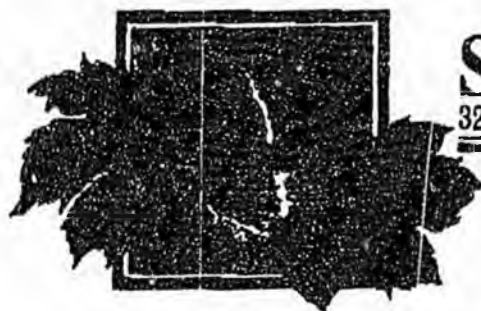


ALASKA LEGISLATURE COMMITTEE FILES 2001-2002 8672

10224 HOUSE HEALTH EDUCATION & SOCIAL SERVICES



SOUTH EAST 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

Revilla Island Prevention Coalition
 3054 Fifth Avenue ● Ketchikan, Alaska 99901
 907-225-4350

February 15, 2002

Derek Peterson, Director Child and Youth Advocacy
 Association of Alaska School Boards
 Juneau, Alaska

To Whom It May Concern:

I am very pleased to learn about House Bill No. 408 that would change the parental consent requirement for surveys or questionnaires that are anonymous. PATCHWorks is a community asset building initiative in Ketchikan. In 1997 and 2001 in cooperation with the Ketchikan School District, we administered Search Institute's *Profiles of Student Life: Attitudes and Behaviors* survey. They were an absolute nightmare to accomplish.

To obtain the most valid data, we targeted our total 7th-12th grade population of 1200 students. According to the existing Alaska statute, our formidable task was to get 1200 permission slips. As a former School Board member, I understand the value of this data for planning and funding purposes. Also, as research supports, the health status of students is directly related to their academic performance.

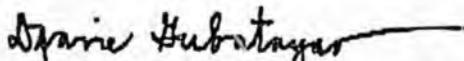
We spent months and thousands of dollars to have parents return permission slips. We had tables at back to school night and conferences. We did expensive direct mailings. We sponsored incentives for students to bring forms back. We published ads in the paper and paid for PSAs on radio. In our most recent survey, after this tremendous effort, we had obtained about 810 permission slips, or about 80% of our targeted group.

Here are some of the serious challenges:

- It is a nightmare for school principals to figure out an administration time that does not disrupt classes because you have only a partial group of your student body participating in the survey.
- The validity of the results are questionable, and possibly skewed because parents in struggling or non-supportive families are less likely to make the effort to return the permission slips.
- Districts are resistant to conducting surveys because of the added stress, and as a result are at risk of losing funding through grants that require recent data.
- Districts are hindered in measuring outcomes and effectiveness of certain critical programs such as substance abuse prevention education.
- Finally, communities are limited in obtaining valuable information to guide public officials and educate citizens in meeting the needs of their youth.

I strongly support passage of House Bill No. 408. It still gives parents the opportunity to withdraw their child from the survey if that is their choice. And I know from experience that the major surveys go to great lengths to assure that participants are anonymous.

Sincerely,



Diane Gubatayao, PATCHWorks Coordinator
 Member, Revilla Island Prevention Coalition

Members
 PATCHWorks
 Women In Safe Homes
 Saxman Youth Reach
 Gateway Center for
 Human Services
 Askans for Drug
 Free Youth/
 Recovery Center
 Juvenile Probation
 Ketchikan Resource
 Center
 Ketchikan Youth
 Court
 Harbor Middle
 School
 INOE.com
 Kodi News Fellowship
 Ketchikan Police Dept
 Elder Care
 Coordination
 Ketchikan Indian
 Corporation
 Community Connections
 EriCorps

Member of Community Anti-Drug Coalitions of America

Subject:

Date: Thu, 14 Feb 2002 18:16:20 -0600

From: Peggy Spittler <peggy.spittler@neart.org>

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

Dear Representative Bunde

I would like you to know that I strongly am in favor of the following bill!

