

SCOMM

125:45

Mr. Steve Lindbeck
Editorial Page Editor
Anchorage Daily News
P.O. Box 149001
Anchorage, AK 99514-9001
VIA: slindbeck@and.com

A recent letter to the editor about HB 408 contained some inaccuracies I would like to correct.

The bill's intent is not to ask personal questions without parental permission, but to learn how many children are risking their health and lives with drug, alcohol, and tobacco use. The current system of active consent is not working. The latest version of this legislation would provide more local control by giving parents the option, through their local school districts, to choose between active refusal and active consent.

HB 408 would not violate students' privacy. Students may refuse to answer questions or to participate in these voluntary, anonymous surveys. Districts are required to notify parents two weeks in advance by mail and provide information about the survey.

I have never indicated that parents who forget to return permission slips are bad parents. However, without enough participants in the surveys, programs lose federal grants that can help kids resist alcohol, drugs, and tobacco. The Anchorage School District has lost over \$300,000.

I wish kids didn't drink, smoke, or do drugs. But some do, and putting our heads in the sand is not healthy for our kids or our community. If we don't ask the tough questions, we won't know if they are making bad choices. The current system hurts our ability to provide kids with the tools they need to resist dangerous behaviors.

Representative Con Bunde
District 18
907-465-4843
representative_con_bunde@legis.state.ak.us



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LETTERS TO THE EDITOR

Letters from the people

(Published: May 12, 2002)

School survey bill violates our right to privacy

The school survey bill is bad public policy and teaches students that inherent rights to privacy are fleeting and short-lived.

The bill's intent is to allow schools to ask student personal questions that have absolutely nothing to do with academics, without written parental permission. Since schools can't get through the door legally, they'll try sneaking in through the window to find out stuff about society's children.

Rep. Bunde is pushing HB 408. After depicting parents not responding to survey permission slips as bad parents, the House of Representatives sent a clear message to us. We will infringe on your rights in order to resolve our fiscal crisis.

How did legislators get tricked into going along with this ruse? The sponsor statement explains that when schools follow the law mandating written permission, it results in a lack of data due to the logistics and time required to collect sufficient parental permission forms. Logistics, my eye!

The lack of data is because parents don't want their children asked these questions.

The survey bill opens the door for any and all questions to be posed with a never-you-mind to parents.

We deserve more respect from our schools. Our students deserve it even more. The demand for information and money doesn't justify infringing and violating our privacy rights.

-- Andree McLeod

Anchorage

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Rep. Brunde

Efforts to Gather Data and Impact of HES Bill No. 70

Background

The last survey completed by Anchorage youth was the Youth Risk Behavior Survey (YRBS) in 1995. The Anchorage School District did not participate in the statewide Youth Risk Behavior Survey (YRBS) in 1997 and 1999 because of a legal interpretation of the state law prior to HES Bill No. 70. The school district and community agencies have many grants that demand current data on the "high risk" behavior of Anchorage young people. The ASD Safe and Drug Free Schools alone had/has seven grants asking for such data. During the fall 1999 Site Review, Federal auditors put the ASD Safe and Drug Free Schools program on notice that it is bordering on non-compliance due to lack of current data. The program has lost three grants (2002 Greatest Need, 2000 Governor's and the 2000 Community Action Against Substance Abuse, totaling \$296,915 in lost grant funds), due at least in part to the lack of relevant data. Other grants have not been applied for because the criteria indicated that without contemporary data, the application would not be competitive. Other youth-serving agencies and programs in Anchorage face similar grant rejection prospects. Most importantly, all Anchorage youth-serving efforts have no way of knowing if their services are indeed needed or effective.

Since the passage of HES Bill No. 70, the Anchorage School District and several community agencies undertook two specific efforts to gather data on Anchorage youth.

1. 2000 Asset Surveys

In fall 1999 ASD and several community agencies undertook a six month process of gathering parent permission forms and conducting the Search Institute "Profiles of Student Life" (grades 7-12) and America's Promise and Search Institute's Survey of Student Resources (grade 6). These grade levels were sampled in all ASD schools during May 3-17, 2000.

Acknowledging that gathering active parental consent during the school year would be an arduous task, a community coalition of grant funded youth-serving agencies was formed. Given the Community's strong negative response to the idea of giving the YRBS in 1998, it was clear that much work needed to be done to garner community support.

Beginning in November 1999, the survey coalition met every two weeks to devise, plan and carryout a broad-based community media blitz with no budget. A media plan was drafted and a theme graphic designed. Editorial Boards of both newspapers were met with, resulting in favorable endorsements of parents returning permission forms. Coalition members appeared on several TV news shows, and a major article appeared in the Anchorage Daily News about the Asset Framework and its effects in other parts of the state. So when parent permission forms were mailed to all ASD parents in late January, many were expecting it.

A three-phase plan was established, with the final phase contingent upon the previous two. First, parental permission forms had to be mailed to all ASD parents/guardians, with a return pre-paid postage envelope. At the same time, data processors altered the ASD student database, adding a field that indicates parental consent or denial to student surveys. The return rate of permission forms from the initial mailing was 15%, with 60% of these giving permission for their child to take the survey, 40% declining.

The second phase called for ASD Assessment and Evaluation Department to develop a random survey design utilizing a class period where most students are likely to be in a required course on a day when the highest percentage of students are at school. Rosters of the selected classes to be surveyed were compiled, and lists printed of students in those classes whose parents/guardians had not returned a parental permission form. These lists included the student's name, address and phone number. While ASD hired clerical substitutes to make some calls, coalition members, their staff members and some of their spouses also spent evenings calling parents. The Executive Director of VOA, the State of Alaska Adolescent Health Coordinator, the Municipality of Anchorage Director of Health Promotions, the ASD Supervisor of Safe and Drug Free Schools and the Supervisor for Assessment and Evaluation all made calls too. Callers systematically contacted each parent on the lists, requesting that a second parental permission form be completed when it was mailed.

Once enough parental permission forms were returned to make a valid, random sample in each middle and high school, the survey date was selected and surveys ordered. The surveys were given out during the first two weeks of May 2000. Due to a number of factors, there was very limited participation. Students in large numbers were reported to refuse to take the survey. Three hundred eleven (311) 6th graders completed surveys. On the secondary level 1057 students completed the survey [692 7th and 8th graders and 365 high school students]. These numbers constituted 10% of the expected sample. Upon completion, surveys were shipped to Search Institute for scoring and report preparation.

Because of the very limited participation, accordingly it may be said that the district conducted the surveys using "convenience samples" that may or may not be representative of the overall population. ("Convenience samples" is a technical term denoting students being surveyed in a "ask who is available" method; i.e., not random or representative.)

The Following Agencies have been involved in making the survey a reality. All depend on data to fund their services to youth:

The American Lung Association
The Anchorage School District:
 Safe and Drug Free Schools
 21st Century Learning Centers

Health & Physical Education Curriculum Department
 Community Schools
 Akeela Services Inc.
 Municipality of Anchorage
 Department of Health Promotion
 State of Alaska
 Health and Human Services Commission
 Adolescent Health
 Volunteers of America

As such the following are some of the youth-centered efforts the above agencies target through their combined services:

1. Provide victim-offender mediation programs
2. Work in partnership with communities and other agencies to strengthen alternative education programs and alternative to suspension
3. Provide comprehensive health education
4. Provide alcohol and drug avoidance programs at all levels
5. Promote peer-helping programs
6. Teach conflict resolution skills
7. Promote school-to-work programs
8. Establish programs in which students can make positive, visible contribution to the community
9. Promote "open school" and "open gym" programs
10. Provide more coverage of positive events involving youth, especially school events beyond athletics
11. Work in partnership with others on youth issues
12. Increase alcohol and drug treatment programs available for youth
13. Meet the educational needs of juvenile offenders
14. Promote prevention in Alaska

Survey Costs

Clerical wages and benefits	\$4,577
Postage, printing, paper, envelopes	\$11,765
Surveys, scoring and compiling	\$6,400
District Summary Reports	\$1,500
ASD staff time (estimate)	<u>\$10,395</u>
Total Costs	\$34,637

Survey Contributions

Anchorage School District:	\$25,637
American Lung Association:	\$5,000
Lutheran Brotherhood	\$1,500
Anchorage 2000	<u>\$2,500</u>
Total Contributions	\$34,637

ASD did apply for an \$8,000 grant to The Alaska Department of Health and Social Services, Division of Juvenile Justice to help defray the costs. The research grant was not awarded to the district because the survey was not considered research.

2. 2001 Youth Risk Behavior Survey

In spring 2000, ASD began preparations for the 2001 Youth Risk Behavior Survey. A standardized parent permission form was prepared. Middle and high schools asked parents to complete it upon registration. However, since many secondary students register themselves, the initial return rate was quite low. One direct mailing requesting secondary parents to update their permission form was done to more than 15,000 adults. After all of this effort, fewer than half of our high school parents had completed permission forms.

For state and federal grants, the district needs school-by-school data to accurately assess the need and success of current efforts. The low response rates made this kind of detailed data impossible. The next option is to gather district wide data, and extrapolate school-by-school results. Again the very low response rate made even a district-wide sample impossible. The Anchorage School District did elect to participate with the Alaska Department of Health to try to gather a statewide sample. Accordingly, groups of middle and high school students were selected and the YRBS was administered during the week of May 7, 2001. However the number of responses from these groups was too small to allow meaningful interpretation of the survey results. This was also true throughout the state. Consequently there will be no statewide YRBS results for 2001.

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Anchorage Daily News

Student surveys vital to schools**Compass**

By Delisa Culpepper And Carol Comeau

(Published: May 8, 2002)

Do you know how many children in our community have tried drugs or alcohol, and how often? How about the overall number of students who engage in risky social behaviors? Or, on the positive side, to what extent do our children have the 40 developmental assets they need to lead happy, caring, responsible lives?

Fact is, none of us knows for sure. We haven't been able to conduct the student surveys we need to gather solid communitywide data.

Current state law on conducting student surveys at school requires active parent permission, even for anonymous and voluntary surveys. The problem with active permission is that very few parents take the time to sign the permission slips and return them to schools. That leaves the survey with too few participants to make communitywide results valid and usable. When researchers have contacted parents who did not return the permission slips, they found that the majority of parents did not have a problem with the survey, they just hadn't taken the time to fill out the permission slip and return it to the school.

Thankfully, a legislative effort is under way to change the active permission requirement. HB 408, the Anonymous Survey Bill, would allow for passive permission from parents for anonymous surveys that are given in schools. The House passed HB 408 in April by a 30 to 8 vote, and it is now in the Senate.

Under HB 408, schools will be required to provide a parent or legal guardian at least two weeks' written notice of any survey, so that parents will have the option to deny permission for their student to participate. Otherwise, parental consent is implied. Students could also choose to opt out at any time, as this statute refers to voluntary, not mandatory, surveys.

