Each local school [boards] board shall provide inservice for teachers and  
84 administrators within ~~[their respective school districts]~~ its district on the implementation of this  
85 section.

86 (8) ~~[The]~~ Each local school board shall provide procedures for disciplinary action for  
87 violations of this section under guidelines established by the State Board of Education.

88 Section 2. Section **53A-13-303** is enacted to read:

89 **53A-13-303. Survey Review Committee -- Duties of the committee -- Review of**

90 surveys conducted to obtain data for development or implementation of governmental  
91 policies or legislation -- Conditions for approval and use.

92 (1) (a) There is created the State Student Survey Committee, hereafter referred to in this  
93 section as the "committee."

94 (b) The committee shall be comprised of 13 members appointed by the state  
95 superintendent of public instruction.

96 (c) The committee shall consist of parents of students, teachers, and school administrators.

97 (d) (i) At least seven members of the committee shall be parents of children enrolled in  
98 the state's public education system.

99 (ii) Neither any of these members nor any person residing in their households may be  
100 employed by the public education system while they serve on the committee as a parent member.

101 (2) (a) At the request of the state superintendent, the committee shall review a survey:

102 (i) dealing with any of the matters listed in Subsection 53A-13-302(1); and

103 (ii) which is proposed to be conducted in a public school.

104 (b) The committee shall review the survey to determine whether the:

105 (i) subject of the survey and the nature of the questions to be asked are appropriate for the  
106 proposed survey participants;

107 (ii) survey questions have been narrowly drawn to address only those matters which are  
108 pertinent to the stated purpose of the survey; and

109 (iii) form of the survey and the manner of its administration will ensure the anonymity and  
110 privacy of survey participants and their families.

111 (3) (a) At the request of an authorized representative of the federal government, the  
112 governor, the Legislature, the State Board of Education, or a local board of education, the state  
113 superintendent may ask and the committee shall review a survey subject to the following  
114 conditions:

115 (i) the requesting authority advises the superintendent that the survey is necessary to  
116 provide essential data required for the development and implementation of public policy, and that  
117 other reasonable means for obtaining the data are not readily available; and

118 (ii) the superintendent determines that administering the survey would not be inappropriate  
119 in a school setting or unduly burdensome to the schools.

120 (b) A survey proposed for administration under Subsection (3)(a) that addresses matters

121 related to youth violence or to the use of alcohol, drugs, or tobacco by students may be  
122 administered without parental consent as required under Section 53A-13-302 if:

123 (i) the survey has been recommended for administration by the committee and approved  
124 by the state superintendent;

125 (ii) the parent or guardian of each student participant was sent notification at least two  
126 weeks prior to the planned date of administration:

127 (A) of the survey and its purpose;

128 (B) that a copy of the survey is available in the school office for review prior to its  
129 administration; and

130 (C) that the parent or guardian may deny the student's participation in the survey;

131 (iii) no student is permitted to participate in the survey whose parent has denied  
132 participation by notifying the school prior to its administration;

133 (iv) the survey is administered by a person who has been trained in the proper  
134 administration of the survey instrument;

135 (v) teachers, students, and other persons who may be familiar with the handwriting of  
136 individual participants are not permitted to read the completed survey forms;

137 (vi) the survey form does not ask for the name of the participant or contain questions,  
138 codes, or other means by which the identity of an individual would be disclosed; and

139 (vii) the responses are used for statistical purposes only, information on the completed  
140 survey is aggregated, and the individual forms destroyed within ten working days of  
141 administration.

142 (4) The committee shall submit its recommendations concerning a survey reviewed under  
143 Subsections (2) and (3) to the state superintendent in a timely manner.

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## Legislative Review Note

as of 12-28-99 2:28 PM

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

Office of Legislative Research and General Counsel