1	STUDENT SURVEY AMENDMENTS
2	2024 GENERAL SESSION
3	STATE OF UTAH
4	Chief Sponsor: Karianne Lisonbee
5	Senate Sponsor: Keith Grover
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7	LONG TITLE
8	General Description:
9	This bill amends student survey requirements.
10	Highlighted Provisions:
11	This bill:
12	requires an LEA:
13	 to update policies to require parental consent for certain surveys given to a
14	student;
15	 to obtain the certain parental consent annually in writing;
16	 to obtain new parental consent from parent's of a transferring student; and
17	 to provide a parent a list of recipients of any data collected;
18	 prohibits an LEA from offering a reward or consequence to a student related to
19	survey participation;
20	 allows an LEA to opt into administering the model school climate survey created by
21	the State Board of Education; and
22	makes technical changes.
23	Money Appropriated in this Bill:
24	None
25	Other Special Clauses:



	This bill provides a special effective date.
Uta	h Code Sections Affected:
AM	ENDS:
	53E-9-203, as last amended by Laws of Utah 2022, Chapter 335
	53F-4-207, as last amended by Laws of Utah 2022, Chapter 208
	53G-8-802 , as last amended by Laws of Utah 2023, Chapters 328, 383
Ве	it enacted by the Legislature of the state of Utah:
	Section 1. Section 53E-9-203 is amended to read:
	53E-9-203. Activities prohibited without prior written consent Validity of
con	sent Qualifications Training on implementation.
	(1) (a) Except as provided in Subsection [(7)] (8), Section 53G-9-604, and Section
530	6-9-702, an LEA shall include in policies [adopted by a school district or charter school] the
LE	A adopts under Section 53E-9-202 [shall include prohibitions on the administration] a
requ	airement for obtaining prior written consent from the student's parent when administering to
a st	udent [of]: any psychological or psychiatric examination, test, or treatment[, or];and any
urv	vey, analysis, or evaluation [without the prior written consent of the student's parent,] in
vhi	ch the purpose or [evident intended effect] effect is to cause the student to reveal
info	rmation, whether the information is personally identifiable or not, concerning the student's
or a	ny family member's:
	[(a)] (i) political affiliations or, except as provided under Section 53G-10-202 or rules
of t	ne state board, political philosophies;
	[(b)] (ii) mental or psychological problems;
	[(c)] (iii) sexual behavior, orientation, gender identity, or attitudes;
	[(d)] (iv) illegal, anti-social, self-incriminating, or demeaning behavior;
	$[\underline{(e)}]$ $\underline{(v)}$ critical appraisals of individuals with whom the student or family member has
olcs	se family relationships;
	[(f)] (vi) religious affiliations or beliefs;
	[(g)] (vii) legally recognized privileged and analogous relationships, such as those with
law	yers, medical personnel, or ministers; and
	[(h)] (viii) income, except as required by law[-];

57	(b) An LEA shall annually obtain prior written consent at the time a student registers
58	with the LEA for the following:
59	(i) surveys related to an early warning system described in Section 53F-4-207;
60	(ii) surveys that include social emotional learning questions; and
61	(iii) the school climate survey described in Section 53G-8-802.
62	(2) Prior written consent under Subsection (1) is required in all grades, kindergarten
63	through grade 12.
64	(3) Except as provided in Subsection [(7)] <u>(8)</u> , Section 53G-9-604, and Section
65	53G-9-702, the prohibitions under Subsection (1) shall also apply within the curriculum and
66	other school activities unless prior written consent of the student's parent has been obtained.
67	(4) An LEA may not:
68	(a) use the prior written consent described in Subsection (1) that a different LEA
69	obtained for a student who transfers to the LEA after the beginning of the school year; and
70	(b) provide:
71	(i) a reward to a student for a student's participation in any psychological or psychiatric
72	examination, test, treatment, survey, analysis, or evaluation; and
73	(ii) a consequence to a student for a student's lack of participation in any psychological
74	or psychiatric examination, test, treatment, survey, analysis, or evaluation.
75	[(4)] (5) (a) Written parental consent is valid only if a parent has been first given
76	written notice, including notice that a copy of the educational or student survey questions to be
77	asked of the student in obtaining the desired information is made available at the school, and a
78	reasonable opportunity to obtain written information concerning:
79	(i) records or information, including information about relationships, that may be
80	examined or requested;
81	(ii) the means by which the records or information shall be examined or reviewed;
82	(iii) the means by which the information is to be obtained;
83	(iv) the purposes for which the records or information are needed;
84	(v) the entities or persons, regardless of affiliation, who will have access to the
85	personally identifiable information; and
86	(vi) a method by which a parent of a student can grant permission to access or examine
87	the personally identifiable information.