HB 408 - Student Survey Bill

Thank you

"The illiterate of the 21st century will not be those who cannot read and write, but those who cannot learn, unlearn, and relearn." Alvin Toffler

Peggy Spittler, Executive Director
American Heart Association
1057 West Fireweed, Suite 100
Anchorage, AK 99503
phone 907.263.2015
fax 907.263.2045
toll-free 888.276.0858

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

Subject: HB 408

Date: Thu, 14 Feb 2002 18:05:23 -0900

From: "John and Karen" <steinmarie@gci.net>

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

Dear Rep. Bunde

I support legislation to ease the restrictions on anonymous student surveys.

The present restrictions make scientifically accurate information about our students and schools unreasonably difficult to obtain.

Timely, repeatable inquiries are essential to establish trends on issues of risk behavior, school safety and health and to measure the effectiveness of remedial efforts. This same information helps manage HSS budget expenditures to keep costs down.

Thank you

John C. Stein, Executive Director, Kids Are People, inc., Mat-Su

Subject: Student Surveys

Date: Thu, 14 Feb 2002 14:00:33 -0900

From: "Christinar" <christinar@serrc.org>

Organization: SERRC

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

Representative Bunde

I would like to request you support changing the student survey consent law. Presently, the law requires active parent consent. If we are to obtain a realistic picture of students behaviors we need to hear from a greater population of students. By having passive student consent parents are still given ample opportunity to see any surveys given to their students and request the their students not participate.
Thank you for your work toward getting this changed.

Christina Reagle

Christina Reagle, M.Ed.
SERRC
900 West 5th Ave., Suite 101
Anchorage, Alaska 99501
907.349.0651

Subject: Student Surveys

Date: Thu, 14 Feb 2002 16:00:53 -0900

From: Judy Neary <judy.neary@searhc.org>

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

This is in regards to HB 408 and the student surveys. As an individual working with youth, gathering unbiased and honest information from students is vital to structuring our programs to meet the needs of youth in our schools. Please change the way the law currently reads and allow students to complete anonymous surveys without their parents' consent.

Subject: HB 408

Date: Fri, 15 Feb 2002 16:59:42 -0900

From: Jim Douglas <jyces@uas.alaska.edu>

Organization: Alaska Cooperative Extension

To: Representative_Con_Bunde@legis.state.ak.us,
representative_beth_kertulla@legis.state.ak.us,
Representative_Bill_Hudson@legis.state.ak.us

Representatives Bunde, Kertulla, and Hudson, It is imperative that we are able to conduct survey's in schools to determine not only attitudes but in many cases student successes and failures with such things as substance abuse, character education, daily school and personal issues. The present law requiring parental consent negates most surveys as youth fail to get the forms home or the forms get lost at home. The change to allow parents the right of non consent will allow those parents who object to a survey to remove their child from the pool, without reducing the valuable information we need to make informed judgments about youth issues. Please know that the state 4-H program supports HB 408 as we need the type of information these surveys provide so we can adjust our programs to meet the real needs of today's youth. Thanks for your support.

Jim Douglas
4-H Program Chair
907-465-8756
3032 Vintage Blvd. Suite 104
Juneau, AK 99801
jyces@uas.alaska.edu

Subject: HB408 testimony--please replace email I sent 5 minutes ago

Date: Fri, 15 Feb 2002 15:58:03 -0900

From: "Jessica Paris" <parisj@mail.jsd.k12.ak.us>

To: Representative_Con_Bunde@legis.state.ak.us

I am a teacher at JDHS. I am writing in support of HB408, which allows us to survey youth with passive parental consent. As a society we are often naïve about the problems our youth face and the risky behaviors they choose to participate in. If it weren't for the 1999 YRBS (an anonymous survey of Alaska teens), I would never have thought that over half of our juniors and seniors have had sex. I still find it difficult to believe that 1 out of 4 of my little freshmen have had sex. We obviously need to do better at educating them about how to say no.

We do have programs that are trying to do that right now, like ATI (Alaska Teen Institute) and PSI (Postponing Sexual Involvement), but we need to be able to get accurate statistics in order to evaluate the need and the effectiveness of these and other programs designed to help youth. What if these programs are a waste of time? What if they do not achieve their goals or in fact do more harm than good? They should not continue to receive money. These programs need to be held accountable. And what if the programs are both necessary and effective? Shouldn't they continue to be funded?

