

POLICY

BLACK HORSE PIKE REGIONAL BOARD OF EDUCATION

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STUDENT SURVEYS, ANALYSIS, AND/OR EVALUATIONS, EXAMINATIONS, TESTING, OR TREATMENT (M)

~~{See POLICY ALERT Nos. 167 and 222}~~

2415.05 STUDENT SURVEYS, ANALYSIS AND/OR EVALUATIONS (M)

~~The Protection of Pupil Rights Amendment (PPRA) (20 U.S.C. §1232h; 34 CFR Part 98) applies to school districts that receive funding from the United States Department of Education.~~

Consent

~~PPRA requires written consent from parents of unemancipated minor students and students who are eighteen years old or emancipated minor students before such students are required to participate in a survey, analysis, or evaluation funded in whole or in part by a program of the United States Department of Education that concerns one or more of the following nine areas referred to as “protected information surveys”:~~

- ~~1. Political affiliations or beliefs of the student or student’s parent;~~
- ~~2. Mental or psychological problems of the student or student’s family;~~
- ~~3. Sex behavior or attitudes;~~
- ~~4. Illegal, anti-social, self-incriminating or demeaning behavior;~~
- ~~5. Critical appraisals of others with whom respondents have close family relationships;~~
- ~~6. Legally recognized privileged or analogous relationships, such as with lawyers, physicians, and ministers;~~
- ~~7. Religious practices, affiliations, or beliefs of the student or parents;~~
- ~~8. Income (other than that required by law to determine eligibility for participation in a program or for receiving financial assistance under such program); or~~
- ~~9. Social security number.~~

~~This consent requirement also applies to the collection, disclosure or use of student information for marketing purposes, referred to as “marketing surveys”, and for certain physical examinations and screenings.~~



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“

~~Opt a Student Out” Notice~~

~~The parents of unemancipated minor students and students who are eighteen years old or emancipated minor student will be provided an opportunity to opt out of participating in:~~

- ~~1. The collection, disclosure, or use of personal information obtained from students for marketing, to sell, or otherwise distribute information to others;~~
- ~~2. The administration of any other “protected information survey” not funded in whole or in part by the United States Department of Education; and~~
- ~~3. Any non-emergency, invasive physical examination required as a condition of attendance, administered by the school district or its agents, and not necessary to protect the immediate health and safety of a student, except for hearing, vision, scoliosis screenings, or any physical examination or screening permitted or required under State law.~~

~~Inspection~~

~~The parents of unemancipated minor students and students who are eighteen year old or emancipated minor students, upon request and before administration or use, have the right to inspect:~~

- ~~1. Protected information surveys of students;~~
- ~~2. Instruments used to collect personal information from students for any of the above marketing, sales, or other distribution purposes; and~~
- ~~3. Instructional material used as part of the educational curriculum.~~

~~The Superintendent or designee shall be responsible for obtaining the consent, annual direct notification to parents and eligible students at the start of each school year and after any substantive changes of the “opt a students out” rights and the inspection rights provisions of PPRA and this Policy. The “opt a students out” notice shall include any specific or approximate dates of the activities eligible for a students to “opt out.”~~

~~PPRA Consent/Opt Out Violations~~



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~~Parents or students who believe their rights under PPRA may have been violated may file a complaint with United States Department of Education.~~

~~The Protection of Pupil Rights Amendment (PPRA)~~

~~(20 U.S.C. §1232h; 34 CFR Part 98)~~

~~Elementary and Secondary Education Act of 1965 (20 U.S.C. 2701 et seq.) as amended by every Student Succeeds Act.~~

[See POLICY ALERT Nos. 222 and 226]

2415.05 STUDENT SURVEYS, ANALYSIS, EVALUATIONS, EXAMINATIONS, TESTING, OR TREATMENT

The Protection of Pupil Rights Amendment (PPRA) (20 USC §1232h; 34 CFR Part 98) applies to school districts that receive funding from the United States Department of Education (USDOE). The PPRA requires written consent from parents or the emancipated student the opportunity to opt out of participation in a survey, analysis, evaluation, examination, testing, or treatment funded in whole or in part by a program of the United States Department of Education that concerns one or more of the areas outlined in this Policy.

A. Definitions

“Instructional material” means instructional content that is provided to a student, regardless of its format, including printed or representational materials, audiovisual 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. 20 USC §1232h(c)(6)(A).

“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. 20 USC §1232h(c)(6)(B).



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“Prior consent” means prior consent of the student, if the student is an adult or emancipated minor or prior written consent of the parent, if the student is an unemancipated minor. 34 CFR §98.4(b).

“Psychiatric or psychological examination or test” means a method of obtaining information, including a group activity, that is not directly related to academic instruction and that is designed to elicit information about attitudes, habits, traits, opinions, beliefs, or feelings. 34 CFR §98.4(c)(1).

“Psychiatric or psychological treatment” means an activity involving the planned, systematic use of methods or techniques that are not directly related to academic instruction and that is designed to affect behavioral, emotional, or attitudinal characteristics of an individual or group. 34 CFR §98.4(c)(2).

