

UTAH FAMILY EDUCATION RIGHTS AND PRIVACY ACT
1994
GENERAL SESSION

Enrolled Copy
H. B. No. 403

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An act relating to public education; requiring school personnel to comply with protections provided for family and student privacy; requiring school districts to enact policies to receive written parental permission prior to obtaining certain information from a student relating to the student's family; and requiring advanced disclosure to parents.

This act affects sections of Utah Code annotated 1953 as follows:
Enacts:

- 53A-13-301, Utah Code Annotated 1953
- 53A-13-302, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53A-13-310, Utah Code Annotated 1953, is enacted to read:
Part 3. Utah Family Education Rights and Privacy Act
53A-13-301. Application of federal law to administration and operation of public schools.

1. Employees and agents of the state's public education system shall comply with the protections provided for family and student privacy under the Utah Family Education Rights and Privacy Act, as enacted by the United States Congress, in the administration and operation of all public school programs, regardless of the source of funding.
2. Each public school district shall enact policies governing the protection of family and student privacy as required by this section.

Section 2. Section 53A-13-302, Utah Code Annotated 1953, is enacted to read:
53A-13-3-2. Prohibition of testing without prior written consent -- Validity of consent -- Qualifications.
Policies adopted by a school district under Section 53A-13-301 shall include prohibitions on:

1. The administration of any psychological or psychiatric examination, test, or treatment, without the prior written consent of the student's parent or legal guardian, in which the purpose or effect is to reveal information concerning the student's or any family member's:

- a. political affiliations or philosophies;
 - b. mental or psychological problems;
 - c. sexual behavior, orientation, or attitudes;
 - d. illegal, anti-social, self-incriminating, or demeaning behavior;
 - e. critical appraisals of individuals with whom the student or family member has close family relationships;
 - f. religious affiliations or beliefs;
 - g. legally recognized privileged and analogous relationships, such as those with lawyers, medical personnel, or ministers; and
 - h. income, except as required by law.
2. The prohibitions regarding the inquiry or disclosing of information 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:
 - a. records or information, including information about relationships, that may be examined or requested;
 - b. the means by which the records or information shall be examined or revised;
 - c. the means by which the information is to be obtained;
 - d. the purposes for which the records or information are needed;
 - e. the entities or persons, regardless of affiliation, who will have access to the personally identifiable information; and
 - f. a method by which a parent of a student can grant permission to access or examine the personally identifiable information.
 4.
 - a. Except in the case of exigent circumstances, disclosure to a parent or legal guardian must be given at least two weeks, but not more than five months before information protected under this section is sought.
 - b. A general consent, including a general consent used to approve admission to or involvement in a special education or remedial program or regular school activity, does not constitute written consent under this section.