But how are we to evaluate them without information about youth behavior? We need to be able to survey a representative sample of youth in order to get valid information. Law 14.03.110, which requires active parental consent in order to survey youth, has (perhaps inadvertently) harmed our ability to judge what programs our students need and our ability to fund these programs. Requiring active parental consent hamstring a survey because you only get statistics on Permission-Slip-Returning Kids or kids with School-Mail-Reading-And-Returning Parents. And in a post 1999 attempt to survey students under active parental consent laws, "Returners" constituted about only 10% of the population. This might not invalidate an election, but it does invalidate a survey.

Under HB408, parents will still have the right to refuse permission for their child to participate in an anonymous survey. Students will still have the right to refuse to participate.

But under current law parents and students who want the student to participate in an anonymous survey will NOT have that right if the child doesn't remember to return the consent form. Why do they fail to return it? Maybe it's the same reason I always forget to buy toothpaste and lightbulbs.

Please support HB 408. Thank you for your time.

Jessica Paris
Teacher at JDHS
586-4695

Subject: HB 408 parent permission bill

Date: Wed, 13 Feb 2002 23:48:28 -0900

From: Becky Judd <bjudd-h@ak.net>

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

I strongly support this bill.

I have talked with many many schools & youth organizations who don't have the data to know if their alcohol/drug prevention activities are effective, if their teen pregnancy prevention activities are curbing the initiation of early sexual activity, if all our anti-tobacco prevention efforts are stemming the tide of teen tobacco use!

WE DON'T KNOW... Because of the current law.

We do have adequate prevalence data for the teen risk behaviors. The current law has put an undue financial and time burden on schools to get the active consent from parents for their children to participate in anonymous surveys.

I know..having talked to many many many parents that, they never even see the permission slips..it just gets lost... a school mails them a second, third slip, makes phone calls to parents, and they still never make it back to the school. The time (\$\$\$) spent on tracking those permission slips is COSTLY.

Meanwhile schools and youth organizations are not able to compete with local organizations from other states for national foundation or federal dollars because they can not document their needs nor trends, since we don't have the local or statewide prevalence data that comes from the YRBS.

This spring the YRBS was administered to randomized schools around the state, again because of this law... there was not enough active parent consents to make the data collected useable.

Alaska and its communities remain in the dark about the prevalence of our teens risk behaviors. Help us lift the veil! Parents will still have the right to deny participation. WE are removing undue burdens and dollars!

Becky Judd
6401 Italy Cir.
Anchorage AK 99516
345-3619

Jeff Budd

Subject: Jeff Budd

Date: Thu, 14 Feb 2002 11:19:47 -0800 (PST)

From: Jeff Budd <jbudd3500@yahoo.com>

To: Representative_Con_Bunde@legis.state.ak.us

14 Feb 02

Dear Representative Bunde,

Please help in the passing of the bill to allow youth serving agencies to better gather data so that we can provide the services our Alaska youth need and deserve. Thank you. Jeff Budd, Sitka, Alaska

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Send FREE Valentine eCards with [Yahoo! Greetings!](#)

Subject: HB 408 - Student Survey Bill

Date: Thu, 14 Feb 2002 13:53:56 -0800

From: Ley Schleich <arcticloon@gci.net>

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

Honorable Representative Bunde,

I am writing to you with strong support for HB 408, the Student Survey bill, that is currently before you for consideration.

I have been involved with helping school districts conduct the Youth Risk Behavior Survey, the Developmental Assets Survey, and other health-related surveys. I am familiar with the survey data needed for the statewide tobacco control plan. None of the data generated from these surveys since the requirement of active parental consent is of much value, in my estimation, because of the small "N's" due to the active parent consent state law. As a prevention specialist striving to help schools and community groups in their efforts to be accountable and to conduct sound evaluations of programs, I can tell you the law makes this impossible.

