

## 4430 STUDENT TESTING PROHIBITION WITHOUT PRIOR WRITTEN CONSENT

### I. PHILOSOPHY AND PURPOSE

Weber School District (District) believes in respecting the rights of parents to govern the disclosure of certain information to school employees. In addition to protecting the privacy of its student records, the District seeks to ensure that certain information obtained from students through surveys, questionnaires, analyses, evaluations, or examinations should only be disclosed with prior written parental consent. The information identified in state and federal law as protected is generally more sensitive information that may not be directly tied to curriculum. In addition to implementing this policy to honor and respect the privacy rights of families, this policy also seeks to ensure clear professional boundaries between employees and students, and prohibits an employee from soliciting information that is protected without prior written consent. ~~as being protected~~s and families. The District enforces protection to its students, their parents, and their families as to the privacy of individually identifiable information, pursuant to federal law.

### II. POLICY

Employees may not solicit certain information described in this policy, state and federal law (namely, Utah Code 53E-9-203, and the Protection of Pupil Rights Amendment (PPRA), 20 U.S.C. § 1232h, 34 CFR Part 98, without prior written parental consent. Additionally certain surveys as described in this policy may only be administered to students whose parents have provided written consent. Failure to comply with this policy may result in disciplinary action for an employee, up to and including termination. ~~The Family Education Rights and Privacy Act (FERPA) as adopted by the State of Utah, Utah Code Ann. §53E-9-203, provides protection to students, their parents, and their families as to the privacy of individually identifiable information and prohibits certain activities without prior parental or guardian consent.~~

### III. PRIOR WRITTEN CONSENT REQUIREMENTS ~~OHIBITIONS~~PROCEDURE

#### A. Disclosure of Protected Information Pursuant to the ~~aforementioned laws, the Weber School District:~~

1. District employees must obtain prior written consent from the student's parent when administering to a student:

I. any psychological or psychiatric examination, test, or treatment; and

li. any survey, analysis, or evaluation ~~This policy Prohibits District employees, volunteers, the District from administration to a student of any psychological or psychiatric examination, test, or treatment, or any survey, analysis, or evaluation without the prior written consent of the student's parent or legal guardian, in which the purpose or evident intended 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)i. political affiliations or, except as provided under Section 53G-10-202 or rules of the State Board of Education, political philosophies;

- (b) ~~ii.~~—mental or psychological problems;
  - (c) ~~iii.~~—sexual behavior, orientation, or attitudes;
  - (d) ~~iv.~~—illegal, anti-social, self-incriminating or demeaning behavior;
  - (e) ~~v.~~—critical appraisals of individuals with whom the student or family member has close family relationships;
  - (f) ~~vi.~~—religious affiliations or beliefs;
  - (g) ~~vii.~~ legally recognized privileged and analogous relationship, such as those with lawyers, medical personnel, or ecclesiastical leaders; and
  - (h) ~~viii.~~ income, except as required by law.
2. The prohibitions under Subsection 1 shall also apply to the curriculum or other school activities unless prior written consent of the student's parent or legal guardian has been obtained.
  3. Written parental consent is valid only if a parent or legal guardian has been first given written notice 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.
  4. Consent and Disclosure:
    - i. Except in response to a situation which a school employee reasonably believes to be an emergency or as authorized under Title 62A, Chapter 4a, Part 4, Child Abuse or Neglect Reporting Act, or by order of a court, disclosure to a parent or legal guardian must be given at least two weeks before information protected under this section is sought.
    - ii. Following disclosure, a parent or guardian may waive the two-week minimum notification period.
    - iii. Parental authorization shall be valid until the commencement of the subsequent school year or until one of the following occurs:
      - a. the child completes or withdraws from the course, activity, or program for

which it was granted; or

- b. a written withdrawal of authorization is submitted to the school principal by the authorizing parent or guardian.
- iv. A general consent used to approve admission to school or involvement in a special education, remedial education, or regular school activity, does not constitute written consent under this policy.
5. 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.
6. 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 or guardian without delay.
7. 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. The District will annually obtain prior written consent for the following at the time a student registers for school:
  - 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.
8. If, however, the matter has been reported to the Division of Family Service within the Department of Human Services, it is the responsibility of the division to notify the student's parent or guardian of any possible investigation prior to the student's return home from school.<sup>1</sup>

Approved by the Board 05/03/1995

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<sup>1</sup> The State/County Division of Family Services may be exempted from the notification requirements described in this Subsection only if it determines that the student would be endangered by notification of their parent or guardian, or if that notification is otherwise prohibited by state or federal law.