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88	(b) For a survey described in Subsection (1), the LEA shall ensure that the written	
89	notice described in Subsection [(4)(a) shall include an Internet address] [where a parent can	
90	view the exact survey to be administered to the parent's student.] (5)(a) includes:	
91	(i) the survey the LEA will administer to the parent's student;	
92	(ii) the intended purposes and uses of the data collected;	
93	(iii) if any, the consequences for refusing to provide the data; and	
94	(iv) the types of persons or governmental entities that:	
95	(A) share the collected data including a list of recipients who will receive the data; or	
96	(B) receive the data collected from a governmental entity on a regular or contractual	
97	basis; and	
98	(v) the record series as defined in Section 63G-2-103 that the data is or will be	
99	included in, if applicable.	
100	[(5)] (6) (a) Except in response to a situation which a school employee reasonably	
101	believes to be an emergency, [or] as authorized under Title 80, Chapter 2, Part 6, Child Abuse	
102	and Neglect Reports, [or] by order of a court, or as described in Subsection (1)(b), disclosure to	
103	a parent must be given at least two weeks before information protected under this section is	
104	sought.	
105	(b) Following disclosure, a parent may waive the two week minimum notification	
106	period.	
107	(c) Unless otherwise agreed to by a student's parent and the person requesting written	
108	consent, the authorization is valid only for the activity for which it was granted.	
109	(d) A written withdrawal of authorization submitted to the school principal by the	
110	authorizing parent terminates the authorization.	
111	(e) A general consent used to approve admission to school or involvement in special	
112	education, remedial education, or a school activity does not constitute written consent under	
113	this section.	
114	[6] (a) This section does not limit the ability of a student under Section	
115	53G-10-203 to spontaneously express sentiments or opinions otherwise protected against	
116	disclosure under this section.	
117	(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

119	parent	without	delay	7.

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- (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 [(6)(b)(ii)] (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.
- [(7)] (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) [On or before September 1, 2014, a school district or charter school] An LEA shall develop and adopt a policy regarding intervention measures consistent with Subsection [(7)(a)] (8)(a) while requiring the minimum degree of intervention to accomplish the goals of this section.
- [(8)] (9) [Local school boards and charter school governing boards] An LEA governing board shall provide inservice for teachers and administrators on the implementation of this section.
- [(9)] (10) The state board shall provide procedures for disciplinary action for violations of this section.
- [(10)] (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;
- 148 (c) may only be used by a governmental entity including the state board for the 149 purposes identified in the notice described in Subsection (5); and

150	$\left[\frac{(c)}{(d)}\right]$ may not be included in a student's Student Achievement Backpack, as that
151	term is defined in Section 53E-3-511.
152	Section 2. Section 53F-4-207 is amended to read:
153	53F-4-207. Student intervention early warning program.
154	(1) As used in this section:
155	(a) "Digital program" means a program that provides information for student early
156	intervention as described in this section.
157	(b) "Online data reporting tool" means a system described in Section 53E-4-311.
158	(c) "Participating LEA" means an LEA that receives access to a digital program under
159	Subsection (5).
160	(2) (a) The state board shall, subject to legislative appropriations:
161	(i) subject to Subsection (2)(c), enhance the online data reporting tool and provide
162	additional formative actionable data on student outcomes; and
163	(ii) select through a competitive contract process a provider to provide to an LEA a
164	digital program as described in this section.
165	(b) Information collected or used by the state board for purposes of enhancing the
166	online data reporting tool in accordance with this section may not identify a student
167	individually.
168	(c) The state board shall make rules in accordance with Title 63G, Chapter 3, Utah
169	Administrative Rulemaking Act, to define the primary exceptionalities described in Subsection
170	(3)(e)(ii).
171	(3) The enhancement to the online data reporting tool and the digital program shall:
172	(a) be designed with a user-appropriate interface for use by teachers, school
173	administrators, and parents;
174	(b) provide reports on a student's results at the student level on:
175	(i) a national assessment;
176	(ii) a local assessment; and
177	(iii) a standards assessment described in Section 53E-4-303;
178	(c) have the ability to provide data from aggregate student reports based on a student's:
179	(i) teacher;
180	(ii) school;