Solid research on the behavior and attitudes of our young people is a necessity. Without that information, it is impossible to evaluate or improve state and local programs that strive to help students avoid drugs, alcohol, violence, sex, negative peer pressure and other dangerous social behaviors.

In Anchorage we have not had a valid districtwide survey on health and social issues affecting our youth since 1995, before the current law went into effect. This handicaps our school district and community programs when measuring changes, either positive or negative, and therefore in knowing if what is being done is the best use of funds, time and energy.

The movement over the past five or more years at the federal, state and local level of government and private foundations has been to require programs to document the need for their services and to measure the effects of their services on important health and social outcomes for youth. This has been emphasized even more strongly in Alaska as financial resources have become tighter -- requiring the prioritization of funding to programs, policies and services that work best. It is, therefore, imperative that we be able to measure "best practices," and anonymous surveys in schools are the most practical, reliable and valid place to accomplish this.

Federal auditors have recently warned the Anchorage School District's Safe and Drug Free Schools program that it was bordering on noncompliance due to a lack of current data. The program has lost three grants and has been unable to apply for some others because current data are lacking.

There is broad support across Alaska for the changes proposed in HB 408. The Alaska Public Health Association and the Anchorage School District are among the organizations that support the bill.

If the current law does not change this year, Alaska will continue to lack a solid data source in the years to come, thus hampering our ability to evaluate our programs' effectiveness. That would be a major disservice to our youth. If you are concerned about this issue, please let your Senator know you support the bill.

Delisa Culpepper is president of the Alaska Public Health Association. Carol Comeau is superintendent of the Anchorage School District.

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April 26, 2002

Sen. Loren Leman
Alaska State Capitol
Room 516

Dear Sen. Leman:

I strongly, emphatically urge a hearing on HB408 re: "An act relating to questionnaires and surveys administered in the public schools."

I have testified on behalf of this bill's passage while it was still in the House, and since then have encountered even more support for this bill. I work with the "Youth on the Streets" action group, dedicated to aiding our homeless youth in Juneau, both by hopefully providing transitional, physical shelter and encouraging development of life skills.

Also, I work as a volunteer with the chemical dependency programs at both Johnson Youth Center, detention side, and Juneau Youth Services, family group. Every week I deal with children not only at risk but already suffering from the consequences.

And I have also carefully listened to rebuttal, some parents' concerns, but honestly feel--as do OTHER parents, as well--that this bill still adequately covers and insures parents' rights while simultaneously opening doors to further, necessary data exploration. Data which can help us, as an adult, caring society, help address problems facing all our young people today.

(more)

Please, I urge you to allow HB408 a chance to be heard in the Senate's Health and Social Services committee. The current "active consent only" stipulation has been found simply not to work when it comes to providing us with the necessary tools to help guide our next generation.

Thank you for your attention.

Sincerely,

A handwritten signature in cursive script that reads "Kathryn Grace Arlen".

Kathryn Grace Arlen
"Youth on the Streets"
"Meeting the Challenge"
mindmerger@hotmail.com
127 So. Franklin St., #312
Juneau, AK 99801
(907) 586-1872

Confidentiality of Information:

- A violation of HB 408 confidentiality provisions could result in a number of consequences for teachers such as:
 1. Employee discipline including non-retention and dismissal even if tenured;
 2. License action by the Professional Teaching Practices Commission including suspension or revocation of a teaching certificate if a district fails to take action for a violation of teaching standards;
 3. Charge and conviction of a Class A misdemeanor under AS 11.56.860 for the crime of misuse of confidential information; and
 4. Loss of federal funding if noncompliance with federal privacy laws.
- NO personal identifiers are used or recorded that could link a student to a survey form.
- Federal law (Protection of Pupil Rights Amendment, 20 USC 1232h) on privacy and parental rights only applies to surveys students are required to take or when the results will be placed in the student's record. Neither is true in Alaska. HB 408 clearly states in Section 5 that students may decide to skip questions or not participate in the survey at all. The results of the 1999 survey show clearly that students did skip questions.

Scientific Validity and Reliability:

- The Centers for Disease Control and prevention has published, "Reliability of the 1999 Youth Risk Behavior Survey Questionnaire." Their study showed that "items related to tobacco use, alcohol and other drug use, and sexual behavior demonstrated significantly higher reliability than items related to dietary behaviors..."
- Research says the data may be gathered as reliably from teens as it is from adults. Internal reliability checks identify the small percentage of students who falsify their answers.

Students at Risk:

- The 1999 survey found that
 - 24% of high school students had ridden in a car with someone who had been drinking at least once
 - 18.5% has seriously considered suicide and 15.5% has planned how they would do it
 - 28.5% have smoked at least one cigarette every day for a month
 - 57% have smoked pot between one and 100 times
 - 16.6% had sex without using a condom, while 11.5% either had not or didn't remember being taught about AIDS.

Closing:

- We clearly need to know about Alaskan students' risky behaviors. The only way to do that is ask them, and unfortunately some parents can't or won't. Programs have to be effective. The only way we're going to know if they are effective is by asking the questions.
- I urge your support for this bill.

Rep. Wilson will talk about health issues.

Rep. Croft will likely take the legal issues.

Talking Points CSHB 408, "Student Questionnaires and Surveys"

Background:

- Two years ago, the Legislature required that school districts receive permission slips from parents before administering the surveys that inquire into personal or private family matters. This was the "active consent" requirement. If districts did not receive permission from a parent, the survey could not be administered to that child.
- Active consent has not worked. The response rate goal for this survey is 60%. In 1995 and 1999, before active consent was required, the response rates were 64% and 66% respectively. With the active consent requirement, the response rate last year was 29%.
Active refusal - Concerned Parents
- School districts have found the "active consent" requirement makes it is very expensive, time consuming, and next-to-impossible to get enough permission slips to make the survey data useful. School districts have mailed forms to parents, called parents, even visited parents in some small communities -- all at great cost.
\$300,000 last year
- As a result, school district and social services programs that focus on preventing youth risk behaviors have been unable to justify grant requests or effectively evaluate the programs they provide. This situation puts kids at risk.
- HB 408 allows school districts to administer anonymous questionnaires and surveys, like the Youth Risk Behavior Survey, based on parents' passive consent.

Rights of Parents and Students:

Good involved parents

- This is a voluntary survey, not mandatory. This bill would still protect the rights of parents and students to refuse to participate in surveys they find troublesome. Districts would still be required to give parents two-weeks' notice of the survey, provide a copy of it, and tell them how it would be administered, how the results would be used, who will have access to it, and how to submit denial of permission.
- The United States Court of Appeals in the **New Jersey case** remanded the case back to the lower court so discovery could be conducted. The only substantive finding in the case was that the survey did not violate the students' Fifth Amendment rights against self-incrimination.
- There is no evidence that these surveys affect behavior. Students are regularly exposed to information about tobacco, alcohol, drugs, violence and sex every day. Answering a few questions is hardly likely to cause students to suddenly behave in any way.

Research Shows:

- Research into "active" vs. "passive" consent has found the following:
 - Ellickson & Hawes found that failure to return a form is considerably more likely to reflect latent consent than latent refusal. 87% of parents meant to provide consent.
 - Catalana found that failure to return a form is more likely to reflect apathy or inertia than objection to the survey.
 - Requiring active consent yields under-representation of minority groups, low achievers, students at risk, and others.

Subject: RE: Dyson and Torkelson arguments about HB 408

Date: Thu, 18 Apr 2002 08:08:39 -0800

From: "Terri Campbell" <Terri_Campbell@eed.state.ak.us>

To: "Representative Con Bunde" <Representative_Con_Bunde@legis.state.ak.us>,
"Elmer A Lindstrom" <elmer_lindstrom@health.state.ak.us>

CC: <jessica_boyer@legis.state.ak.us>

\Guess's staff.

*Responses to
Dyson's comments
in HESS.*

Karen:

Here is some information on Dyson's issues - see below. I am ccing this to Gretchen Guess who will also speak on the floor.

-----Original Message-----

From : Representative Con Bunde [mailto:Representative_Con_Bunde@legis.state.ak.us]

Sent: Wednesday, April 17, 2002 5:56 PM

To: Terri F Campbell; Elmer A Lindstrom

Subject: Dyson and Torkelson arguments about HB 408

Importance: High

Terri and Elmer -- I listened to the Gavel to Gavel link for the hearing and wrote up the following comments from Rep. Dyson and Lisa Torkelson. I will address some of these points in Con's talking points. I thought you might want to make sure the others who will speak are prepared also. Karen

Rep. Dyson's closing comments during House HESS on April 9th.

· Anchorage Council of PTAs opposes passive consent.

The whole council did not come out with opposition - it was just the executive board. According to those involved in Anchorage PTA's, the members were never polled regarding their views.

· Anchorage School District has put nothing on their website about needing parental consent -- not indicative of "great lengths" to get consent.

Anchorage put forth a monumental effort using parent & community volunteers, direct mailings and phone tree contacts to get consent for surveys including the Assets Survey & Youth Risk Behavior Survey - all resulting in little response either way. We don't know if the web site was or was not used, but that is only one mechanism to get information to parents. Since many parents either don't have computers at home or don't access the ASD home page, this is probably not the most effective means of communication with parents.

· Bill does not require how notification will be given. Should be mailed to parents, not just give a piece of paper to kids.

Bill calls for written notice to parents - does not specify it would be given to students.

· This bill is just about money.

The bill is intended to assist in strengthening prevention and intervention efforts in

the state. Many of those efforts come from non-profits and community agencies that are funded directly or in part with state and federal competitive grant funds. It is not about the money, but it is about being able to gather reliable and valid information that demonstrates the need for prevention services in the state of Alaska to serve the diverse needs of our kids. Rep. Dyson is a frequent supporter of programs to serve children in need.

· Federal law says you cannot be disqualified for grant for a problem with parental consent.

This is true, but in a state or national competition for limited grant dollars, the use of reliable, valid, statistically weighted survey tools to depict a more accurate picture of community needs is more compelling than other anecdotal information. Additionally, if credible data is available, communities are better able to target their greatest need populations in a more cost effective and focused intervention.

· ASD got turned down by DEED, not feds.

In one competitive grant, ASD did not rank high enough for funding. While it is true that a portion of their low scores were a direct result of their lack of current data, that particular application also was not as compelling as other grants vying for funds at that point in time. In competitive applications, EED does mirror federal requirements for current data to depict need.

· Federal law says you cannot ask students to incriminate themselves.

The surveys in question are anonymous, and do not incriminate students in any way.

· New Jersey case, tell them it's voluntary but district really needs it is "compelled speech" and that's against federal law.

Students and their parents have the right to refuse to participate.

· Listed kinds of information PPRA says you can't ask.

PPRA only applies to REQUIRED surveys - this bill does not speak to required surveys.

· Teachers will figure out handwriting and can figure out who's doing what. It's not really anonymous.

Breaches of confidentiality is a violation of ethical practice that could result in district action or action by the Professional Teaching Practices Commission.

