520 STUDENT SURVEYS

[Note: School districts are required by statute to have a policy addressing student surveys.]

I. PURPOSE

Occasionally, the school district utilizes surveys to obtain student opinions and information about students. The purpose of this policy is to establish the parameters of information that may be sought in student surveys.

II. GENERAL STATEMENT OF POLICY

Student surveys may be conducted as determined necessary by the school district. The school district, in consultation with parents, will develop and adopt policies on conducting student surveys and using and distributing personal information collected from surveys. Surveys, analyses, and evaluations conducted as part of any program funded through the U.S. Department of Education must comply with 20 United States Code, section 1232h, and, as applicable, 34 Code of Federal Regulations, Part 98.

III. STUDENT SURVEYS IN GENERAL

A. Before administering a survey, analysis, or evaluation concerning one or more of the areas protected by the Protection of Pupil Rights Amendment (PPRA) and as set forth in Article IV.B., the school district will follow the inspection, notice, and consent requirements in 20 United States Code, section 1232h and applicable federal guidance. An unemancipated minor will not participate in such a survey when prior written parental consent is required and not provided. Rights provided to a parent under the PPRA transfer to a student who is eighteen years of age or an emancipated minor.

The school district will not impose an academic or other penalty on a student because the student's parent or guardian exercised the right to opt the student out of a survey under Minnesota Statutes, section 121A.065.

B. The school district will limit the collection, storage, use, and dissemination of data on students as required under federal and Minnesota law. If survey responses identify or could reasonably be linked to a student and are maintained by or for the school district, the school district will restrict access, use, disclosure, and redisclosure as required by applicable educational-data and education-record laws. When the school district asks a student to supply private or confidential data about the student, it will provide the notice required by Minnesota Statutes, section 13.04, subdivision 2, unless an exception applies.

C. When the school district asks a student to supply private or confidential data concerning the student, the school district will inform the student of the purpose and intended use of the data; whether the student may refuse or is legally required to supply the data; any known consequence of supplying or refusing to supply the data; and the persons or entities authorized by state or federal law to receive the data, unless an exception in Minnesota Statutes, section 13.04, subdivision 2, applies.

D. Survey instruments, notices, consents, opt-out records, and identifiable survey responses that are official school district records will be retained and disposed of in accordance with the school district's records-retention schedule and applicable law.

E. The superintendent or designee will review proposed surveys before administration and may choose not to approve or to require modification of any survey that seeks ~~probing~~ unnecessary personal ~~and/~~or sensitive information, creates an unreasonable risk of ~~that could result in~~ identifying ~~the~~ a survey participant, lacks required notice or consent, ~~or~~ is discriminatory, or does not contain adequate privacy, security, retention, and vendor safeguards. ~~in nature based on age, race, color, sex, disability, religion, or national origin.~~

IV. STUDENT SURVEYS CONDUCTED AS PART OF DEPARTMENT OF EDUCATION PROGRAM

A. All instructional materials, including teacher's manuals, films, tapes, or other supplementary material which will be used in connection with any survey, analysis, or evaluation as part of any program funded in whole or in part by the U.S. Department of Education, shall be available for inspection by the parents or guardians of the students.

B. No student shall be required, as part of any program funded in whole or in part by the U.S. Department of Education, without the prior consent of the student (if the student is an adult or emancipated minor), or, in the case of an unemancipated minor, without the prior written consent of the parent, to submit to a survey, analysis, or evaluation that reveals information concerning:

1. political affiliations or beliefs of the student or the student's parent;

2. mental and psychological problems of the student or the student's family;

3. sex behavior or attitudes;

4. illegal, antisocial, self-incriminating, or demeaning behavior;

5. critical appraisals of other individuals with whom respondents have close family relationships;

6. legally recognized privileged or analogous relationships, such as those of lawyers, physicians, and ministers;

7. religious practices, affiliations, or beliefs of the student or the student's parent; or

8. income (other than that required by law to determine eligibility for participation in a program or for receiving financial assistance under such program).

C. A school district that receives funds under any program funded by the U.S. Department of Education shall develop local policies consistent with Paragraphs IV.A. and IV.B., above, concerning student privacy, parental access to information, and administration of certain physical examinations to minors.

1. The following policies are to be adopted in consultation with parents:

a. The right of a parent of a student to inspect, upon request of the parent, a survey, including an evaluation, created by a third party before the survey is administered or distributed by a school to a student, including

any applicable procedures for granting a parent's request for reasonable access to such survey within a reasonable period of time after the request is received.

"Parent" means a legal guardian or other person acting *in loco parentis* (in place of a parent), such as a grandparent or stepparent with whom the student lives, or a person who is legally responsible for the welfare of the student.

b. Arrangements to protect student privacy in the event of the administration or distribution of a survey to a student, including an evaluation, to a student which contains one or more of the items listed in Paragraph IV.B., above, including the right of a parent of a student to inspect, upon request of the parent, any such survey.

c. The right of a parent of a student to inspect, upon request of the parent, any instructional material used as part of the educational curriculum for the student and any applicable procedures for granting a request by a parent for reasonable access to instructional material within a reasonable period of time after the request is received.

"Instructional material" means instructional content that is provided to a student, regardless of format, including printed or representational materials, audio-visual materials, and materials in electronic or digital formats (such as materials accessible through the Internet). The term does not include academic tests or academic assessments.

d. The administration of physical examinations or screenings that the school district may administer to a student. This provision does not apply to a survey administered to a student in accordance with the Individuals with Disabilities Education Act (20 United States Code, section 1400, *et seq.*).

e. The collection, disclosure, or use of personal information collected from students for the purpose of marketing or for selling that information (or otherwise providing the information to others for that purpose), including arrangements to protect student privacy that are provided by the school district in the event of such collection, disclosure, or use.

