

Effective 7/1/2024

53E-9-203 Activities prohibited without prior written consent -- Validity of consent -- Qualifications -- Training on implementation.

- (1)
 - (a) Except as provided in Subsection (8), Section 53G-9-604, and Section 53G-9-702, an LEA shall include in policies the LEA adopts under Section 53E-9-202a requirement for obtaining prior written consent from the student's parent when administering to a student:
 - (i) any psychological or psychiatric examination, test, or treatment; and
 - (ii) any survey, analysis, or evaluation in which the purpose or 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:
 - (A) political affiliations or, except as provided under Section 53G-10-202 or rules of the state board, political philosophies;
 - (B) mental or psychological problems;
 - (C) sexual behavior, orientation, gender identity, or attitudes;
 - (D) illegal, anti-social, self-incriminating, or demeaning behavior;
 - (E) critical appraisals of individuals with whom the student or family member has close family relationships;
 - (F) religious affiliations or beliefs;
 - (G) legally recognized privileged and analogous relationships, such as those with lawyers, medical personnel, or ministers; and
 - (H) income, except as required by law.
 - (b) An LEA shall annually obtain prior written consent for the following at the time a student registers with the LEA:
 - (i) surveys related to an early warning system described in Section 53F-4-207;
 - (ii) surveys that include social emotional learning questions; and
 - (iii) the school climate survey described in Section 53G-8-802.
- (2) Prior written consent under Subsection (1) is required in all grades, kindergarten through grade 12.
- (3) Except as provided in Subsection (8), Section 53G-9-604, and Section 53G-9-702, the requirements under Subsection (1) shall also apply within the curriculum and other school activities unless prior written consent of the student's parent has been obtained.
- (4) An LEA may not:
 - (a) use the prior written consent described in Subsection (1) that a different LEA obtained for a student who transfers to the LEA after the beginning of the school year; or
 - (b) provide:
 - (i) a reward to a student for a student's participation in any psychological or psychiatric examination, test, treatment, survey, analysis, or evaluation; or
 - (ii) a consequence to a student for a student's lack of participation in any psychological or psychiatric examination, test, treatment, survey, analysis, or evaluation.
- (5)
 - (a) Written parental consent is valid only if a parent has been first given written notice, including notice that a copy of the educational or student survey questions to be asked of the student in obtaining the desired information is made available at the school, and a reasonable opportunity to obtain written information concerning:
 - (i) records or information, including information about relationships, that may be examined or requested;
 - (ii) the means by which the records or information shall be examined or reviewed;

- (iii) the means by which the information is to be obtained;
 - (iv) the purposes for which the records or information are needed;
 - (v) the entities or persons, regardless of affiliation, who will have access to the personally identifiable information; and
 - (vi) a method by which a parent of a student can grant permission to access or examine the personally identifiable information.
- (b) For a survey described in Subsection (1), the LEA shall ensure that the written notice described in Subsection (5)(a) includes:
 - (i) the survey the LEA will administer to the parent's student;
 - (ii) the intended purposes and uses of the data collected;
 - (iii) the types of persons or governmental entities that:
 - (A) share the collected data, including a list of recipients who will receive the student-level data; or
 - (B) receive the data collected from a governmental entity on a regular or contractual basis; and
 - (iv) the record series as defined in Section 63G-2-103 in which the data is or will be included, if applicable.
- (6)
 - (a) Except in response to a situation which a school employee reasonably believes to be an emergency, as authorized under Title 80, Chapter 2, Part 6, Child Abuse and Neglect Reports, by order of a court, or as described in Subsection (1)(b), disclosure to a parent must be given at least two weeks before information protected under this section is sought.
 - (b) Following disclosure, a parent may waive the two week minimum notification period.
 - (c) Unless otherwise agreed to by a student's parent and the person requesting written consent, the authorization is valid only for the activity for which it was granted.
 - (d) A written withdrawal of authorization submitted to the school principal by the authorizing parent terminates the authorization.
 - (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.
- (7)
 - (a) This section does not limit the ability of a student under Section 53G-10-203 to spontaneously express sentiments or opinions otherwise protected against disclosure under this section.
 - (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 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 of any possible investigation, prior to the student's return home from school.
 - (iii) The division may be exempted from the notification requirements described in this Subsection (7)(b)(ii) only if it determines that the student would be endangered by notification of the student's parent, or if that notification is otherwise prohibited by state or federal law.
- (8)
 - (a) If a school employee, agent, or school resource officer believes a student is at-risk of attempting suicide, physical self-harm, or harming others, the school employee, agent, or school resource officer may intervene and ask a student questions regarding the student's

suicidal thoughts, physically self-harming behavior, or thoughts of harming others for the purposes of:

- (i) referring the student to appropriate prevention services; and
 - (ii) informing the student's parent.
- (b) An LEA shall develop and adopt a policy regarding intervention measures consistent with Subsection (8)(a) while requiring the minimum degree of intervention to accomplish the goals of this section.
- (9) An LEA governing board shall provide inservice for teachers and administrators on the implementation of this section.
- (10) The state board shall provide procedures for disciplinary action for violations of this section.
- (11) Data collected from a survey described in Subsection (1):
- (a) is a private record as provided in Section 63G-2-302;
 - (b) may not be shared except in accordance with the Family Educational Rights and Privacy Act, 20 U.S.C. Sec. 1232g;
 - (c) may only be used by an individual, organization, or governmental entity, including the state board, for the purposes identified in the notice described in Subsection (5); and
 - (d) may not be included in a student's Student Achievement Backpack, as that term is defined in Section 53E-3-511.

Amended by Chapter 23, 2024 General Session