We can get good data about program effectiveness and behavior trends without hurting people. I believe parents' and students' rights and privileges will be protected through policies already in place for informing them of survey material and giving them an opportunity to opt out.

I trust you and your colleagues in the Legislature will see the wisdom of repealing the active parental consent law by supporting HB408.

Sincerely,
Ley Schleich
Owner, Arctic Loon Consulting
P. O. Box 874216
Wasilla, AK 99687

Subject: HB 408

Date: Thu, 14 Feb 2002 16:40:29 -0800

From: "buddy4" <buddy4@alaska.net>

To: "Representative Con Bunde" <Representative_Con_Bunde@legis.state.ak.us>

Con,

I am writing in support of HB 408 which is the student survey bill. With passive consent of student surveys, public health will be able to measure the effectiveness of community and student programs designed to improve school performance and reduce high risk behavior.

As a parent I have no objection to my two teenagers taking an anonymous survey about their teenage habits.

Joan Diamond

Subject: hb408

Date: Thu, 14 Feb 2002 19:59:57 -0600

From: "echavarria" <echavarria@gci.net>

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

I understand that there is proposed legislation to change the state law regarding active written permission slips for surveys of students in our public schools.

I am an Athabascan Indian who has lived and worked in the rural setting of Alaska. I personally was opposed to the original legislation requiring active written permission due to the impact and the cost to gather health behavior information of importance to our native people and to our population in general. I've written many grants that have used the state's valuable resource, the Adolescent Health Survey, which by the way was an anonymous survey. I certainly support this repeal as it relates to anonymous surveys. I thought the previous legislation was led by a strong minority of our population who don't understand the significance that demographics, epidemiology and statistics portrays in the measuring of outcome measures that are often not noticed in a short period of time especially when behavior change is the goal. I appreciate this opportunity to convey and exercise my rights to change policy in my home state. Thank you

Subject: HB 408

Date: Thu, 14 Feb 2002 21:18:07 -0900

From: Janice Tower <jtower@alaska.com>

To: Representative_Con_Bunde@legis.state.ak.us

Dear Representative Bunde,

Two things are on my mind tonight. First is to congratulate you for having the courage to push the Legislature into considering a broad-based revenue generating plan to help us balance the state budget. Finally, someone (you) threw a forward pass and not one off to the side.

Secondly, I am in support of HB 408, a bill to change the law regarding active parent consent for participation in anonymous surveys. In order for educators and health professionals to target improvements in education and public health, the experts need to know what the kids are up to. Surveys such as the Youth Risk Behavior Survey could provide valuable insights to the behavior of adolescents. Better program design and planning would be a favorable end result.

Thank you for your time, and keep up the good work.

Janice Tower
7645 Griffith Street
Anchorage, AK 99507

Subject: Support for HB 408

Date: Thu, 14 Feb 2002 20:51:32 -0900

From: "Bret and Kathy Burton" <burton@mtaonline.net>

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

Dear Representative Bunde,

It is with great enthusiasm that I relate to you my overwhelming approval of HB408

As a pediatrician it is imperative to know the children in my care, their families, and the environment in which they are growing. Commonly, I cannot be familiar with the all the facets of their lives. One tool to gain insight is the Youth Risk Behavior Survey from the Center's for Disease Control and Prevention. Every other year this anonymous survey is given in the public school system and snapshot is taken of our children's lives. The questions are balanced, non-intrusive, and non-suggestive. Answers are collated by the CDC in Atlanta and given to our state to objectively evaluate how well we are providing healthy homes, schools, and communities. An example of the 2001 survey can be seen at <http://www.cdc.gov/nccdphp/dash/yrebs/2001survey.htm>

This valuable information has been incomplete for our state in the last several years. An assumption has been legislated that parents can trust our schools to give our children answers in life but cannot be entrusted with asking them questions. Because we lack objective information about our children our state has missed the opportunity for federal and state grants to improve our educational processes.

Fortunately, HB408 changes that. Parents and guardians remain the experts on their children. Thus, they will be given the opportunity to deny administration of any questionnaire or survey. Furthermore, the school district must give at least two weeks written notice before a survey so parents can educate themselves about the questions posed and then decide if they wish to deny access to their children.

