

1 **SURVEYS IN PUBLIC SCHOOLS**

2 1998 GENERAL SESSION

3 STATE OF UTAH

4 **Sponsor: Dave 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
9 CONSENT 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;

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

3 (f) religious affiliations or beliefs;

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

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

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

9 ~~[(2)]~~ (3) The prohibitions under Subsection (1) shall also apply within the curriculum and
10 other school activities unless prior written consent of the student's parent or legal guardian has
11 been obtained.

12 ~~[(3)]~~ (4) Written parental consent is valid only if a parent or legal guardian has been first
13 given written notice, including notice that a copy of the questions to be asked of the student in
14 obtaining the desired information is made available at the school, and a reasonable opportunity to
15 obtain written information concerning:

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

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

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

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

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

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

25 ~~[(4)]~~ (5) (a) Except in response to a situation which a school employee reasonably believes
26 to be an emergency, or as authorized under Title 62A, Chapter 4a, Part 4, Child Abuse or Neglect
27 Reporting Requirements, or by order of a court, disclosure to a parent or legal guardian must be
28 given at least two weeks before information protected under this section is sought.

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

31 ~~[(c) Parental authorization shall be valid until the commencement of the subsequent school~~

1 year or until one of the following occurs:]

2 ~~[(i)]~~ (c) ~~[the child completes or withdraws from the course, activity, or program]~~ Unless
3 otherwise agreed to by a student's parent or legal guardian and the person requesting written
4 consent, the authorization is valid only for the activity, for which it was granted~~[-or]~~.

5 ~~[(ii)-a]~~ (d) A written withdrawal of authorization [is] submitted to the school principal by
6 the authorizing parent or guardian terminates the authorization.

7 ~~[(d)]~~ (e) A general consent used to approve admission to school or involvement in special
8 education, remedial education, or a school activity does not constitute written consent under this
9 section.

10 ~~[(5)]~~ (6)(a) This section does not limit the ability of a student under Section 53A-13-101.3
11 to spontaneously express sentiments or opinions otherwise protected against disclosure under this
12 section.

13 ~~[(6)(a)]~~ (b)(i) If a school employee or agent believes that a situation exists which presents
14 a serious threat to the well-being of a student, that employee or agent shall notify the student's
15 parent or guardian without delay.

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

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

24 (7) Local school boards shall provide inservice for teachers and administrators within their
25 respective school districts on the implementation of this section.

Legislative Review Note

as of 2-6-98 2:15 PM

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

Office of Legislative Research and General Counsel