

**ALASKA STATE LEGISLATURE
SENATE EDUCATION STANDING COMMITTEE**

March 11, 2009

8:02 a.m.

MEMBERS PRESENT

Senator Bettye Davis, Vice Chair
Senator Charlie Huggins
Senator Gary Stevens

MEMBERS ABSENT

Senator Donald Olson

COMMITTEE CALENDAR

SENATE BILL NO. 101

"An Act relating to questionnaires and surveys administered in the public schools."

HEARD AND HELD

PREVIOUS COMMITTEE ACTION

BILL: SB 101

SHORT TITLE: STUDENT QUESTIONNAIRES AND SURVEYS

SPONSOR(S): SENATOR(S) DAVIS

02/06/09	(S)	READ THE FIRST TIME - REFERRALS
02/06/09	(S)	EDC, HSS
03/11/09	(S)	EDC AT 8:00 AM BELTZ 211

WITNESS REGISTER

TOM OBERMEYER, aid
Senator Davis
Alaska State Legislature
Juneau, AK

POSITION STATEMENT: Read the sponsor statement.

STEVE WARREN
representing himself
Sitka, AK

POSITION STATEMENT: Supported SB 101.

LAURA MULLER, Volunteer
American Cancer Society

Anchorage, AK

POSITION STATEMENT: Supported SB 101.

EDDY JEANS, Director of School Finance
Department of Education and Early Development (DEED)
Juneau, AK

POSITION STATEMENT: Supported SB 101.

ACTION NARRATIVE

[8:02:44 AM](#)

VICE-CHAIR BETTYE DAVIS called the Senate Education Standing Committee meeting to order at 8:02 a.m. Present at the call to order were Senators Huggins, Stevens and Davis.

SB 101-STUDENT QUESTIONNAIRES AND SURVEYS

[8:02:47 AM](#)

VICE-CHAIR DAVIS announced consideration of SB 101.

TOM OBERMEYER, aid to Senator Davis, read the sponsor statement.

SB 101 is an Act relating to questionnaires and surveys administered in the public schools.

SB 101 will provide for more student participation in school questionnaires and surveys administered or required by the Alaska school districts and the Department of Education and Early Development (DEED), while at the same time constitutionally protecting the privacy rights of parents and students and also complying with the federal Protection Of Pupil Rights Amendment (PPRA) under the U.S.C. Section 1322, Title 20.

With the exception of the anonymous Youth Risk Behavior Survey (YRBS) noted in the new subsection (g) of this bill Title 14.03.110, which has been administered biannually since 1991 by the United States Centers for Disease Control and Prevention, SB101 provides that the school district may not administer a survey, anonymous or not, that inquires into personal or private family matters of a student not a matter of public record or subject to observation unless written permission is first obtained from the student's parent or legal guardian. SB 101 provides in AS 14.03.110(e) that a student may still "refuse to answer specific questions" or to participate in the survey.

SB 101 changes subsection AS 14.03.110(e) by requiring that the parents who do not want their children to participate must "opt out," or "actively dissent" to

participation with written denial of permission submitted to the teacher or principal. SB 101 effectively changes parental consent for anonymous surveys from active to passive, that is, implied consent without written objection. However, notice is still required and permission for anonymous surveys can be obtained by the school districts annually under the unchanged provisions of Section (b).

Sections (b) and (c) relate to the two week requirement and annual parental consent.

The two week notice requirement under AS 14.03.110(b),(c) remain unchanged, but revised subsection (d) under SB 101 requires more information in the notice than current provisions in recognition of the need for more attention to constitutional due process in matters of student privacy. Changes require more information about the nature and content of the survey, the dates, sponsor, school districts and opportunity to refuse participation in a questionnaire or survey.

[8:06:22 AM](#)

Changes under SB 101 comport with the original legislative intent of the school survey statute before it was changed in 1999. The current statute, which requires active parental consent for youth to participate in anonymous school surveys, requires that parents must acknowledge both permission and denial in writing. SB 101 requires that parents only deny permission in writing to anonymous surveys. Surveys which are not anonymous or that delve into personal or private matters still require parental [written] consent for permission for students to participate, with the exception of AS 14.03.110(g) regarding the Youth at Risk Behavior Survey noted above. These are the statutory reasons for the change:

It has been found that active parental consent over burdens the public school system and drastically increases the cost and labor involved in the student surveys. Moreover, "active" consent greatly reduces overall participation by students because many parents simply are non-responsive. While studies have found the vast majority of parents would consent to students participating in school surveys, non-response is more often due to apathy, oversight and student omission or error rather than parental consent. Many districts are unable to use the data they collect because there are not enough participants for statistical validation. Some surveys, such as the Youth Risk Behavior Survey, cannot be validated with less than 60 percent

participation, as occurred in Alaska in 2005. Lack of participation may also reduce federal funding.