I believe this is positive legislation for our children. Thank you for your ongoing support of our future generations.

Bret Burton, MD, FAAP
9643 Nulato Cir
Eagle River, AK 99577
907.696.5535

Subject: HB 408

Date: Fri, 15 Feb 2002 07:45:21 -0900

From: "Rocky Plotnick" <rockyplotnick@earthlink.net>

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

CC: <rocky@aklung.org>

Dear Representative Bunde-

This message is to express my strong support for HB 408. This change in Alaska Statute would allow the implementation of harmless youth/teen surveys which I think are crucial in order to obtain meaningful data. Especially as we continue in our efforts to reduce tobacco use and other risky behaviors, we need to be able to document our progress. Not only as a public health professional, but as the parent of a teenager, I support HB 408.

Sincerely,

Rocky Plotnick, MS, CHES
P.O. Box 110923
Anchorage, Alaska 99511
907-346-2956

(Rockelle)

Subject: HB 408

Date: Fri, 15 Feb 2002 13:03:39 -0900

From: Ric Iannolino <converge@ptialaska.net>

T : Representative_Con_Bunde@legis.state.ak.us

Dear Representative Bunde

I would like to urge you and the house of representative to pass HB 408. This bill to amend the current law that prevents schools and other child and youth related organizations from obtaining critical information from students in order to assist them. I understand that it was not intended to harm children but the effect of this law has been very destructive.

I am the chair of the **Youth on the Street** organization which is attempting to assist homeless youth in Juneau.

We need to document the extent, characteristics and conditions of homeless youth in Juneau. The McDowell Group designed a Homeless Youth Survey which we conducted in May of 1998. The purpose of the survey was to get information to make the public aware fo the problem of homeless youth.

We are trying to locate funding and support from national organizations through foundations and grants. We require accurate and reliable information which is not available at this time. We preparing to conduct another more extensive survey tool. We are aware that unless this bill is passed to amend the current law we may not be able to obtain the information required to obtain additional funding.

I urge you and the house of representatives to pass HB 408.

RE: PASSAGE OF HB 408

TO: Representatives Con Bunde, Beth Kerttula, Fred Dyson, ^{Bill Hudson} and the legislative committee considering passage of HB 408

FROM: Kathryn Arlen, owner "Mindmerger" public relations company; also a PR liaison for "Youth on the Streets" action group, an organization dedicated to the creation of transitional shelter and necessities for Juneau's homeless youth while also encouraging development of life skills and personal independence.

DATE: February 20, 2002

Ladies and Gentlemen:

I strongly urge the passage of HB 408. Amending the wording from "active" parental consent to "passive" would greatly facilitate the potential acquisition of firsthand information from our young people without violating parental rights and simultaneously encouraging our youths' participation in planning their own immediate futures with the knowledge that their voices can be heard.

FIRST: if the question of violating parents rights or concerns is an issue in the changing of this wording, that issue is easily solved by giving parents the option of refusal by **MAKING THIS ABSOLUTELY CLEAR** right up front and emphasizing they must return the signed form only if they do not wish their son or daughter to participate and giving them a clearly defined deadline within which to do so.

SECOND: students will then have the right to directly participate in any survey employing these guidelines if they so desire. They also will have the right of refusal. Though they may not yet be of legal age to do many things in adult society, like vote, marry, enlist, smoke, buy liquor, they do have the right simply by existing as citizens, no matter what their age, to exercise their right to freedom of speech and in a polite, civilized manner let their opinions and viewpoints be known, especially in areas affecting them.

If we do not know how young people feel, how can we best plan for their future, hopefully looking out for their best interests? If we have overlooked a problem that may have been solved by a simple "question and answer" exercise, whose fault is that? And consider, please, the psychological uplift, the note of confidence we could be giving our youth by simply acknowledging we value their opinions.