· Those in favor of this bill are willing to sacrifice parents' rights to control questions asked of kids in order to get more data.

Parents rights are still protected by this bill with the opt-out option.

· Students will be titillated and introduced to new stuff by this survey.

Federal law says you can't require kids to answer.

And DEED asked for more info on allegations teachers@ASD breached confidentiality to investigate thru PTPC

There is no evidence to suggest that students will engage in risk behaviors as a result of survey participation.

Lisa Torkelson's Comments During the Same Hearing:

- Districts have to get active consent for field trips and medication.
- There is evidence that teachers violated anonymity in previous surveys.
- Hard, reliable data is available via other methods.
- Federal money is not contingent on survey data or lack of survey data.
- Federal law prohibits sharing data.
- The data from these surveys is not reliable.
- Surveys open school districts to lawsuits, such as in New Jersey.
- HB 408 does not limit things to the YRBS. Any topic is open, such as family activities, finances, etc.

Source of Rep. Dyson's and Mrs. Torkelson's comments: <http://www.ktoo.org/gavel/audio.cfm?schDay=2002-4-9>

Rep. Dyson's closing comments during House HESS on April 9th.

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- Federal law says you cannot be disqualified for grant for a problem with parental consent.
- ASD got turned down by DEED, not feds.
- Federal law says you cannot ask students to incriminate themselves.
- In the New Jersey case, the teachers tell them, "it's voluntary but we district really need" the information is "compelled speech" and that's against federal law.
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Some of the Supporters of the Bill:

- Association of Alaska School Boards
- Anchorage School District and School Board
- Safe and Drug Free Schools
- Southeast Alaska Regional Health Consortium
- Alaskans for Tobacco-Free Kids
- American Heart Association
- National Council on Alcoholism and Drug Dependence
- South East Regional Resource Center

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Talking Points **CSHB 408, "Student Questionnaires and Surveys"**

Background:

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 4. Loss of federal funding if noncompliance with federal privacy laws.
- NO personal identifiers are used or recorded that could link a student to a survey form.
- Federal law (Protection of Pupil Rights Amendment, 20 USC 1232h) on privacy and parental rights only applies to surveys students are required to take or when the results will be placed in the student's record. Neither is true in Alaska. HB 408 clearly states in Section 5 that students may decide to skip questions or not participate in the survey at all. The results of the 1999 survey show clearly that students did skip questions.

Scientific Validity and Reliability:

- The Centers for Disease Control and prevention has published, "Reliability of the 1999 Youth Risk Behavior Survey Questionnaire." Their study showed that "items related to tobacco use, alcohol and other drug use, and sexual behavior demonstrated significantly higher reliability than items related to dietary behaviors..."
- Research says the data may be gathered as reliably from teens as it is from adults. Internal reliability checks identify the small percentage of students who falsify their answers.

Students at Risk:

- The 1999 survey found that
 - 24% of high school students had ridden in a car with someone who had been drinking at least once
 - 18.5% has seriously considered suicide and 15.5% has planned how they would do it
 - 28.5% have smoked at least one cigarette every day for a month
 - 57% have smoked pot between one and 100 times
 - 16.6% had sex without using a condom, while 11.5% either had not or didn't remember being taught about AIDS.

Closing:

- We clearly need to know about Alaskan students' risky behaviors. The only way to do that is ask them, and unfortunately some parents can't or won't. Programs have to be effective. The only way we're going to know if they are effective is by asking the questions.
- I urge your support for this bill.

Some of the Supporters of the Bill:

- Association of Alaska School Boards
- Anchorage School District and School Board
- Safe and Drug Free Schools
- Southeast Alaska Regional Health Consortium
- Alaskans for Tobacco-Free Kids
- American Heart Association
- National Council on Alcoholism and Drug Dependence
- South East Regional Resource Center



Alaska State Legislature

House Special Committee on Education Representative Con Bunde, Chair

State Capitol
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Brian Porter
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Sponsor Statement

CSHB 408 (HES)

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

The purpose of the proposed repeal and reenactment of AS 14.03.110 is to enable local school districts in the State of Alaska to administer anonymous questionnaires and surveys to students with passive parental consent. Additionally, this bill requires that schools must provide a parent or legal guardian at least two weeks' written notice of any survey so that parents may have the option to deny permission for their student to participate. Moreover, students may opt out at anytime, as this statute refers to voluntary, not mandatory, surveys or questionnaires.

Current statute requires active written parental consent from the parent or legal guardian for the student to participate in the survey. This has resulted in the lack of "weighted" data collection, due to the logistics and time required to collect sufficient parental permission forms. When passive parental consent was used prior to the enactment of AS 14.03.110, the State was able to collect weighted data from the Youth Risk Behavior Survey (YRBS) in both 1995 and 1999. In January of 2001 (the last YRBS cycle), the YRBS high school sample was drawn. The high school sample included 36 schools from 19 districts and sought 1,480 completed questionnaires. The goal was to get a level of participation from both schools and students to achieve an overall response rate of 60% or greater. The overall response rate for 2001 was 29%. This is far short of the 60% overall rate needed to have "weighted" or representative data. To provide a comparison, the 1999 YRBS response rate was 66% and the 1995 response rate was 64%.

Anonymous survey data results are used to help focus programs and policies for comprehensive school health education, school safety policy and education, and drug and violence prevention education. Additionally, results from surveys can also be used to:

- Monitor how priority health risk behaviors among high school (grades 9-12) and middle school (grades 7-8) students increase, decrease or remain the same over time.
- Evaluate the impact of broad national, state, and local efforts to prevent health-risk behaviors.
- Monitor progress in achieving relevant national and state health objectives and National Education Goals.
- Obtain grants for programs and services.
- Monitor and evaluate the impact of the 1997 Alaska Tobacco Tax increase.
- Support local school districts in assessment, implementation, and evaluation of comprehensive school health programs.
- Set Priorities for statewide comprehensive school health education teacher training and instructional programs.
- Provide comparable data between state and national results.
- Monitor progress in achieving Healthy Alaskan 2010 objectives.
- Provide the state with the most reliable and valid instrument available to assess risk behaviors of Alaskan youth.

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: HB 408
(H) Publish Date: 2/20/02

Revision Date/Time (Note if correction):
Title "An Act relating to questionnaires and surveys
administered in the public schools"
Sponsor H EDU
Requester H EDU
Dept. Affected: EED
BRU Teaching and Learning Support
Component Special and Supplemental
Services
Component No. 166

Expenditures/Revenues

(Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type-Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2002) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal: ☐

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Currently, the law states that active parental permission is required before schools and districts can survey students anonymously. This bill would change the current legislation by allowing districts to gather passive parental permission before the administration of any anonymous surveys. This change would maximize the ability of school, district and state agencies to gather pertinent information about student reported behaviors that lead to early morbidity and mortality. By being able to gather credible data from students, many local and state agencies would have valid and reliable assessment data which in turn, would allow for better program planning and use of program dollars. This change would allow local and state agencies to compete effectively for limited state and federal grant funds that rely on accurate needs assessments.

Prepared by: Beth Shoer, Education Specialist
Division: Teaching and Learning Support
Approved by: Ed McLain
Agency: Education and Early Development
Phone 465-2887
Date/Time 2/19/02 10:57 AM
Date 2/9/2002



Alaska State Legislature

House Special Committee on Education Representative Con Bunde, Chair

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Brian Porter
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MEMORANDUM

DATE: April 17, 2002
TO: House Rules Committee
FROM: Representative Con Bunde, Chair
RE: CSHB 408, "An Act relating to questionnaires and surveys administered in the public schools."

How CSHB 408 Would Change Current Law Regarding Student Surveys

Explanation of the Changes by Section

Section 1: Changes current law to allow an anonymous questionnaire or survey to be administered without prior written permission (active consent) of the parent or legal guardian.

Section 2: Requires school districts to give parents and legal guardians the opportunity to deny permission for an anonymous survey that inquires into personal or private family affairs of a student not a matter of public record or subject to public observation, even though prior written permission is not required.

Section 3: Requires that school districts provide parents and legal guardians at least two weeks' written notice of their right to grant or deny permission, whether the questionnaire/survey is anonymous or not.

Section 4: Adds the requirements that written notice given by school districts to parents and guardians must: provide an opportunity to review the questionnaire/survey and provide instructions on how to submit written permission or denial of permission. Restates the requirements in current law that the notice must also: tell parents and guardians how the questionnaire/survey will be administered; how results will be used; and who will have access to the questionnaire/survey.

Section 5: Retains provision in current law that students may refuse to participate in a questionnaire or survey and that a parent or legal guardian may refuse permission for their child. Adds the direction that parents and legal guardians may refuse permission by submitting a written denial of permission to the school principal.

Please see attached page for comparison of current law and proposed changes.

Comparison of Current Law with CSHB 408's Proposed Changes

Sec. 14.03.110. Questionnaires and surveys administered in public schools.

Section 1.

[(a) A school district, principal or other person in charge of a public school, or teacher in a public school may not administer or permit to be administered in a school a questionnaire or survey, whether anonymous or not, that inquires into personal or private family affairs of the student not a matter of public record or subject to public observation unless written permission is obtained from the student's parent or legal guardian.]

(a) A school district or an employee of a school district may not administer or permit administration of a questionnaire or survey to a class or student that inquires into personal or private family affairs of the student not a matter of public record or subject to public observation, unless written permission is obtained from the student's parent or legal guardian. This subsection does not apply to a questionnaire or survey that is anonymous.

Section 2.

[(b) For an anonymous questionnaire or survey written permission required under (a) of this section may be obtained annually and is valid until the commencement of the subsequent school year or until the parent or legal guardian who gave permission submits a written withdrawal of permission to the school principal. The school shall provide each student's parent or legal guardian at least two weeks' notice before administering a questionnaire or survey described under this subsection.]

(b) If a school district administers an anonymous questionnaire or survey that inquires into personal or private family affairs of a student not a matter of public record or subject to public observation, even though written permission from a student's parent or legal guardian is not required, the school district shall provide each student's parent or legal guardian the opportunity to submit to the school principal a written denial of permission to take the questionnaire or survey.

Section 3.

[(c) If a school administers to a student a questionnaire or survey that is not anonymous, the school shall obtain the written permission required under (a) of this section from the student's parent or legal guardian at least two weeks before the questionnaire or survey is administered.]

(c) For purposes of (a) and (b) of this section, the school district shall provide a parent or legal guardian at least two weeks' written notice of the right to grant or to deny permission to take the questionnaire or survey before administering the questionnaire or survey.

Section 4.

[(d) The school shall give a student's parent or guardian an opportunity to review the questionnaire or survey described under (b) or (c) of this section and shall give the parent or guardian written notice regarding

(1) how the questionnaire or survey will be administered to the student;

(2) how the results of the survey or questionnaire will be used; and

(3) who will have access to the questionnaire or survey.]