School surveys provide reliable and valuable measures of population-based information on youth, which help policy-makers, educators, program planners and parents to better understand health and social issues that affect students' prospects for program success. Standardized surveys such as the Youth Risk Behavior Survey track trends over time and help guide and evaluate important health and prevention programs. State and federal grant programs which rely on these surveys include tobacco prevention and control, obesity prevention, diabetes, heart disease and stroke, safe and drug-free schools and other substance abuse prevention, injury prevention, including violence and suicide prevention, HIV and STD prevention and more.

8:08:40 AM

Finally, he noted that they have position statements from the Association of Alaska School Boards in support of this bill.

8:09:02 AM

CHAIR DAVIS opened the floor to public testimony.

8:09:20 AM

STEVE WARREN, representing himself, Sitka, AK, testified in favor of SB 101. He has been involved in substance abuse treatment in Sitka and has found that the suppositions of the adults in a community frequently do not coincide with what the results of the YRBS reveal. Without those results, they are often aiming their resources at problems that don't exist and missing the real problems entirely. He feels it is very important to ask these questions in a non-threatening way so the state will have a really good idea of where to spend its limited dollars.

8:10:49 AM

LAURA MULLER, Volunteer, American Cancer Society, Anchorage, AK, works with youth groups in programming and these anonymous surveys tell them what kind of job they are doing. They get funding from donors and the state and need to know that they are spending those funds as effectively as possible in the best interests of the kids. The YRBS is a national survey and that is the information the federal government is looking for when organizations compete for CDC and other grants. She pointed out that she could find only three other states that use active consent for the YRBS. Even the Catholic schools that her children attended used passive consent; they understood that

involved parents would be paying attention and would opt out if they chose to do so.

MS. MULLER closed by saying this data is so important that they have to have it. The survey is given in public schools because that is where the kids are; they are not silly or unsophisticated and if the state really wants to see to kids' needs, they have to get at that information.

[8:13:14 AM](#)

SENATOR HUGGINS asked what three states use passive consent.

MS. MULLER answered Utah, Nevada and North Dakota.

[8:13:58 AM](#)

VICE-CHAIR DAVIS closed public testimony. She said the only changes that have been made to this bill involve consent for the Youth Risk Behavior Survey and were made because it has been so difficult to get enough participation.

[8:14:47 AM](#)

SENATOR HUGGINS referred to section 3(e) on page 2, where it says "A student may refuse to answer specific questions on or participate in a questionnaire or survey administered in a public school." He said it sounds to him like the student can either not answer a question, or refuse to take the survey at the time it is given regardless of parental consent. He asked if his interpretation is correct.

[8:15:36 AM](#)

MR. OBERMEYER said he believes Senator Huggins's interpretation is correct. The previous language said students may refuse to participate in a questionnaire or survey; now it says they can refuse to answer specific questions or refuse to participate. This allows them to participate in a survey they may have some doubts about and decline to answer specific questions that make them uncomfortable. It would imply that they can refuse to answer questions or participate in any survey, which is independent of the parental guidelines. Finally, in the same subsection, the bill requires that a written denial [of permission] by the students' parent or legal guardian be submitted to the principal or the teacher.

[8:17:00 AM](#)

SENATOR HUGGINS asked Mr. Obermeyer to clarify whether a student who decides not to answer questions or participate in a survey

for which the parent has granted consent would have to submit a denial in writing.

MR. OBERMEYER said it is specific to the parent or guardian; a student may refuse to answer questions or participate without any written notice.

[8:17:53 AM](#)

SENATOR HUGGINS said he would like to see some data from school districts on how prevalent the challenge is to get parents to respond.

VICE-CHAIR DAVIS asked if he is referring specifically to the YRBS.

SENATOR HUGGINS said he means anything that requires parental consent, but particularly the Youth Risk Survey. He would like to see statistics from several school districts as to how many students actually participate.

VICE-CHAIR DAVIS said that should be easy to get. She called Eddy Jeans to testify.

[8:19:28 AM](#)

EDDY JEANS, Director of School Finance, Department of Education and Early Development (DEED), Juneau, AK, said he does not have those statistics with him but can get them to the committee this afternoon. He also stated that the department is in favor of moving to passive permission for these surveys.

SENATOR HUGGINS said his interest in the data is so he can answer questions regarding this bill with factual information.

[8:20:24 AM](#)

SENATOR STEVENS asked how we are protecting students' rights to privacy.

[8:20:48 AM](#)

MR. JEANS said he can't give a detailed answer. He does know the surveys are confidential but he will get more detail on this for Senator Stevens this afternoon. He added that the department is supportive of returning to passive permission for the Youth Risk Behavior Survey.

CHAIR DAVIS closed public testimony and held SB 101 in committee.

[8:21:39 AM](#)

There being no further business to come before the committee,
Vice-Chair Davis adjourned the meeting at 8:21 a.m.