THREE: Thus, armed with what could hopefully be more detailed and in-depth information, any of us in the adult world actively focusing on improving situations for our next generation can have a better shot at making a difference for them. This belief is now and always has been a generation to generation tradition in our society, and we owe it to our children to do the best possible job on their behalf.

Having directly observed and worked with young people in our community, including youths of both sexes in the detention side of Johnson Youth Center, I am seriously frightened by the bone-chilling stories I hear, and even more so by the attitudes with which they are told. Substance abuse, as I am sure many of us realize, is a formidable and critical issue. Therefore I myself am just now taking the initial steps towards obtaining a CDCI, substance abuse counselor, within the next few years, though the process of obtaining such a title is in itself a multi-faceted, challenging, uplifting and obviously neverending goal.

CLOSING ARGUMENT: By reversing State Law 14.03.110 requiring active parental consent, meaning they have to sign a form, (assuming they did not misplace it,) mail it back by a deadline time, in order for their son(s) or daughter(s) to participate in any given survey, questionnaire, etc. and, instead, implement a new law, i.e., as defined by HB 408, allowing their children to participate if they so desire by simply not responding once said parents have been informed, we can now see how points 1, 2, and 3 mentioned above can evolve into a Win/Win/Win situation.

All this can therefore lead to:

- A) More accurate, thorough, pertinent data contributing towards
- B) More persuasive, better documented, inspired grant writing requesting
- C) Specific funding aimed at creating and promoting

3

D) Necessary, improved, expanding services for all our young people, perhaps (at this point) especially but definitely not limited to those at risk.

The prosecution rests. Thank you.

K.G.A.

Kathryn Grace Arlen
127 So. Franklin St., #312
Juneau, AK 99801
mindmerger@hotmail.com
(907) 586-1872

enc.

SURVEY FORM SUGGESTIONS

1. Make sure **IN THE VERY BEGINNING**, parents are clearly made aware that they need only return the form if they **DO NOT WISH** their child (children) to participate. It may also be prudent to include a space, lines, etc. asking them if they would care to explain why they have decided so. This information, i.e., refusal, may just in itself be helpful.
2. And make sure the deadline date **IS ALSO CLEARLY STATED, IN CAPS**.
3. But, of course, encourage parents to read through the form carefully, perhaps discussing it with their son, daughter, before making this decision. Just this encouraged discussion itself can be helpful.
4. And if both parent and child agree, include possibly a question or two (whatever the survey is for) that they can answer **TOGETHER**.

One last observation: think about how easy it is when you get something in the mail, you want to do whatever it is, order whatever it is, so on, but you misplace the form--you find it later, under the phone book, put in the wrong drawer, got mixed up with homework, the dog ate it, etc. (and God forbid it was your PFD application) and then realize the deadline has come and gone. This change from "active" to "passive" consent could take care of that situation, so long as it is **PERFECTLY CLEAR RIGHT AT THE BEGINNING** that parents are agreeing to their child's possible participation just by doing nothing. And that makes it so much easier.

Subject: HB408

Date: Mon, 18 Feb 2002 16:55:40 -0900

From: "JAHC" <jahc@gci.net>

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

This seems like a very practical bill to pass. We need to accurately assess students' needs. Please pass this legislation. Thank you

Sybil Davis
836 Calhoun Avenue
Juneau 99801

Subject: House Bill 408

Date: Fri, 15 Feb 2002 15:48:30 -0900

From: "Cindy Cashen" <ccashen-ncaddj@ak.net>

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

Dear Representative Bunde,

I am in support of House Bill 408. I feel the current law prevents us from doing what needs done in order to take care of our youth: ask their opinion on issues which affect them.

This bill will allow parents who do not wish their child to participate to retain that right. It also recognizes the reality of the low number of parent consent forms which follow the desired path from school to student to parent and back to school. It just doesn't happen that often.

I have three children and it takes a lot energy to obtain a consent form from them. If I don't take time then the form will not get filled out and even then some of them don't make it back to the teacher/school. It's frustrating.

Please pass this bill so we may have a better idea of what is really happening in our children's lives.