(d) Written notice required to be given to a parent or guardian under this section must include

(1) an opportunity to review the questionnaire or survey to be administered;

(2) how the questionnaire or survey will be administered to the student;

(3) how the results of the questionnaire or survey will be used;

(4) who will have access to the questionnaire or survey;

(5) how to submit written

(A) permission for the student's participation in a questionnaire or survey, if required; or

(B) denial of permission to participate in a questionnaire or survey, including an anonymous or specific questionnaire or survey.

Section 5.

(e) A student may refuse to participate in a questionnaire or survey administered in a public school. A student's parent or legal guardian may refuse to allow the student to participate in a specified questionnaire or survey[.] by submitting to the school principal a written denial of permission for the student's participation.

Anonymous Self-Reporting Survey Data

General Talking Points/ Frequently Asked Questions.

- **What are the benefits from conducting anonymous student surveys?** State and local education agencies and communities can use results to help focus programs and policies for comprehensive school health education, school safety education and policy as well as drug and violence prevention education. Results from surveys can also be used to (1) monitor how priority health risk behaviors among high school students (grades 9-12) increase, decrease or remain the same over time; (2) evaluate the impact of broad national, state, and local efforts to prevent health-risk behaviors; (3) monitor progress in achieving relevant national and state health objectives and National Education Goals; and (4) local and state education agencies can use results to obtain grants for programs and services.
- **Will these surveys cause students to initiate or increase high-risk behaviors?** Students are exposed regularly to information about tobacco, alcohol and other drug use, violence, and sexuality through their school curricula, the media, parents, friends, and community organizations. Exposure to a small number of questions on any one topic is not likely to cause a significant change in behavior-either good or bad. No evidence links these surveys to subsequent suicide attempts among respondents.
- **How is student privacy and anonymity protected?** Survey administration procedures are designed to protect student privacy and allow for anonymous participation. The student completes the survey in complete anonymity, and no personal identifiers are recorded anywhere that could link a student to a survey form. Additionally, participation is voluntary and no student is required to participate.
- **Do students answer the questions truthfully?** Research indicates data of this nature may be gathered as reliably from adolescents as from adults. Internal reliability checks help identify the small percentage of students who falsify their answers. To obtain truthful answers, students must perceive the survey as important and know that procedures have been developed to protect their privacy and allow for anonymous participation.
- **Who uses the survey results?** Statewide survey results lend to the augmentation and refinement of prevention and intervention programs with adolescent populations. From local school districts to state and Municipal agencies such as the EED, DHSS, Department of Transportation, Department of Juvenile Justice, Department of Corrections, and Department of Public Safety; survey results are used in a variety of arenas. The Alaska State Legislature and the Office of the Governor also have utilized the findings of previous surveys for programmatic purposes.

Other Benefits to schools and communities:

- **Provide data to monitor and evaluate the impact of the 1997 Alaska Tobacco Tax**
- **Monitor progress in achieving the National Education Goal that focuses on safe, disciplined, and drug-free schools.**
- **Support local school districts in assessment, implementation and evaluation of comprehensive school health programs.**
- **Set Priorities for statewide comprehensive school health education teacher training and instructional programs.**
- **Identify self-reported behaviors among youth, which put them at greatest risk for early morbidity and mortality.**
- **Provide comparable data between state and national results.**
- **Monitor progress in achieving Healthy Alaskan 2010 objectives.**
- **Support state policy development, evaluation, and/or revision.**
- **Provide the state with the most reliable and valid instrument available to assess risk behaviors.**

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

TONY KNOWLES, GOVERNOR

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April 17, 2002

Honorable Fred Dyson
House of Representatives
State Capitol – Room 104
Juneau, AK 99801-1182

Re: House HES committee hearing on HB 408

Dear Representative Dyson:

I. Introduction

Two issues arose during the hearing in the House HES committee on HB 408, held on April 11, 2002 which require some further clarification. Those issues are:

A. What are the consequences for teachers and other school district employees who disregard the anonymity and confidentiality protections contained in HB 408 if passed?

and

B. What is the effect of the case referred to as the "New Jersey case" on Alaska law governing student surveys?

II. Short Answer

A. The consequences for teachers and other school district employees who disregard the protections for students and families in HB 408 include employee discipline and, for certified teaching staff, the potential for a finding of an ethical or teaching practices violation by the Professional Teaching Practices Commission (PTPC) resulting in the potential for revocation or suspension of the certificate in certain circumstances. In addition a public servant may be charged with a misdemeanor crime under AS 11.56.860.

B. In the New Jersey case, *C.N. et al. v. Ridgewood Board of Education*, an appeals court remanded the case back to the trial court for further evidence of the voluntary nature of a student survey the trial court found to be voluntary without a trial. The New Jersey appeals court did not dispute or change the trial court's legal conclusion that the federal written parental consent provision would not apply to a voluntary and

anonymous survey. While this case serves as a guideline in reviewing student survey procedures it does not serve as legal precedent in Alaska and is not relevant to a voluntary survey as described in HB 408.

III. Analysis

A. Staff Consequences

The legislature has previously provided for both employee and certification consequences if a teacher or other staff member fails to follow the requirements contained in HB 408 if passed into law. In addition, a person who is or has been a public servant may be charged with a Class A misdemeanor for misuse of confidential information as defined in AS 11.56.860.

Under current Alaska law two governing bodies are responsible for ensuring compliance with applicable rules by the certificated staff of a school district. First, the school district is authorized to dismiss a teacher, even if tenured, for substantial noncompliance with the school laws of the state (including AS 14.03.110) the regulations or bylaws of the department, the bylaws of the district, or the written rules of the superintendent under AS 14.20.170(a)(3). A teacher is defined to include all certified school staff. A teacher who has not acquired tenure rights is subject to nonretention for the school year following the expiration of the teacher's contract for any cause that the district determines to be adequate under AS 14.20.175.

Second, disciplinary action may be imposed by the Professional Teaching Practices Commission (PTPC) if a school district did not act to address a violation of a school law such as HB 408. The PTPC may revoke or suspend a teaching certificate if a teacher fails to comply substantially with the school laws of the state or if the PTPC determines that there has been a violation of ethical or professional standards under AS 14.20.030 including a violation of an ethical standard. The ethical standards include a requirement that teachers "keep in confidence information that has been obtained in the course of providing professional service, unless disclosure serves a compelling professional purpose or is required by law" under 4 AAC 10.020(8).

In addition, a public servant may be charged with a Class A misdemeanor for the crime of misuse of confidential information if the person (1) learns confidential information through employment as a public servant and (2) while in office or after leaving office, uses the confidential information for personal gain or in a manner not connected with the performance of official duties other than by giving sworn testimony or evidence in a legal proceeding in conformance with a court order. This crime as well

as the employee and teaching practices standards appear to be adequate protections for students and families fearful of an unauthorized breach of confidentiality in connection with the administration of a voluntary and anonymous survey.¹

B. The Effect of the New Jersey Case in Alaska

Hearing testimony before the committee on HB 408 included references to a New Jersey case that challenged the administration of a student survey in that state under federal law. A federal trial court had determined prior to trial that the specific student survey had not violated statutory or constitutional requirements because it was anonymous and voluntary. An appeals court then reversed the decision because the district court had not permitted adequate discovery before reaching its summary conclusion.

The U.S. Court of Appeals for the 3rd Circuit decision has resulted in some confusion about its applicability to HB 408. The restrictions placed on student surveys by the Protection of Pupil Rights Amendment (P.P.R.A.), 20 U.S.C. 1232h provide that parental consent must be secured prior to requiring participation of a student in a survey if the survey addresses certain subjects. In *C.N. et al. v. Ridgewood Board of Education*, No. 01-1637 (Dec. 10, 2001) the appeals court reversed and remanded the case not because there was a particular problem with the survey but because the lower court's decision was reached by summary judgment without adequate discovery. The court remanded the case because discovery had not been permitted by the court to determine whether the students were adequately informed that the survey was "voluntary and anonymous" or whether the students were required to take the survey. (The other consideration upon remand will be that, if the survey was required, was the required participation in compliance with board policy to determine whether the board is immune from suit.)

The district court case, *C.N. et al. v. Ridgewood Board of Education*, 146 F.Supp.2d 528 (D.N.J. 2001) had dismissed the matter without trial on a determination that, under the PPRA, if the survey was "voluntary and anonymous" the PPRA was not applicable and written parental consent was not necessary. The ruling of the appeals court does not affect that legal analysis. Thus the case does not have a bearing on the current state law or the proposed changes in HB 408.

¹ In addition to the consequences described, a case pending before the United States Supreme Court, *Gonzaga University v. Doe* (Case No. 01-679), will decide whether parents or students have individual rights under the Family Education Records Privacy Act, that can be enforced through federal civil rights lawsuits. It is unclear, however, whether an anonymous survey falls within this federal act.

Honorable Fred Dyson
House of Representatives

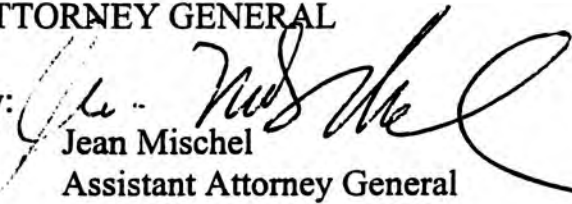
April 17, 2002
Page 4

While these cases serve as a guideline in reviewing student survey procedures it does not serve as legal precedent in Alaska and is not relevant to a voluntary survey as described in HB 408.

Sincerely,

BRUCE M. BOTELHO
ATTORNEY GENERAL

By:


Jean Mischel

Assistant Attorney General

JM:ebc

cc: Rep. Peggy Wilson
Rep. John Coghill
Rep. Vic Kohring
Rep. Gary Stevens
Rep. Sharon Cissna
Rep. Reggie Joule
Elmer Lindstrom, Deputy Commissioner, Dep't of Health & Social Services
Teri Campbell, Legislative Liaison, Dep't of Education & Early Development



Advocates for Alaska's Youth

AASB Position Paper Support for Changing the Active Parent Consent Provision to Passive Consent for Student Surveys

AASB supports modifying the requirements for parental or legal guardian permission for a student to participate in a questionnaire or survey administered in a public school by making it easier for school districts to obtain the necessary permission.

The current Alaskan statute requiring Positive Parent Consent has an unintended negative consequence of erecting barriers between school district programs and services which focus on the reduction of risk behaviors among youth and the government and non-profit agencies that fund these efforts. In order to increase accountability among programs and services, we need to evaluate the effectiveness of these efforts. In order to evaluate the effectiveness of our efforts, we need to gather data relating to risk behaviors and the corresponding assets of youth. In order to collect data, we need to reduce the barriers which interfere with school and agency efforts of collecting data that is confidential, legal, accurate, and relevant.

AASB believes that there are tangible benefits to conducting anonymous student surveys. In these times of accountability and accuracy, our member districts need data with which to weigh the effectiveness of their educational programs, monitor progress toward district wide objectives related to the health, safety, and well being of youth, and direct programs and services to the areas of greatest benefit.