(1) "Personal information" means individually identifiable information including a student or parent's first and last name; a home or other physical address (including street name and the name of the city or town); a telephone number; or a Social Security identification number.

(2) This provision does not apply to the collection, disclosure, or use of personal information collected from students for the exclusive purpose of developing, evaluating, or providing educational products or services for, or to, students or educational institutions, such as:

(a) college or other postsecondary education recruitment or military recruitment;

(b) book clubs, magazines, and programs providing access

to low-cost literary products;

(c) curriculum and instructional materials used by elementary and secondary schools;

(d) tests and assessments used by elementary schools and secondary schools to provide cognitive, evaluative, diagnostic, clinical, aptitude, or achievement information about students (or to generate other statistically useful data for the purpose of securing such tests and assessments) and the subsequent analysis and public release of the aggregate data from such tests and assessments;

(e) the sale by students of products or services to raise funds for school-related or education-related activities; and

(f) student recognition programs.

(3) The right of a parent to inspect, on request, any instrument used in the collection of information, as described in Subparagraph IV.C.1.e., above, before the instrument is administered or distributed to a student and procedures for granting a request by a parent for reasonable access to such an instrument within a reasonable period of time after the request is received.

2. The policies adopted under Subparagraph IV.C.1., above, shall provide for reasonable notice of the adoption or continued use of such policies directly to parents of students enrolled in or served by the school district.

a. The notice will be provided at least annually, at the beginning of the school year, and within a reasonable period of time after any substantive change in a policy.

b. The notice will provide parents with an opportunity to opt out of participation in the following activities:

(1) Activities involving the collection, disclosure, or use of personal information collected from students for the purpose of marketing or for selling that information, or otherwise providing that information to others for that purpose.

(2) The administration of any third-party survey (non-Department of Education funded) containing one or more of the items contained in Paragraph IV.B., above.

(3) Any nonemergency, invasive physical examination or screening that is required as a condition of attendance, administered by the school and scheduled by the school in advance, and not necessary to protect the immediate health and safety of the student or other students.

"Invasive physical examination" means any medical examination that involves the exposure of private body parts,

or any act during such examination that includes incision, insertion, or injection into the body, but does not include a hearing, vision, or scoliosis screening.

c. The notice will directly advise ~~students~~ parents of the specific or approximate dates during the school year when the activities in Subparagraph IV.C.2.b., above, are scheduled~~,~~ or expected to be scheduled.

d. The notice provisions shall not be construed to preempt applicable provisions of state law that require parental notification and do not apply to any physical examination or screening that is permitted or required by applicable state law, including physical examinations or screenings that are permitted without parental notification.

V. NOTICE TO PARENTS

The school district must:

A. directly notify parents of its policy on conducting student surveys at the beginning of each school year and after making any substantive policy changes;

B. inform parents at the beginning of the school year if the school district or school has identified specific or approximate dates for administering surveys and give parents reasonable notice of planned surveys scheduled after the start of the school year;

C. give parents direct, timely notice, by United States mail, email, or other direct form of communication, when their students are scheduled to participate in a student survey; and

D. give parents the opportunity to review the survey and to opt their students out of participating in the survey.

The notice will be provided to eligible students when rights have transferred.

VI. ADMINISTRATION, DATA GOVERNANCE, AND TRANSFERRED RIGHTS

A. The superintendent or designee will maintain administrative procedures for survey approval, legal classification, parent notice, consent and opt-out tracking, student alternatives, data security, vendor management, retention, and complaint response.

B. Survey instruments, notices, consents, opt-out records, and identifiable responses will be retained and destroyed in accordance with the school district's records-retention schedule and applicable state and federal law.

C. Rights provided to a parent under PPRA transfer to a student who is eighteen (18) years of age or an emancipated minor under Minnesota law.

Legal References: Minn. Stat. Ch. 13 (Minnesota Government Data Practices Act)
Minn. Stat. § 13.04 (Rights of Subjects of Data)
Minn. Stat. § 13.05 (Duties of Responsible Authority)
Minn. Stat. § 13.055 (Disclosure of Breach in Security; Notification and Investigation Report Required)
Minn. Stat. § 13.32 (Educational Data)
Minn. Stat. § 121A.065 (District Surveys to Collect Student Information; Parent

Notice and Opportunity for Opting Out)
Minn. Stat. § 138.17 (Government Records; Administration)
20 U.S.C. § 1232g (Family Educational Rights and Privacy Act)
20 U.S.C. § 1232h (Protection of Pupil Rights)
34 C.F.R. Part 98 (Student Rights in Research, Experimental Programs, and Testing)
34 C.F.R. § 99 (Family Educational Rights and Privacy Act Regulations)
~~*Gonzaga University v. Doe*, 536 U.S. 273 (2002)~~
~~*C.N. v. Ridgewood Bd. of Educ.*, 430 F.3d. 159 (3rd Cir. 2005)~~
~~*Fields v. Palmdale School Dist.*, 427 F.3d. 1197 (9th Cir. 2005)~~

Cross References: MSBA/MASA Model Policy 515 (Protection and Privacy of Pupil Records)
MSBA/MASA Model Policy 521 (Student Disability Nondiscrimination)
MSBA/MASA Model Policy 522 (Title IX Sex Nondiscrimination, Grievance Procedure and Process)

Resources: U.S. Department of Education, *Family Educational Rights Privacy Act (FERPA)*
U.S. Department of Education, *Protection of Pupil Rights Amendment (PPRA)*