MODEL POLICY #27

SURVEY NOTICE AND OPT-OUT

Why Adopt This Policy?

School boards should consider adopting this policy to uphold parental rights and protect student privacy by ensuring that no student is required to participate in surveys or evaluations revealing sensitive information without prior parental consent, allowing parents the option to opt their child out of such activities. Additionally, this policy establishes procedures for notifying parents about these activities, providing them with opportunities to inspect certain materials, and make informed decision regarding the participation of their child.

Policy

No student shall be required, without prior written parental consent, to submit to or participate in any survey, analysis, or evaluation that reveals information concerning:

1. political affiliations or beliefs of the student or his/her parents or family members;
2. medical, health information, mental or psychological problems of the student or his/her family;
3. sex behavior or attitudes;
4. illegal, anti-social, self-incriminating or demeaning behavior;
5. critical appraisals of other individuals with whom respondents have close family relationships;
6. legally recognized privileged and analogous relationships, such as those of lawyers, physicians, and ministers;
7. religious practices, affiliations, or beliefs of the student or his/her parents; 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).

If any survey, analysis, or evaluation would reveal information concerning the above categories but is not required, then parental notice shall be provided before any such survey is administered, and parents shall have the opportunity to opt their child out of participating.

Consistent with parental rights, the Board directs building and program administrators to:

1. notify parents in writing of any surveys, analyses, or evaluations, which may reveal any of the information, as identified in A-H above, in a timely manner, and which allows interested parties to request an opportunity to inspect the survey, analysis, or evaluation; and the administrator to arrange for inspection prior to initiating the activity with students;

2. allow the parents the option of excluding their student from the activity;
3. report collected data in a summarized fashion which does not permit one to make a connection between the data and individual students or small groups of students;
4. treat information as identified in A-H above as any other confidential information maintained in student records and therefore not subject to public disclosure.

The Board shall establish procedures to provide parents with the opportunity to inspect any materials created by a third party used in conjunction with any such survey, analysis, or evaluation before the survey/evaluation is administered or distributed by the school to the student. The parent will have access to the survey/evaluation within a reasonable period of time after the request is received.

For the privacy of students whose parents request that they not take part in the survey, arrangements will be made prior to the time period when the survey will be given, for the student(s) to go to a supervised location where under the supervision of a staff member the student will be provided with an alternate activity.

The Board shall not collect or use personal information obtained from students or their parents for the purpose of marketing or for selling that information.

The Superintendent is directed to provide notice directly to parents of students enrolled in the District of the substantive content of this policy at least annually at the beginning of the school year, and within a reasonable period of time after any substantive change in this policy. In addition, the Superintendent is directed to notify parents of students in the District, at least annually at the beginning of the school year, of the specific or approximate dates during the school year when the administration of any survey by a third party that contains one or more of the items described in A through H above are scheduled or expected to be scheduled.

1. The notice shall provide the following:
    a. Notice of the specific or approximate dates during the school year when the following activities are scheduled or expected to be scheduled:
        - 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)
        - the administration of any survey by a third party that contains one or more of the items described in A through H above
2. For surveys that are required - the opportunity for the parents to opt their child(ren) in to participation in any survey involving any of the items above.
3. For surveys that are voluntary - the opportunity for the parents to opt their child(ren) out of participation in any survey involving any of the items above.

For purposes of this policy, the term “parent” includes a legal guardian or other person who is legally responsible for the welfare of the child (such as grandparent or stepparent with whom the child lives).

Rights under this policy transfer from the parents to a student who is 18 years old or emancipated under state law.

Legal Analysis — National

Federal law requires notice and consent to parents pertaining to some surveys and assessments. This requirement applies to the programs and activities of a local educational agency (LEA) or other recipient of funds under any program funded by the U.S. Department of Education (20 U.S.C. § 1232h, 34 CFR Part 98).

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