Research and common sense shows us that parents sent an Active Consent Request Form are more likely not to sign and return the form due to apathy or inertia, rather than an objection to the survey itself.

AASB supports legislation which would:

- allow each public school district to establish the policies and guidelines related to student surveys, and
- eliminate the current unfunded mandate by replacing Active Parent Consent with Passive Parent Consent.

AASB supports the efforts of the legislature to provide local boards of education and each community with the tools necessary to increase student achievement and protect the health and safety of children and youth.

ANCHORAGE SCHOOL DISTRICT Legislative Priorities 2002

Revise Parental Permission Requirements for Questionnaires and Surveys Administered in Public Schools

The Anchorage School Board supports modifying the requirements for parental or legal guardian permission for a student to participate in a questionnaire or survey administered in a public school by making it easier for school districts to obtain the necessary permission. As a result of the passage of H.B. 70 in 1999, schools are unable to obtain an adequate sample to provide reliable information.

Rationale: For state and federal grants, school districts need school-by-school data to accurately assess the need and success of current efforts. The low response rates on the 2001 Youth Risk Behavior Survey (YRBS) made this kind of detailed data impossible. In Anchorage, for example, the Anchorage School District Safe and Drug Free Schools had seven grants asking for such data. During the fall 1999 Site Review, Federal auditors put the ASD Safe

and Drug Free Schools program on notice that it was bordering on non-compliance due to lack of current data. The program lost three grants totaling \$296,915. Other grants have not been applied for because the criteria indicated that without contemporary data, the application would not be competitive. Other youth-serving agencies and programs in Anchorage and throughout the state face similar grant rejection prospects.



Lower
Kuskokwim
School
District

Department Of Academic Programs & Support

P.O. Box 305
Bethel, AK 99559
fax: 907-543-4924
Phone: 907-543-4806

February 19, 2002

To Whom It May Concern:

This letter is to show the Lower Kuskokwim School District's support for the bill to repeal the active parental consent required for students to fill out surveys at school.

Our school district has had excellent participation in past Youth Risk Behavior Surveys. The data was not only reliable but extremely valuable. We routinely shared the YRBS report with local organizations that provide services aimed at prevention and intervention of high-risk behaviors. It was discouraging and damaging to have lost such a critical tool for measuring health related behaviors in our student population.

We have used the data from the surveys to provide direction in instructional programs and to apply for grant monies targeted at high-risk kids. Teachers and parents alike were interested in identifying the types of risky behaviors students were exposed to. Having reliable data to compare local statistics with state and national data was also informative. The information was sorely missed this past year by our school district and community organizations.

In our district, much effort was expended to secure active parental consent for the most recent survey. The importance of full participation was stressed to teachers, students and parents. It was crucial that we try to match the level of past participation so we could continue receiving viable results from the survey. It was disappointing to see how drastic the drop in participation was after requiring the extra paperwork from schools, parents and students.

Even though we pushed very hard for active consent, there was risk in only gathering data from pre-selected students. The data would be biased if it only came from students whose parents signed the forms. Kids with high-risk behaviors are often ones who neglect to get paperwork in and it is likely that the results would be biased. In order to encourage students to answer survey questions truthfully we must show that their answers will be couched amid anonymity. If students knew that only a handful of their peers were completing surveys, they may not feel safe giving truthful information for fear of being identified from such a small field of participants.

The only way we can gather reliable data is to encourage maximum participation in the survey by making it as easy as possible for it to be administered. We strongly encourage the passage of this bill.

Thank you,

Julie McWilliams
Education Specialist, LKSD

David Moore, Ph.D.
Associate Director
Safe and Drug Free Schools
dmoorephd@yahoo.com

University of Washington
College of Education
*Center for the Study and Teaching
of At-Risk Students (C-STARS)*

This testimony is in support of the Alaska State Legislature's proposal to remove the provision requiring active parental consent for school districts conducting surveys to determine the ongoing health needs of their student population.

The current survey model is not valid and under-reports serious youth health problems. The White House's Office of National Drug Control Policy determined that surveys requiring active parental consent are invalid (Dent et al, 1995). They under-report various problem health behaviors, including marijuana use and a range of risk taking behaviors.

Currently, the legislature cannot audit the effectiveness of many youth health care programs. Unless this requirement is removed, Alaska cannot accurately measure the impact of many of their children, youth and family services programs. Citizens cannot track the value and effectiveness of many programs, including those targeting violence and substance abuse reduction in communities.

Loss of federal funds to other states. Alaskan programs competing for federal grant funding are at a disadvantage to programs from other states that can offer program evaluation using valid student surveys that do not require active parental consent. This is a particular barrier in receiving the state's fair share of competitive substance abuse and violence prevention grants. Valid program evaluation methods are 15-30% of the scoring.

Recent passage of the Bush "Leave no child behind" education bill removed mandatory active parental consent and replaced that provision with guidance for local decision-making:

"A local educational agency that receives funds under any applicable program shall develop and adopt policies, in consultation with parents, regarding the following: The right of a parent of a student to inspect, upon the request of the parent, a survey created by a third party before the survey is administered or distributed by a school to a student; and (ii) any applicable procedures for granting a request by a parent for reasonable access to such survey within a reasonable period of time after the request is received."

This provision allows for fully informing parents and allowing them to opt out of the survey. Districts can make decisions on a more individualized basis. In particular, they can allow passive consent for critical health surveys such as the Youth Health Behavior Survey; while requiring active parental consent for less important surveys.

The legislature should allow for local control, on an individualized basis, of school surveys.



SOUTHEAST ALASKA REGIONAL HEALTH CONSORTIUM

3245 HOSPITAL DR • JUNEAU, ALASKA 99801 • (907) 463-4000 • FAX: (907) 463-4075

February 14, 2002

To Whom It May Concern:

In 1995, Southeast Alaska Regional Health Consortium worked with the Juneau School District to conduct the Youth Risk Behavior Survey. Utilizing grant funding from the federal Centers for Substance Abuse Prevention, SEARHC provided extensive financial and staff support to conduct the survey with the requirement that positive parent consent be obtained for each student. SEARHC wanted to be sure the data collected was accurate and meaningful which meant working hard to ensure a large percentage of parent consent forms were returned, with as many positive consents as possible.

SEARHC employed a part-time staff person who worked for approximately 3 - 4 months focusing on organizing the effort to obtain positive parental consent. Incentives were provided to students and teachers to encourage them to return the parental consent forms (regardless of whether the consent was positive or negative). Classes who returned 90% of the consent forms got to have a pizza party and the teachers received a financial incentive to cover extra classroom supplies. Students were given consent forms in class to take home and return to school, for those who did not return the consent forms a new form was mailed directly to the parents. Parents who still did not respond were contacted by phone by volunteers from the Mayor's Task Force on Youth. Throughout the effort, the emphasis was on returning the consent form whether consent was positive or negative. Tracking the paperwork was an arduous task.

Efforts were made to educate parents about the importance of accurate data on youth risk behaviors. Presentations were made to parent groups at each school, information was printed in the newspaper, and copies of the survey were available for parents to review at multiple locations in each school. When parents received education about the survey, the majority recognized the importance of accurate data in developing programs and choosing priorities and readily gave their consent. The big struggle was getting students to return the form, when the form was returned the vast majority of parents gave positive consent. Only a small number refused to allow their child to participate in the survey and this request was always honored.

Juneau was able to get enough consent forms returned to make the survey results accurate, but this came at a great expense of both time and money. It would have been much more beneficial to have used the time and money to implement programs to prevent substance use rather than collecting and counting papers. In future years, SEARHC was not able to provide the same support to obtain consents and instead focused on substance abuse prevention programs.

Sincerely,

Jeannie Monk, MPH
Former Health Promotion Manager & YRBS Coordinator

Subject: positive parental permission for surveying

Date: Fri, 15 Feb 2002 14:44:31 -0900

From: "Dawn Miller" <dmiller-ncaddj@ak.net>

To: <Representative_Con_Bunde@legis.state.ak.us>

Rep. Bunde,

I'm writing to convey my support for HB 408. As a provider of services to youth who are at risk of chemical dependency, teen pregnancy, acts of violence and school drop out, I cannot stress how crucial it is that the prevention community be able to assess youth's behaviors, attitudes and knowledge surrounding these issues. I urge you to convey to all participating parties how necessary the information in these surveys is to providing appropriate, effective prevention programming for our youth.

Thank you,

Dawn Miller

National Council on Alcoholism and Drug Dependence

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JANUARY 2002

C.N. v. Ridgewood Board of Education

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

New Jersey

NO. 01-1637

C.N., individually and as Guardian Ad Litem of J.N., a minor;
L.M., individually and as Guardian Ad Litem of V.M., a minor;
M.E., individually and as Guardian Ad Litem of J.E., a minor,
Appellants

v.

RIDGEWOOD BOARD OF EDUCATION; FREDERICK J. STOKLEY; JOYCE SNIDER; RONALD
VERDICCHIO; ROBERT WEAKLEY; JOHN MUCCILO; ANTHONY BENCIVENGA; SHEILA
BROGAN

On Appeal from the United States District Court
for the District of New Jersey
(D.C. Civil No. 00-cv-01072)
District Judge: Honorable Nicholas H. Politan

Argued November 9, 2001
Before: MCKEE, RENDELL, and STAPLETON, Circuit Judges

(Filed: December 10, 2001)

OPINION

Appellants C.N., et al., appeal from a grant of summary judgment in favor of the Ridgewood Board of Education and individually named defendants. C.N. urges that it was inappropriate to grant summary judgment without affording the opportunity to conduct discovery. We agree with C.N.'s contention. We will REVERSE in part and AFFIRM in part, the Order of the District Court, and REMAND for proceedings consistent with this Opinion. Because we are writing solely for the parties who are familiar with the facts and the procedural history, we will focus on the reasons for our decision. Our review of a grant of summary judgment is plenary, and the case is properly before us under 28 U.S.C. § 1291, since it is an appeal from a final judgment.

The District Court granted summary judgment to the Board of Education and to the individual Defendants on their proffered defenses of qualified immunity. Although both statutory and constitutional claims were raised, the District Court's opinion analyzes the statutory claims more closely. There is only one statutory provision before us on appeal, the Protection of Pupil Rights Amendment (P.P.R.A.), 20 U.S.C. § 1232h, which provides that parental consent must be secured prior to requiring students to submit to a survey or testing eliciting responses in any of several enumerated categories.

Under *Monell v. Dept. of Social Services of the City of New York*, 436 U.S. 658 (1978), § 1983 liability can attach to local governmental units when the allegedly unconstitutional action "implements or executes a policy statement, ordinance, regulation, or decision officially adopted and promulgated by that body's officers." *Id.* at 690. In order for the Board of Education to be liable for the administration of the survey, the students must have been required to take the survey, and the requirement must have been in compliance with Board policy, not in violation of it.