“Research or experimentation program or project” means any program or project in any program that is funded in whole or in part by the Federal Government and is designed to explore or develop new or unproven teaching methods or techniques. 34 CFR §98.3(b).

B. Parents’ or Emancipated Students’ Right to Inspection of Materials - 34 CFR §98.3 and 20 USC §1232(c)

1. All instructional material, including teachers’ manuals, films, tapes, or other supplementary instructional material which will be used in connection with any survey, analysis, or evaluation as part of any applicable program or any research or experimentation program or project shall be available for inspection by the parents of the children engaged in such program or project in accordance with 20 USC §1232h(a) and 34 CFR §98.3(a).

a. The district shall provide reasonable access to instructional material within a reasonable period of time after the request is received in accordance with 20 USC §1232h(c)(1)(C)(ii).

2. The parent shall have the right, upon request, to inspect a survey created by a third party before the survey is



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administered or distributed to their student pursuant to 20 USC §1232h(c)(1)(A)(i).

a. The district shall provide reasonable access to such survey within a reasonable period of time after the request is received in accordance with 20 USC §1232h(c)(1)(A)(ii).

3. The parent shall have the right, upon request, to inspect any instrument used in the collection of personal information from students for the purpose of marketing or for selling that information (or otherwise providing that information to others for that purpose), before the instrument is administered or distributed to their student pursuant to 20 USC §1232h(c)(1)(F)(i).

a. The district shall provide reasonable access to such instrument within a reasonable period of time after the request is received in accordance with 20 USC §1232h(c)(1)(F)(ii).

C. Protection of Students' Privacy in Examination, Testing, or Treatment with Prior Consent - 34 CFR §98.4

1. In accordance with 34 CFR §98.4(a) no student shall be required, as part of any program funded in whole or in part by a program of the USDOE, to submit without prior consent to psychiatric examination, testing, or treatment, or psychological examination, testing, or treatment, in which the primary purpose is to reveal information concerning one or more of the following:

a. Political affiliations;

b. Mental and psychological problems potentially embarrassing to the student or the student's family;

c. Sex behavior and attitudes;

d. Illegal, anti-social, self-incriminating, and demeaning behavior;



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- e. **Critical appraisals of other individuals with whom the student has close family relationships;**
 - f. **Legally recognized privileged and analogous relationships, such as those of lawyers, physicians, and ministers; or**
 - g. **Income, other than that required by law to determine eligibility for participation in a program or for receiving financial assistance under a program.**
- D. Protections of Students' Rights for Surveys, Analysis, or Evaluation - 20 USC §1232h**
- 1. **In accordance with 20 USC §1232h(b) no student shall be required, as part of any applicable program, to submit to a survey, analysis, or evaluation, without prior consent, that reveals information concerning:**
 - a. **Political affiliations or beliefs of the student or the student's parent;**
 - b. **Mental and psychological problems of the student or the student's family;**
 - c. **Sex behavior or attitudes;**
 - d. **Illegal, anti-social, self-incriminating, or demeaning behavior;**
 - e. **Critical appraisals of other individuals with whom the student has close family relationships;**
 - f. **Legally recognized privileged and analogous relationships, such as those of lawyers, physicians, and ministers;**
 - g. **Religious practices, affiliations, or beliefs of the student or student's parent; or**



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- a. **The provisions of 20 USC §1232h do 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 postsecondary education recruitment, or military recruitment in accordance with Policy 9713;**
 - (2) Book clubs, magazines, and programs providing access to low-cost literary products;**
 - (3) Curriculum and instructional materials used by schools in the district;**
 - (4) Tests and assessments used by schools in the district 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; and**
 - (6) Student recognition programs.**
- b. **The provisions of this Policy:**
- (1) Shall not be construed to preempt applicable provisions of New Jersey law that require parental notification; and**
 - (2) Do not apply to any physical examination or screening that is permitted or required by an applicable New Jersey law, including physical**



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**examinations or screenings permitted without
parental notification.**

4. Policy Adoption or Revision – 20 USC §1232h(c)(2)(A)(i)

The district shall provide this Policy to parents and students at least annually at the beginning of the school year, and provide notice within a reasonable period of time after any substantive change is made to this Policy.

E. Student Privacy – 20 USC §1232h and 34 CFR §98

The district shall ensure a student’s privacy is protected regarding any information collected in accordance with this Policy.

F. Violations of the PPRA – 20 USC §1232h and 34 CFR §98

Parents or students who believe their rights under PPRA may have been violated may file a complaint with the USDOE.

In addition to the provisions of 20 USC §1232h, 34 CFR §98, and this Policy, the Superintendent or designee shall ensure compliance with the provisions of N.J.S.A. 18A:36-34 and Policy 9560 – Administration of School Surveys before students are required to participate in any academic or nonacademic survey, assessment, analysis, or evaluation.

The Protection of Pupil Rights Amendment (PPRA)

20 USC §1232h

34 CFR Part 98

**Elementary and Secondary Education Act of 1965 (20 USC 2701 et seq.) as
amended by the Every Student Succeeds Act**

N.J.S.A 18A:36-34

Adopted: 9 April 2009

Revised: 6 May 2021

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