

1 **STUDENT AND FAMILY PRIVACY AMENDMENTS**

2 2014 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Dana L. Layton**

5 Senate Sponsor: Deidre M. Henderson

7 **LONG TITLE**

8 **General Description:**

9 This bill modifies provisions regarding the protection of student and family privacy.

10 **Highlighted Provisions:**

11 This bill:

12 ▶ requires a school district or charter school to enact policies that prohibit:

13 • the administration to any student of a survey or assessment question without the
14 prior consent of the student's parent or legal guardian if the purpose of the
15 question is to cause the student to reveal certain information about the student or
16 the student's family; or

17 • the offering of an inducement or incentive to a student if the student's parent or
18 legal guardian provides prior written consent to the student revealing certain
19 information; and

20 ▶ makes technical amendments.

21 **Money Appropriated in this Bill:**

22 None

23 **Other Special Clauses:**

24 ~~H~~→ ~~[None]~~ This bill coordinates with H.B. 23, Suicide Prevention Revisions, by
24a providing technical amendments. ←~~H~~

25 **Utah Code Sections Affected:**

26 AMENDS:

27 **53A-13-302**, as last amended by Laws of Utah 2013, Chapter 335

27a ~~H~~→ Utah Code Sections Affected by Coordination Clause:

27b 53A-13-302, as last amended by Laws of Utah 2013, Chapter 335 ←~~H~~



28

29 *Be it enacted by the Legislature of the state of Utah:*30 Section 1. Section **53A-13-302** is amended to read:31 **53A-13-302. Activities prohibited without prior written consent -- Validity of**
32 **consent -- Qualifications -- Training on implementation.**33 (1) Policies adopted by a school district or charter school under Section **53A-13-301**
34 shall include:35 (a) prohibitions on the administration to a student of any psychological or psychiatric
36 examination, test, or treatment, or any survey, analysis, or evaluation without the prior written
37 consent of the student's parent or legal guardian, in which the purpose or evident intended
38 effect is to cause the student to reveal information, whether the information is personally
39 identifiable or not, concerning the student's or any family member's:40 [~~(a)~~] (i) political affiliations or, except as provided under Section **53A-13-101.1** or
41 rules of the State Board of Education, political philosophies;42 [~~(b)~~] (ii) mental or psychological problems;43 [~~(c)~~] (iii) sexual behavior, orientation, or attitudes;44 [~~(d)~~] (iv) illegal, anti-social, self-incriminating, or demeaning behavior;45 [~~(e)~~] (v) critical appraisals of individuals with whom the student or family member has
46 close family relationships;47 [~~(f)~~] (vi) religious affiliations or beliefs;48 [~~(g)~~] (vii) legally recognized privileged and analogous relationships, such as those with
49 lawyers, medical personnel, or ministers; [~~and~~] or50 [~~(h)~~] (viii) income, except as required by law[.];51 (b) ~~Ĥ→~~ [~~prohibitions~~] **a prohibition** ~~←Ĥ~~ on the administration to a student of any survey51a question or assessment52 question without the prior written consent of the student's parent or legal guardian, in which the53 purpose or evident intended effect of the question is to cause the student to reveal53a information ~~Ĥ→~~ [f] ,54 **whether the information** [f] [~~that~~] ~~←Ĥ~~ is personally identifiable ~~Ĥ→~~ [f] **or not,** [f] ~~←Ĥ~~54a concerning ~~Ĥ→~~ [z]55 ~~(i) the economic or socioeconomic status of the student's family; or~~56 ~~—(ii) ←Ĥ the possession or ownership of a firearm by a member of the student's family; and~~57 (c) a prohibition on offering an inducement or incentive to a student if the student's58 parent or legal guardian provides prior written consent for the student to reveal information

59 listed in Subsection (1)(a) or (1)(b).

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

62 (3) Except as provided in Section 53A-11a-203, the prohibitions under Subsection (1)
63 shall also apply within the curriculum and other school activities unless prior written consent of
64 the student's parent or legal guardian has been obtained.

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

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

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

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

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

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

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

78 (5) (a) Except in response to a situation which a school employee reasonably believes
79 to be an emergency, or as authorized under Title 62A, Chapter 4a, Part 4, Child Abuse or
80 Neglect Reporting Requirements, or by order of a court, disclosure to a parent or legal guardian
81 must be given at least two weeks before information protected under this section is sought.

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

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

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

89 (e) A general consent used to approve admission to school or involvement in special

90 education, remedial education, or a school activity does not constitute written consent under
91 this section.

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

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

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

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

106 (7) [~~Local school boards~~] A local school board or charter school governing board shall
107 provide inservice training for teachers and administrators within [~~their respective school~~
108 ~~districts~~] the school district or charter school on the implementation of this section.

109 (8) The [~~board~~] State Board of Education shall provide procedures for disciplinary
110 action for violations of this section.

110a **H→ (9) The prohibition of Subsection (1)(b)(ii) on administering a survey question or**
110b **assessment question to a student, without the prior written consent of the student's parent or**
110c **legal guardian, related to the possession or ownership of a firearm by a member of the**
110d **student's family, does not apply to an inquiry made by a school employee or agent or a school**
110e **resource officer regarding a student's access to a firearm, if the school employee or agent or**
110f **the school resource officer believes the student is at risk of attempting suicide or harming**
110g **others.**

110h **Section 2. Coordinating H.B. 397 with H.B. 23 -- Technical amendments.**
110i **If this H.B. 397 and H.B. 23, Suicide Prevention Revisions, both pass and become law, it is the**
110j **intent of the Legislature that the Office of Legislative Research and General Counsel in**
110k **preparing the Utah Code database for publication, modify Subsection 53A-13-302(8) to read:**
110l **"(8) A local school board or charter school governing board shall provide inservice training**
110m **for teachers and administrators on the implementation of this section."** ←H

Legislative Review Note
as of 10-15-13 6:45 AM

Office of Legislative Research and General Counsel