In determining that there could be no liability as to the Board, the District Court equated a letter submitted by the Superintendent of Schools that informed parents approximately two months prior to the survey's administration that the survey would be administered voluntarily and anonymously with "Board policy." The Court reasoned that because the Board policy was that the survey be voluntary, it was not "required" as specified in the statute, and the Board had not violated the students' rights. Yet, the record reveals that the Superintendent is a non-voting member of the Board. A different Board member, Sheila Brogan, was actually assigned to the community group responsible for the survey. C.N. did not have the opportunity to depose her, nor to depose the remaining Board members to determine their understanding of Board policy. On summary judgment, it is initially the burden of the moving party — as to Board policy, the Board of Education — to demonstrate that there are no genuine issues of material fact, and that there are no unexplained gaps in the material facts presented. *Ideal Dairy Farms, Inc. v. John Labatt, Ltd.*, 90 F.3d 737, 743 (3d Cir. 1996). The party opposing summary judgment must then come forward and demonstrate by specific facts that there is a genuine issue for trial. *Id.* We have two problems with the District Court's grant of summary judgment as to the Board. First, the letter from the Superintendent does not conclusively establish Board policy. Second, even if the letter is probative as to the Board policy, C.N. never had the opportunity to challenge or probe through discovery what was offered as, and what actually was, the Board's policy.

C.N. repeatedly sought discovery. The Magistrate judge sua sponte foreclosed discovery initially and, despite repeated requests, the Court never permitted discovery to proceed. Because in order to withstand a Motion for Summary Judgment the non-moving party must demonstrate at a minimum sufficient evidence to demonstrate a genuine issue of fact (see, e.g., *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 250 (1986)), and the evidence was not within plaintiff's control absent limited discovery, it was necessary for C.N. to have discovery in order for the Court adequately to weigh the propriety of a grant of summary judgment in favor of the Board. Consonant with the provisions of Fed. R. Civ. P. 56(f), the attorney for C.N. submitted an Affidavit explaining why C.N. needed discovery in order to withstand the Motion for Summary Judgment. App. at 287-89. In *Anderson*, 477 U.S. at 250 n.5, the Supreme Court noted that Rule 56(f) provides that "summary judgment be refused where the non-moving party has not had the opportunity to discover information that is essential to his position." *Id.* The burden on the non-moving party is thus premised on the assumption that "both parties have had ample opportunity for discovery." *Id.* On the facts before us, it was premature to grant summary judgment without allowing at least limited discovery.

The District Court granted summary judgment as to the remaining individual defendants based primarily on qualified immunity. Throughout its opinion, the District Court focused on the voluntary nature of the survey to support the grant of qualified immunity. However, the narrow issue of whether the survey was in fact "required" is actually a disputed fact issue based on the record. Affidavits from students, and the narrative of a conversation between a parent and one of the building principals, indicate that at least some of the students were not informed that the survey was voluntary, and that the circumstances that surrounded the administration of the survey were — given the nature of the school setting — sufficient to infer that those students were required to take the survey. Given this factual dispute, summary judgment should not have been granted on this basis. If a jury would find that the students were actually required to take the survey, then the District Court would have to address the further question in the qualified immunity analysis as to whether a teacher or principal in this setting would have reasonably understood that the survey was being administered in violation of the law. The facts that would inform these issues have not been the subject of discovery.

Qualified immunity, in the often repeated rhetoric of the Supreme Court, provides that "government officials performing discretionary functions generally are shielded from liability for civil damages insofar as their conduct does not violate clearly established statutory or constitutional rights of which a reasonable person would have known." *Harlow v. Fitzgerald*, 457

U.S. 800, 817-18 (1982). The precise act in question need not have been previously held unlawful, but the "contours of the right must be sufficiently clear" that a reasonable official performing the duties of the defendant would be on notice that his actions violated that right. *Gruenke v. Seip*, 225 F.3d 290, 299 (3d Cir. 2000).

While the Supreme Court has recognized that part of the purpose of the *Harlow* standard was to prevent unnecessary discovery, it has also acknowledged that not all defenses of qualified immunity can be properly disposed of on summary judgment without at least limited discovery. *Crawford-El v. Britton*, 523 U.S. 574, 593 (1998). We believe that in these narrow circumstances, where the questions of law as to the applicability of the statute and the actions and knowledge of the principals and teachers as to the nature of the survey are fact-bound, discovery would be appropriate, if not essential. Even without discovery, the record reveals, for example, the survey materials that were furnished to the School District (and invoiced to the Board) included copies of the P.P.R.A. Both sides agree, and did not disagree before the District Court, that the survey was purchased at least in part with federal grant funds. In the job descriptions attached for the individual defendants, several had responsibility for implementing state and federal laws, for grant administration and oversight, and for other areas in which they would be expected to have known of the statutes and regulations. Whether the entire packet of survey materials were provided to each of the individual defendants, and whether each defendant was aware that the survey had been purchased with grant funds and whether compliance with the P.P.R.A. was required by the terms of the grant is a question of fact that should not be disposed of in favor of the individual defendants on summary judgment without discovery.

In addition to its qualified immunity analysis, the District Court dismissed C.N.'s constitutional and statutory claims on their merits. As in the qualified immunity analysis above, C.N. should have the opportunity to argue the merits of the violation of the P.P.R.A. after being permitted to engage in discovery. The District Court's ruling on the merits was premature. C.N. also raised several constitutional claims. We agree with the District Court that, as a matter of law, C.N. has failed to allege a violation of the Fifth Amendment protection against compelled self-incrimination. Under our standard enunciated in *Fraternal Order of Police Lodge No. 5 v. City of Philadelphia*, 859 F.2d 276, 282-83 (3d Cir. 1988), compulsion in the Fifth Amendment context has an accepted meaning. In order for self-incrimination to be compelled, there must be a coercion that attaches significant penalties to non-compliance. While we did not define what the lower threshold of such threat would be in *Fraternal Order of Police*, we did note there that neither the parties nor we had found an "action short of firing that an employer could take that could constitute compulsion within the meaning of the fifth amendment. . . ." *Id.* at 283 and n.6. Here it was alleged that some students were informed that they would have been assigned unexcused absence had they not reported to take the survey. Like the alleged denial of promotion in *Fraternal Order of Police*, the harm that would result from compliance with the process is insufficient to constitute coercion within the meaning of the Fifth Amendment. *Id.*

We are not, however, prepared to say that C.N. could not, as a matter of law, establish any set of facts which would demonstrate violations of the other constitutional rights asserted. We believe that a conclusion as to the contours of these guarantees is specific to the factual setting and should be reached after discovery.

For the reasons cited above, we will AFFIRM the District Court's dismissal of C.N.'s Fifth Amendment self-incrimination claim, but REVERSE the remaining aspects of the District Court's Order and REMAND to the District Court for proceedings consistent with this Opinion.

TO THE CLERK OF COURT:

Please file the foregoing Unreported-
Not Precedential Opinion.

/s/Marjorie O. Rendell
Circuit Judge



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Literature Review

Passive vs Active Parental Consent –How Does the Chosen Methodology Effect Parental Rights and Does it Influence the Quality of the Data Collected?

The purpose of this literature review is to specifically answer the following questions:

- 1) what does the research say about parental rights when **passive** consent is the chosen parental consent methodology.
- 2) what are the costs of active versus passive consent, and
- 3) what are the effects of **active** consent procedures on scientific validity and reliability of the data.

The following, summarizes and synthesizes the information collected in this literature search.

DEFINITIONS

Ellickson and Hawes (1989). define active and passive parental consent as follows:

- 1) **Passive parental consent:** A letter is sent home to parents informing them of the selection of their child in the sample as well as detailing information regarding the survey. Parents must send back a signed *exclusion* form, or directly inform the principal at their child's school if they **DO NOT** want their child to participate in the survey. Otherwise, parental consent is implied.
- 2) **Active parental consent:** A letter is sent to parents describing the survey and informing them of the selection of their child in the sample. Parents must send back a signed parental consent form **BEFORE** their child can participate in the survey. Under active parental consent procedures, parents who do not return a permission slip, as well as those individuals who indicate on the form that they do not want their child to participate in the survey are treated as parental refusals. The above definitions appear to be consistent through out the literature.

IS PASSIVE CONSENT "CONSENT"

A key issue in the passive consent debate revolves around the number of parents who would have refused if active consent had been used. Ellickson and Hawes. (1989) through extensive follow-up with parents from both active and passive consent procedures. found that failure to return a form is considerably more likely to reflect latent consent than latent refusal. Specifically, Ellickson and Hawes found that when parents who were informed via passive consent were asked about their decision for their child to participate or not, the great majority of parents (87%) said that yes, they had received the materials, understood them, and decided to allow their child to participate. Research indicates that carefully designed passive consent methods can avoid the negative consequences of active consent while ensuring that parents receive the consent materials, pay attention to them, and have sufficient time to refuse participation. Additionally, Catalona (1994) also found failure to return a signed active consent form is more likely to reflect apathy or inertia than objection to the research. Strasburger (1998) believes active parental consent requires overly stringent informed consent procedures, especially when applied to **anonymous confidential surveys**.

COST OF ACTIVE CONSENT VERSUS PASSIVE CONSENT

In a study of two schools, Ellickson and Hawes (1989) examined refusal rate associated with active and passive consent procedures. They found that in the school requiring passive consent 93% of the students participated, compared to 86% in the schools requiring active consent. One might assume that 86% participation is quite good for active consent, but it came at a high cost in terms of time and money. Three mailings, at least two follow-up phone calls to all non-respondents, two special parent meetings and daily reminders by classroom teacher to students to return their forms were the efforts needed to obtain an 86% participation rate. Ellickson and Hawes estimated that for a sample of 7,500 students, active consent would cost

\$112,500 and require a minimum of 20 interviewers working full time for 3 weeks to obtain the 86% participation rate. It is important to note that the estimated cost of \$112,500 was calculated in 1987, and it is with certainty that those costs would be much higher today.

SCIENTIFIC VALIDITY

Researchers who have used active consent report that it yields unacceptably low response rates (50-60%) and underrepresentation of important groups—Blacks, Asian Americans, low achievers, students with less well-educated parents, and those at risk for engaging in high risk or problem behaviors (Kearney 1983, and Anderman, Cheadle, Curry, Diehr, Shultz, Wagner, 1995). Conversely, passive consent procedures can garner response rates of 80-96% (Severson and Biglan 1989; Murry and Hannan 1990; Landis and Janes 1995). Low response rates and sample bias under active consent procedures have been and continue to be problematic in terms of collecting quality data that is generalizable and representative of the population. Although these methodological concerns can be reduced through researchers' efforts and diligence, the cost and personnel efforts required can be prohibitive (Ellikson and Hawes 1989; Kearney et al. 1983).

Reliability of the 1999 Youth Risk Behavior Survey Questionnaire

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Running head: Reliability of the 1999 YRBS Questionnaire

ABSTRACT

Purpose: To assess the test-retest reliability of the 1999 Youth Risk Behavior Survey (YRBS) questionnaire.

