

## BP 5145.15 STUDENT AND FAMILY PRIVACY RIGHTS

**Note:** ~~The No Child Left Behind Act of 2001 significantly changed the Protection of Pupil Rights Act, a/k/a the Hatch Amendments. The Protection of Pupil Rights Act now requires any school district "that receives funds under any applicable program [to] develop and adopt policies, in consultation with parents, regarding [statutory privacy rights]." (20 U.S.C. § 1232h(c)(1)). "Any applicable program" generally refers to any federal program administered by the U.S. Department of Education (20 U.S.C. § 1221(c)). "Consultation with parents" is not defined; boards are advised, at minimum, to publicize the issue and request public comment during the policy's adoption.~~

The Board believes that personal information gathered from a student may be helpful or necessary to facilitate school safety, student welfare, or the continued success of academic programs. However, these goals must be balanced with the expectations of privacy of our students and their families. The following procedures shall be followed so that parents may make informed choices regarding the disclosure or collection of personal information from their student.

### STUDENT SURVEYS

**Note:** ~~Both state and Federal law requires~~ prior written parental consent before certain surveys may be administered to students. Effective June 30, 2017, AS 14.03.110 requires written parent permission before a school may administer, or permit to be administered in a school, a questionnaire or survey, whether anonymous or not. The following policy sets forth the notice and consent provisions required by law and identifies when parental consent and notice are required. Additionally, state law provides that no student may be required to participate in a questionnaire or survey if the student objects to participation. AS 14.03.110.

The Board recognizes that student surveys administered in the public schools may be beneficial for the purposes of study, the improvement of education, for class assignment, and to assist in providing guidance or counseling services to students and their families. In administering surveys or questionnaires to the District's students, the District shall comply with state and federal laws concerning parental notice and consent.

~~Surveys which inquire into personal or private family affairs of a student which are not a matter of public record or subject to public observation will not be administered to students without prior parental consent. In addition, no student may be required to participate in a federal survey, analysis, or evaluation as part of any program administered by the U.S. Department of Education, without prior written parent permission, if that survey inquires into the following areas:~~

~~(1) political affiliations or beliefs of the student or student's parents;~~

~~(2) mental or psychological problems potentially embarrassing to the student or the student's family;~~

~~(3) sex behavior and attitudes;~~

~~(4) illegal, anti-social, self-incriminating and demeaning behavior;~~

~~(5) critical appraisals of other individuals with whom students have close family relationships;~~

~~(6) legally recognized privileges 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 a program).~~

- Annual Consent: The District may seek written parent/guardian permission, on an annual basis, for the administration of anonymous student surveys. Consent to anonymous surveys obtained annually will be valid until the beginning of the subsequent school year, or until written notice of withdrawal of consent is provided to the school principal. Parents or guardians shall receive at least two weeks' notice prior to the administration of an anonymous questionnaire or survey.

- Consent for Surveys that are Not Anonymous: Prior to the administration of a survey that is not anonymous and which inquires into personal or private family affairs not a matter of public record or public observation, the District shall obtain written permission from the parent/guardian at least two weeks prior to the survey.

- Notice Requirements: At least two weeks prior to the administration of a questionnaire or survey, whether anonymous or not, that requires parental consent as identified above, the school shall provide each student's parent or legal guardian with written notice explaining:

(1) how and where the parent may preview the survey;

(2) how the survey will be administered;

(3) how the survey results will be used;

(4) who will have access to the questionnaire or survey; and

(5) for those surveys which are not anonymous, explain that written parental consent is required before participation in the particular survey, and include a permission form to be returned by the parents, with instructions that the form must be returned at least two weeks before the survey.

INSTRUCTIONAL MATERIAL

A student's parent(s)/guardian(s) may inspect, upon their request, any instructional material used as part of their child's educational curriculum within a reasonable time of their request.

The term "instructional material" means instructional content that is provided to a student regardless of its format, 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.

## PHYSICAL EXAMS OR SCREENINGS

Note: Effective June 30, 2016, provisions of AS 14.30.070 and the entirety of AS 14.30.120 requiring school districts to provide for or require each child to have a physical examination is repealed. The requirement that school districts provide vision and hearing screening examinations remains. AS 14.30.127. Although districts are no longer required to provide for and require physical examinations of every child attending school, the Department of Health and Social Services may require the district to conduct physical examinations it considers necessary and may reimburse the district for examinations. The federal Protection of Pupil Rights Act states that student's parent(s)/guardian(s) may refuse to allow their child or ward to participate in a "non-emergency, invasive physical examination or screening." 20 U.S.C. § 1232h(c)(2)(A)(ii).

A student's parent(s)/guardian(s) may refuse to allow their child to participate in any non-emergency, invasive physical examination or screening that is: (a) required as a condition of attendance, (b) administered by the school and scheduled by the school in advance; and (c) not necessary to protect the immediate health and safety of the student, or of other students. The term "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.

The above paragraph does not apply to any physical examination or screening that:

1. Is permitted or required by an applicable state law, including physical examinations or screenings that are permitted without parental notification.
2. Is administered to a student in accordance with the Individuals with Disabilities Education Act ([20 U.S.C. § 1400](#) *et seq.*)
3. Is otherwise authorized by board policy.

*(cf. 5141 - Health Care and Emergencies)*

*(cf. 5141.3 - Health Examinations)*

(cf. 5141.31 - Immunizations)

(cf. 5131.61 - Drug/Alcohol Testing Policy)

### **Collection of Personal Information from Students for Marketing**

The term "personal information" means individually identifiable information including: (1) a student or parent's first and last name, (2) a home or other physical address (including street name and the name of the city or town), (3) a telephone number, or (4) a Social Security identification number.

No school official or staff member shall administer or distribute to students a survey or other instrument for the purpose of collecting personal information for marketing or sale.

The above paragraph 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 the following:

1. College or other post-secondary education recruitment, or military recruitment.
2. Book clubs, magazines, and programs providing access to low-cost literary products.
3. Curriculum and instructional materials used by elementary schools and secondary schools.
4. Tests and assessments 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.
5. The sale by students of products or services to raise funds for school-related or education-related activities.
6. Student recognition programs.

Legal Reference:

#### **ALASKA STATUTES**

[14.03.110](#) Questionnaires and surveys administered in public schools.

*14.30.070 Physical Examination required.*

*14.30.127 Vision and hearing screening examinations.*

UNITED STATES CODE

[20 U.S.C. 1232h](#) (Hatch Amendments)

~~No Child Left Behind Act, Title II, § 1061, P.L. 107-110 (2001), amending the Protection of Pupil Rights Act, [20 U.S.C. § 1232h](#)~~

~~Goals 2000: Educate America Act, Pub. L. No. 103-227, 108 Stat. 125 (1994)~~

Revised 1/03

Adopted: April 06

Reviewed: 9-22-09

Revised: October 27, 2009

**ANNETTE ISLANDS SCHOOL DISTRICT**