181	(iii) school district, if applicable; or
182	(iv) ethnicity;
183	(d) provide a viewer with the ability to view the data described in Subsection (2)(c) on
184	a single computer screen;
185	(e) have the ability to compare the performance of students, for each teacher, based on
186	a student's:
187	(i) gender;
188	(ii) special needs, including primary exceptionality as defined by state board rule;
189	(iii) English proficiency;
190	(iv) economic status;
191	(v) migrant status;
192	(vi) ethnicity;
193	(vii) response to tiered intervention;
194	(viii) response to tiered intervention enrollment date;
195	(ix) absence rate;
196	(x) feeder school;
197	(xi) type of school, including primary or secondary, public or private, Title I, or other
198	general school-type category;
199	(xii) course failures; and
200	(xiii) other criteria, as determined by the state board; and
201	(f) have the ability to load data from a local, national, or other assessment in the data's
202	original format within a reasonable time.
203	(4) Subject to legislative appropriations, the online data reporting tool and digital
204	program shall:
205	(a) integrate criteria for early warning indicators, including the following criteria:
206	(i) discipline;
207	(ii) attendance;
208	(iii) behavior;
209	(iv) course failures; and
210	(v) other criteria as determined by a local school board or charter school governing
211	board;

212 (b) provide a teacher or administrator the ability to view the early warning indicators 213 described in Subsection (4)(a) with a student's assessment results described in Subsection 214 (3)(b);215 (c) provide data on response to intervention using existing assessments or measures 216 that are manually added, including assessment and nonacademic measures; 217 (d) provide a user the ability to share interventions within a reporting environment and 218 add comments to inform other teachers, administrators, and parents; 219 (e) save and share reports among different teachers and school administrators, subject 220 to the student population information a teacher or administrator has the rights to access; 221 (f) automatically flag a student profile when early warning thresholds are met so that a 222 teacher can easily identify a student who may be in need of intervention; 223 (g) incorporate a variety of algorithms to support student learning outcomes and 224 provide student growth reporting by teacher: 225 (h) integrate response to intervention tiers and activities as filters for the reporting of 226 individual student data and aggregated data, including by ethnicity, school, or teacher; 227 (i) have the ability to generate parent communication to alert the parent of academic 228 plans or interventions; and 229 (i) configure alerts based upon student academic results, including a student's 230 performance on the previous year's standards assessment described in Section 53E-4-303. 231 (5) (a) The state board shall, subject to legislative appropriations, select an LEA to 232 receive access to a digital program through a provider described in Subsection (2)(a)(ii). 233 (b) An LEA that receives access to a digital program shall: 234 (i) pay for 50% of the cost of providing access to the digital program to the LEA; and 235 (ii) no later than one school year after accessing a digital program, report to the state 236 board in a format required by the state board on: 237 (A) the effectiveness of the digital program; 238 (B) positive and negative attributes of the digital program; 239 (C) recommendations for improving the online data reporting tool; and 240 (D) any other information regarding a digital program requested by the state board. (c) The state board shall consider recommendations from an LEA for changes to the 241 online data reporting tool. 242

243	(6) Information described in this section shall be used in accordance with and provided
244	subject to:
245	(a) Title 53E, Chapter 9, Student Privacy and Data Protection;
246	(b) Family Education Rights and Privacy Act, 20 U.S.C. Sec. 1232g; and
247	(c) the parental consent requirements in Section 53E-9-203.
248	(7) (a) A parent or guardian may opt the parent's or guardian's student [out of] into
249	participating in a survey prepared by a participating LEA's online data reporting tool described
250	in this section.
251	(b) An LEA shall provide notice to a parent of:
252	(i) the administration of a survey described in Subsection (7)(a);
253	(ii) if applicable, that the survey may request information from students that is non-
254	academic in nature;
255	(iii) where the parent may access the survey described in Subsection (7)(a) to be
256	administered; and
257	(iv) the opportunity to opt a student out of participating in a survey as described in
258	Subsection (7)(a).
259	(c) A participating LEA shall annually provide notice to parents and guardians on how
260	the participating LEA uses student data through the online data reporting tool to provide
261	instruction and intervention to students.
262	Section 3. Section 53G-8-802 is amended to read:
263	53G-8-802. State Safety and Support Program State board duties LEA
264	duties.
265	(1) There is created the State Safety and Support Program.
266	(2) The state board shall:
267	(a) develop in conjunction with the Office of Substance Use and Mental Health model
268	student safety and support policies for an LEA, including:
269	(i) evidence-based procedures for the assessment of and intervention with an individual
270	whose behavior poses a threat to school safety;
271	(ii) procedures for referrals to law enforcement; and
272	(iii) procedures for referrals to a community services entity, a family support
273	organization, or a health care provider for evaluation or treatment;