Methods: A sample of 4,619 male and female high school students from white, black, Hispanic, and other racial/ethnic groups completed the YRBS questionnaire on two occasions approximately 2 weeks apart. The questionnaire assesses a broad range of health-risk behaviors. This study used a protocol that maintained anonymity yet allowed matching of time 1 and time 2 responses. The authors computed a kappa statistic for the 72 items measuring health-risk behaviors, and compared group prevalence estimates at the two testing occasions.

Results: Kappas ranged from 23.6% to 90.5%, with a mean of 60.7% and a median of 60.0%. Kappas did not differ by sex, grade, or race or ethnicity of the respondent. About one in five items (22.2%) had significantly different prevalence estimates at time 1 versus time 2. Ten items, or 13.9%, had both kappas below 61% and significantly different time 1 and time 2 prevalence estimates.

Conclusions: Overall, students appeared to report health-risk behaviors reliably over time, but several items need to be examined further to determine whether they should be revised or deleted in future versions of the YRBS.

Keywords: adolescence; data collection; health surveys; psychometrics

INTRODUCTION

The Youth Risk Behavior Surveillance System (YRBSS) was developed in 1989 by the Centers for Disease Control and Prevention (CDC) to monitor health-risk behaviors that contribute to the leading causes of mortality, morbidity, and social problems among youth and adults in the United States. The YRBSS monitors six categories of behaviors: (1) those that contribute to unintentional injuries and violence; (2) tobacco use; (3) alcohol and other drug use; (4) sexual behaviors that contribute to unintended pregnancy and sexually transmitted disease, including human immunodeficiency virus infection; (5) dietary behaviors; and (6) physical activity.

The YRBSS consists of national, state, and local school-based surveys of representative samples of students in grades nine through 12, a national household-based survey of 12- through 21-year-olds, a national survey of college students, a national survey of alternative school students, and other surveys of special populations of young people. These surveys all use a similar instrument, the Youth Risk Behavior Survey (YRBS) questionnaire, that was developed with extensive research and testing (1).

Data from the YRBSS are used to develop policies and programs to prevent health-risk behaviors among youth (2). It is important, therefore, to have confidence in the reliability of these data. Studies of other measures have demonstrated the reliability of adolescent self-report of tobacco, alcohol, and other drug use (3, 4); sexual behavior (5); suicide attempts (6); dietary behaviors (7, 8); and physical activity (8-10). In addition, a recent study by Klein et al. examined the reliability of many YRBS items (11). These studies, however, were limited by small sample

sizes and, in most cases, by a lack of diversity within those samples. Further, with the exception of the study by Klein et al., none of these studies assessed the reliability of all categories of health-risk behavior. Such an assessment would allow for between-category comparisons.

In 1992, CDC conducted a test-retest reliability study of the original YRBS questionnaire (12). That study was the first to demonstrate the test-retest reliability of all categories of health-risk behavior among a diverse sample of adolescents. The study found that nearly three-quarters of the questionnaire items had "substantial" or higher reliability, according to the categories suggested by Landis and Koch (13). In addition, the study found that the responses of seventh-grade students were less consistent than those of students in higher grades.

Over the past decade, CDC has modified the YRBS questionnaire to meet federal needs and those of the state and local health and education agencies that conduct the surveys in their jurisdictions. These modifications have included the addition of new questions, as well as changes in the wording of original questions. Because of these modifications, it has become desirable to conduct a reliability study of the updated questionnaire. The present study, therefore, assessed the test-retest reliability of that questionnaire on a large and diverse sample of high school students.

METHODS

Sample

A convenience sample of respondents was drawn from 61 schools in 20 states plus the District of Columbia. Because the goal of sampling was to obtain a diverse group of

respondents, the 20 states were geographically dispersed. In addition, 48 percent of the schools in the sample were in urban areas, 39 percent were in suburban areas, and 13 percent were in rural areas (14). Selection of ninth through 12th grade classes within each volunteer school varied according to the school's schedule. In about half of the schools, students in health education or physical education classes were eligible to participate. In about one-quarter of schools, students in required academic subjects (e.g., English) were eligible to participate. In other schools, all students were eligible to participate. In each school, local parental consent procedures were followed. This study was approved by CDC's Institutional Review Board.

Of the 6,802 students enrolled in the selected classes, 5,216 (77 percent) completed questionnaires during the first survey administration. The remaining 23 percent were absent on the day of the survey, failed to return a parental consent form, or, to a much lesser extent, refused to participate or had parents who refused to have their child participate. Of those who completed questionnaires in the first administration, 4,628 (89 percent) completed questionnaires during the second administration. Nine students did not have matching identification numbers on time 1 and time 2 questionnaires. The final sample, therefore, consisted of 4,619 students.

As shown in Table 1, the demographic characteristics of the sample were similar to the national distribution of ninth through 12th grade students (15). For some groups, the sample percentage differed from the national percentage by more than five percentage points. Specifically, 10th-grade students were overrepresented and 12th-grade students were underrepresented. In addition, white students and Hispanic students were underrepresented, but black students were overrepresented.

Questionnaire

As part of a larger study designed to test the reliability of all of the items and the effect of alternative question wording for some items, eight very similar forms of the questionnaire were developed. All questionnaires were self-administered and consisted of between 97 and 100 multiple-choice questions. Five questions measured demographic information, two asked students to report their height and weight, and the remaining items assessed health-risk behaviors. The questionnaires were identical to the instrument used in the 1999 national YRBS, except for three alternatively-worded questions on certain forms, and five questions not on previous versions of the YRBS. The results related to the alternatively-worded and new questions are beyond the scope of this article.

Data collection began in February 2000 and was completed in April 2000. The questionnaire was administered in a regular classroom setting and took students about 40 minutes to complete. A standard computer-scannable questionnaire booklet contained the questions and was used to record responses. As with the standard YRBS, no skip patterns were included in the questionnaire. This technique helps to safeguard privacy, because comparable amounts of time are required to complete the questionnaire regardless of risk behavior status, and because students cannot detect the risk behaviors of other students simply by looking at the pattern of responses.

Data collection procedures

Before the first survey administration, a unique number was assigned to two scannable questionnaire booklets. Each set of two identically-numbered booklets was placed in an envelope. During the administration of the first survey, students removed and used one booklet. The envelope, now containing only the second booklet, was then sealed by the student, who wrote his or her name across the seal. During the second survey administration, each student received the envelope with his or her name across the seal. After removing and completing the second booklet, the student destroyed the envelope. This technique has been used successfully in previous studies, and students perceive that it adequately safeguards their privacy (12, 16).

The survey was conducted by trained data collectors from Macro International Inc. (ORC Macro). The data collectors read aloud scripts that explained the survey procedures. Students were informed during the first survey administration that they would be asked to complete a "very similar" questionnaire a few weeks later. Other than that variation, the administration procedures used in this study were the same as those used for the standard YRBS.

For 57 percent of the schools, the first and second administrations of the survey were exactly 14 days apart. The first and second survey administrations in the remaining schools ranged from 10 to 22 days, with an average span of 15.6 days.

Data analysis

Collapsing and editing procedures. After the questionnaire booklets were cut and scanned, the data were edited for inconsistency according to standard YRBSS procedures. These

procedures exclude questionnaires that do not have more than 20 valid responses or have the same response option 15 or more times in a row. Although many questions contain multiple response categories, standard YRBSS reports dichotomize responses into "no risk" versus "at risk." For example, students who responded that they carried a weapon on 0 of the past 30 days are classified as "no risk," while those who reported that they carried a weapon on 1 or more of the past 30 days are classified as "at risk." Because we wanted to examine how the data perform in standard YRBSS reports, these same procedures were followed for the analyses reported here.

Fourteen items using "the last time" and "in the past 7 days" as the reference period could not be expected to be consistent across a 2-week timeframe and were eliminated from the analysis. In addition, the five questions not on previous or current versions of the YRBS questionnaire were eliminated from the analyses for this study.

Kappa statistic and prevalence rates. A kappa statistic, which provides a measure of agreement that corrects for what would be expected by chance, was computed for each of the 72 items. Prevalence rates for each risk behavior at time 1 and time 2 also were calculated. These rates were considered significantly different if their 95 percent confidence intervals (CIs) did not overlap. This is the same criterion used in assessing the statistical significance of subgroup differences in reports of YRBSS data (17).

RESULTS

Kappas ranged from 23.6 percent to 90.5 percent, with a mean of 60.7 percent and a median of 60.0 percent (Table 2). Using qualitative labels for values of kappa suggested by

Landis and Koch (13), 47.2 percent of items had at least "substantial" reliability (kappas ≥ 61 percent), and 93.1 percent had at least "moderate" reliability (kappas ≥ 41 percent). Based on nonoverlapping 95 percent CIs, 22.2 percent of items had significantly different prevalence estimates at time 1 versus time 2. Ten items, or 13.9 percent, had both kappas below 61 percent and significantly different time 1 and time 2 prevalence estimates.

Examination of reliability by respondent characteristics revealed no significant differences in mean values of kappa by gender, grade, or race or ethnicity (Table 3). In addition, although mean kappas were somewhat higher for questions that used lifetime as a reference period than those that used the past 30 days and the past 12 months, these differences were not statistically significant.

Examination of reliability by risk behavior category, however, did reveal some significant differences. Specifically, items related to tobacco use demonstrated significantly higher reliability (mean kappa = 68.8 percent) than items related to unintentional injuries and violence (mean kappa = 59.9 percent), dietary behaviors (mean kappa = 50.0 percent), physical activity (mean kappa = 55.2 percent), and other health-related topics (mean kappa = 49.7 percent). In addition, items related to alcohol and other drug use (mean kappa = 63.4 percent) and those related to sexual behavior (mean kappa = 62.7 percent) demonstrated significantly higher reliability than items related to dietary behaviors, physical activity, and other health-related topics. Finally, items related to unintentional injuries and violence demonstrated significantly higher reliability than those related to dietary behaviors and other health-related topics.

This pattern of results is parallel to that found when examining which risk behavior

categories were more likely to have items with significantly different time 1 and time 2 prevalence estimates. For example, while none of the 13 items related to tobacco use had significantly different time 1 and time 2 prevalence estimates, four of seven dietary behavior items, two of five physical activity items, and six of 20 injury-related items did demonstrate significant differences between time 1 and time 2.

DISCUSSION

Nearly all items on the YRBS questionnaire had at least "moderate" reliability and nearly half had "substantial" reliability. Several items, however, had low reliability and significantly different time 1 versus time 2 prevalence estimates. These items need to be examined further to determine whether they should be revised or deleted in future versions of the YRBS.

The overall findings can be compared to those found in the reliability study of the original YRBS questionnaire (12), as well as the recent study by Klein et al. that included a subset of YRBS items (11). While the results of the earlier YRBS reliability study and Klein's study were quite similar, the kappa values in the current study tended to be lower than those in the previous studies, with a few exceptions. The results of all three studies were similar, however, with respect to the relationship between demographic variables and reliability. That is, among high school students, values of kappa did not differ by gender, grade, or race or ethnicity (11, 12).