274	(b) provide training:
275	(i) in school safety;
276	(ii) in evidence-based approaches to improve school climate and address and correct
277	bullying behavior;
278	(iii) in evidence-based approaches in identifying an individual who may pose a threat
279	to the school community;
280	(iv) in evidence-based approaches in identifying an individual who may be showing
281	signs or symptoms of mental illness;
282	(v) on permitted disclosures of student data to law enforcement and other support
283	services under the Family Education Rights and Privacy Act, 20 U.S.C. Sec. 1232g;
284	(vi) on permitted collection of student data under 20 U.S.C. Sec. 1232h and Sections
285	53E-9-203 and 53E-9-305; and
286	(vii) for administrators on rights and prohibited acts under:
287	(A) Chapter 9, Part 6, Bullying and Hazing;
288	(B) Title VI of the Civil Rights Act of 1964, 42 U.S.C. Sec. 2000d et seq.;
289	(C) Title IX of Education Amendments of 1972, 20 U.S.C. Sec. 1681 et seq.;
290	(D) Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. Sec. 701 et seq.; and
291	(E) the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq.;
292	(c) conduct and disseminate evidence-based research on school safety concerns;
293	(d) disseminate information on effective school safety initiatives;
294	(e) encourage partnerships between public and private sectors to promote school safety
295	(f) provide technical assistance to an LEA in the development and implementation of
296	school safety initiatives;
297	(g) in conjunction with the Department of Public Safety, develop and make available to
298	an LEA a model critical incident response training program that includes:
299	(i) protocols for conducting a threat assessment, and ensuring building security during
300	an incident, as required in Section 53G-8-701.5;
301	(ii) standardized response protocol terminology for use throughout the state;
302	(iii) protocols for planning and safety drills; and
303	(iv) recommendations for safety equipment for schools including amounts and types of
304	first aid supplies;

305	(h) provide space for the public safety liaison described in Section 53-1-106 and the
306	school-based mental health specialist described in Section 26B-5-211;
307	(i) create a model school climate survey that may be used by an LEA to assess
308	stakeholder perception of a school environment [and, in accordance with Title 63G, Chapter 3,
309	Utah Administrative Rulemaking Act, adopt rules]:
310	[(i) requiring an LEA to:]
311	[(A) create or adopt and disseminate a school climate survey; and]
312	[(B) disseminate the school climate survey;]
313	[(ii) recommending the distribution method, survey frequency, and sample size of the
314	survey; and]
315	[(iii) specifying the areas of content for the school climate survey]; and
316	(j) collect aggregate data and school climate survey results from [each] an LEA that
317	administers the model school climate survey described in Subsection (2)(i).
318	(3) Nothing in this section [requires] requires:
319	(a) an individual to respond to a school climate survey[-]; or
320	(b) an LEA to use the model school climate survey or any specified questions in the
321	model school climate survey described in Subsection (2)(i).
322	(4) The state board shall require an LEA to:
323	(a) (i) if an LEA administers a school climate survey, review [data from the state
324	board-facilitated surveys containing] school climate data for each school within the LEA; and
325	(ii) based on the review described in Subsection (4)(a)(i):
326	(A) revise practices, policies, and training to eliminate harassment and discrimination
327	in each school within the LEA;
328	(B) adopt a plan for harassment- and discrimination-free learning; and
329	(C) host outreach events or assemblies to inform students and parents of the plan
330	adopted under Subsection (4)(a)(ii)(B);
331	(b) no later than September 1 of each school year, send a notice to each student, parent,
332	and LEA staff member stating the LEA's commitment to maintaining a school climate that is
333	free of harassment and discrimination; and
334	(c) report to the state board[: (i) no later than August 1, 2023, on the LEA's plan
335	adopted under Subsection (4)(a)(ii)(B); and(ii) after August 1, 2023,] annually on the LEA's

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- implementation of the plan <u>under Subsection (4)(a)(ii)(B)</u> and progress.
- 337 Section 4. Effective date.
- This bill takes effect on July 1, 2024.