One reason that the mean kappa was lower in the present study than in the previous YRBS reliability study is that many of the items that have been added to the YRBS questionnaire since the earlier study showed kappas lower than 61 percent. Most of those items, however, such

as those measuring behaviors on school property, were of low prevalence. Very low and very high prevalences can adversely affect kappa values, because it only takes a few respondents changing their responses between time 1 and time 2 to have a substantial effect on kappa (18). For example, the item assessing whether students smoked a usual brand of cigarettes had a kappa of 37.3 percent, but the prevalences at time 1 and time 2 were 1.6 percent and 1.5 percent respectively.

This study showed that items related to tobacco use, alcohol and other drug use, and sexual behavior demonstrated significantly higher reliability than items related to dietary behaviors, physical activity, and other health-related topics. This is not surprising, given that behaviors related to substance use and sexual activity are likely to be more salient to adolescents, and therefore more reliably recalled, than behaviors related to nutrition, physical activity, and other health-related topics such as health care (19). Notably, the items related to health care tended to be less reliable than most of the items related to substance use and sexual activity, a finding similar to that of Klein et al. (11).

Limitations

As in other test-retest reliability studies (11, 12), any inconsistent response in this study was considered to be a response error when calculating kappa. It is possible, however, that an inconsistent response between time 1 and time 2 could reflect an actual behavior change. For example, a student could report at time 1 that he had not smoked cigarettes in the past 30 days, then report at time 2 that he had smoked in the past 30 days. Such responses would be

inconsistent yet accurate if the student did indeed smoke during the 2-week test-retest interval and not before. The values of kappa computed for this study, therefore, must be considered to be conservative estimates.

Although reliability is a necessary characteristic of a valid measure, the demonstration of the reliability of items on the YRBS questionnaire does not ensure the instrument's validity. While research with adolescent populations has demonstrated the validity of self-reported alcohol and other drug use (3, 20), tobacco use (21-25), suicidal ideation (26), sexual behavior (27, 28), dietary behaviors (29, 30), and physical activity (31), much work remains to be done in assessing the validity of self-report measures of all types of health-risk behaviors. This is a challenge, given the lack of objective measures, or "gold standards," for many behaviors of interest. Even when objective measures exist, as is the case for tobacco use and drug use, the use of these measures is not without limitations, especially among adolescent populations (32, 33). To address these issues, researchers have used various techniques, such as randomized response (34), bogus pipeline (35), and computer-assisted data collection (36), with mixed results. Future research should examine ways to encourage even more reliable and valid self-reports of health-risk behaviors among adolescents.

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Table 1. Demographic Characteristics of Respondents and of Students in Grades 9 Through 12 Nationwide

Characteristic	Sample Distribution (%)	National Distribution* (%)
Gender		
Male	46.6	51.0
Female	53.4	49.9
Grade		
9	30.6	25.7
10	31.8	25.7
11	21.9	24.5
12	15.7	24.1
Race or ethnicity		
White	52.2	64.8
Black	31.4	12.1
Hispanic	6.1	13.3
Other	10.3	N/A
Age (years)		
13	0.1	1.4
14	12.4	17.4
15	28.9	24.0
16	28.5	24.5
17	21.2	22.3
18	8.9	6.7

*Source: U.S. Bureau of the Census. School enrollment--social and economic characteristics of students: October 1998. Current Population Reports, Series P-20, no. 521.

Table 2. Kappa Statistics, Time 1, and Time 2 Prevalence Rates, by Questionnaire Item

Item	Kappas (%)	Time 1 (%)	Time 2 (%)
Behaviors related to unintentional injuries and violence			
Rarely or never wear helmet when riding a motorcycle	66.1	37.8	46.8*
Rarely or never wear helmet when riding a bicycle	75.8	84.6	83.8
Rarely or never wear seatbelt when riding in a car	61.6	15.7	19.6*
Rode with drinking driver during the past 30 days	60.3	30.3	29.6
Drove after drinking during the past 30 days	57.2	8.5	10.3*
Carried weapon ≥ 1 day during the past 30 days	65.7	15.0	13.3
Carried gun ≥ 1 day during the past 30 days	50.8	4.2	4.4
Carried weapon on school property ≥ 1 day during the past 30 days	57.7	5.1	5.7
Felt too unsafe to go to school ≥ 1 day during the past 30 days	42.0	5.5	5.0
Threatened or injured with weapon on school property ≥ 1 time in the past 12 months	40.6	7.3	5.9
In a physical fight ≥ 1 time during the past 12 months	67.8	34.6	30.3*
Injured in a physical fight ≥ 1 time during the past 12 months	47.0	2.9	4.4*
In a physical fight on school property ≥ 1 time in past 12 months	64.4	13.1	12.4
Physically hurt by boyfriend or girlfriend during the past 12 months	53.6	9.1	9.9
Ever forced to have sexual intercourse	65.8	9.1	10.3
Felt sad and hopeless during the past 12 months	56.4	28.2	24.1*
Considered suicide during the past 12 months	74.3	17.0	16.0
Planned suicide during the past 12 months	66.6	13.0	12.9
Had ≥ 1 suicide attempt during the past 12 months	72.7	8.4	8.5
Had injurious suicide attempt during the past 12 months	52.3	2.1	2.7
Tobacco use behaviors			
Ever used cigarettes	85.7	65.8	63.9
Age first smoked whole cigarette < 13 years	70.9	21.4	23.7
Smoked cigarettes ≥ 1 day during the past 30 days	81.9	27.2	27.5
Smoked ≥ 20 cigarettes per day on the days smoked during the past 30 days	83.5	17.5	17.1
Bought cigarettes in a store or gas station during the past 30 days	69.3	6.4	7.2
Asked to show ID when buying cigarettes during the past 30 days	52.8	6.8	8.2
Smoked cigarettes ≥ 1 day on school property during the past 30 days	71.4	9.7	9.1
Ever smoked cigarettes regularly	79.8	17.7	19.0
Tried to quit smoking cigarettes during the past 12 months	70.3	18.4	16.7
Used smokeless tobacco during ≥ 1 of the past 30 days	71.1	6.6	6.4
Used smokeless tobacco on school property during ≥ 1 of the past 30 days	60.4	3.9	3.9
Smoked cigars ≥ 1 day during the past 30 days	59.7	12.2	11.8
No usual brand of cigarettes during the past 30 days	37.3	1.6	1.5

Reliability of the 1999 YRBS Questionnaire

Item	Kappas (%)	Time 1 (%)	Time 2 (%)
Alcohol and other drug use behaviors			
Ever used alcohol	81.9	76.1	72.5*
Age first drank alcohol < 13 years	65.9	28.9	29.9
Drank alcohol ≥ 1 day during the past 30 days	70.9	41.1	39.9
Had 5 or more drinks in a row ≥ 1 days during the past 30 days	67.6	23.9	23.7
Drank alcohol on school property ≥ 1 day during the past 30 days	49.4	3.9	4.1
Ever used marijuana	89.8	42.8	41.7
Age first used marijuana < 13 years	70.3	10.5	11.3
Used marijuana during the past 30 days	76.0	22.6	22.1
Used marijuana on school property during the past 30 days	59.1	5.5	5.3
Ever used cocaine	73.4	5.6	6.2
Used cocaine during the past 30 days	48.3	2.2	2.7
Ever used inhalants	67.0	11.3	10.6
Used inhalants during the past 30 days	42.2	2.9	3.5
Ever used heroin	57.4	1.9	3.0*
Ever used methamphetamines	70.7	6.3	6.9
Ever used steroids	45.1	4.0	4.1
Ever injected illegal drugs	53.9	1.4	2.0
Offered, sold, or given illegal drugs on school property during the past 12 months	52.2	23.0	21.9
Sexual behaviors			
Ever had sexual intercourse	90.5	49.5	50.2
Age first had sexual intercourse < 13 years	40.4	18.0	14.8*
Had ≥ 4 lifetime sex partners	57.9	19.1	17.6
Had ≥ 1 sex partners during the past 3 months	72.7	32.9	35.0
Ever been pregnant or gotten someone pregnant	51.9	8.6	8.2
Dietary behaviors			
Perceive self as overweight	58.6	22.7	26.1*
Trying to lose weight	58.2	33.8	37.2*
Exercised to lose or keep from gaining weight during the past 30 days	57.6	58.6	53.9*
Ate less food, calories, or fat to lose or keep from gaining weight during the past 30 days	53.2	43.1	40.4
Fasted to lose or keep from gaining weight during the past 30 days	40.1	18.4	15.3*
Took diet pills, powders or liquids to lose/keep from gaining weight during the past 30 days	42.1	7.8	7.9
Vomited or took laxatives to lose or keep from gaining weight during the past 30 days	40.3	4.9	5.0
Physical activity behaviors			
Watch ≤ 2 hours of television on an average school day	46.7	62.4	63.2
Attend physical education class ≥ 1 day a week	84.8	62.4	56.8*
Exercise > 20 minutes during physical education class	41.1	72.3	69.0
Played on ≥ 1 sports team during the past 12 months	56.2	54.6	53.3
Injured during physical activity ≥ 1 time during the past 12 months	47.1	40.8	35.2*
Other health-related topics			
Ever been taught about AIDS or HIV in school	23.6	85.0	86.2
Had physical exam when not sick during the past 12 months	50.5	58.9	58.1
Saw dentist during the past 12 months	63.8	66.5	63.4*
Rarely or never use sun screen when in the sun for > 1 hour	61.1	66.6	66.7

*Time 1 prevalence significantly different from Time 2 prevalence based on nonoverlapping 95% CIs.

Table 3. Mean Kappa Statistics and 95% Confidence Intervals by Demographic and Question Characteristics

Characteristic	Mean Kappa (%)	95% CI
Gender		
Male	57.1	51.3, 63.0
Female	64.3	58.1, 70.6
Grade		
9	57.2	49.5, 64.9
10	61.0	53.9, 68.2
11	60.7	52.3, 69.1
12	63.7	53.8, 73.6
Race or ethnicity		
White	62.5	57.3, 67.8
Black	51.4	42.0, 60.8
Hispanic	58.5	41.7, 75.3
Other	59.0	45.7, 72.2
Reference periods		
Past 30 Days	58.1	53.5, 62.6
Past 12 months	59.9	56.1, 63.7
Lifetime	66.3	62.2, 70.3
Risk behavior categories		
Unintentional & intentional injury behaviors	59.9	55.7, 64.3
Tobacco use	68.8	64.9, 72.7
Alcohol and other drug use	63.4	58.8, 68.0
Sexual behaviors	62.7	59.6, 65.7
Dietary behaviors	50.0	46.5, 53.5
Physical activity	55.2	52.3, 58.1
Other health-related topics	49.7	46.9, 52.5