Sincerely,
Cindy Cashen
3167 Pioneer Avenue
Juneau, AK 99801
907 586-3124h
463-2562

Subject: HB 408

Date: Fri, 15 Feb 2002 16:21:27 -0900

From: Ernie Mueller <Ernie_Mueller@ci.juneau.ak.us>

To: "'representative_con_bunde@legis.state.ak.us'" <Representative_Con_Bunde@legis.state.ak.us>

I understand that the House Special Committee on Education is considering HB 408 "An Act relating to questionnaires and surveys administered by the public schools"

This bill would permit public schools to administer questionnaires and surveys to those students whose parents have not denied permission for the student to participate.

Heretofore positive permission has been required for a student to participate in an anonymous survey or questionnaire. Positive permission is often difficult to secure because students and parents often do not understand the value of the questionnaire or survey and simply neglect to give permission .. or to return the permission form the student was given...

Today, most federal grant programs require that basic information about youth be part of the grant application. Under existing law requiring positive parental permission, valid information from a statistically representative sample of school students is virtually impossible to secure. As a result it is difficult, if not impossible, to design services to serve the needs of students, or to secure grants to plan and deliver these services.

In short, unless students can be asked, we don't know what they need. Under existing law, students can't be asked unless an enormous effort is taken to secure permission from parents.

I support HB 408. I have worked with youth programs throughout Alaska my entire adult life. Many of the programs I have worked with are research based..without the ability with gather information, we can't get the basic research needed to design programs or to find out whether they work or not..

Thank you for bringing this bill forward...

Ernie Mueller
Juneau

Subject: I support house bill 408

Date: Fri, 15 Feb 2002 23:07:03 +0000

From: "Monique Wheeler" <monique_wheeler@hotmail.com>

To: Representative_Con_Bunde@legis.state.ak.us, Representative_Bill_Hudson@legis.state.ak.us,
Representative_Beth_Kerttula@legis.state.ak.us, Representative_Fred_Dyson@legis.state.ak.us

My name is Monique Wheeler at I live at 348 West 12th Street in Juneau. I am writing to urge you to support house bill 408 which would educational institutions to collect data for statistical analysis.

Thank you,
moinque

Chat with friends online, try MSN Messenger: <http://messenger.msn.com>

Subject: Bill 408

Date: Sat, 16 Feb 2002 09:59:45 -0900

From: "Joyce/Shepherd" <lynn.shepherd@acsalaska.net>

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

Thank you for sponsoring Bill 408. Permitting anonymous surveys in schools will help educators, law enforcement, and public health officials as well as parents gain insights into youth attitudes and behaviors. AS 14.03.110 has hampered our ability to know the nature and extent of risky behaviors amongst youth by preventing administration of the Youth Risk Behavior Survey. The YRBS, when administered in the '90's, gave valuable information that resulted in the funding of prevention and counselling programs which have benefited my children and many others.

Please move forward with Bill 408.

Lynn Shepherd
3050 Douglas Highway
Juneau, AK 99801

Subject: HB 408 must pass

Date: Sat, 16 Feb 2002 01:28:02 +0800

From: "Kate Boesser" <kateboesser@mail.com>

To: Representative_Con_Bunde@legis.state.ak.us

Dear Representative Bunde:

Please see that HB 408 passes quickly. I understand that even the original writer of the bill which made parental survey a must has decided to vote for HB 408!

I have taught in Chatham District for 8 years, and the past 2 1/2 years have been doing grant administration for drug and alcohol abuse prevention. You must understand that not only can teachers not make important decisions without survey information, but grants can not get funded without statistics. Education starts with evaluation, to see where we're at, what's working, what needs to happen. Surveys are an essential part of that evaluation. An example is the ASSETS survey, and the SIG ACT survey, both of which give invaluable information regarding youth, substance abuse, and assets in the lives of youth. Without this bill, you are sharply curtailing our ability to help youth and work with where they're coming from. Parental knowledge is one thing..student ability to let us know how to work more effectively is another.

Please pass this bill now.

Sincerely,
Kate Boesser
PO Box 47
Gustavus, AK 99826

907-697-2282

Juneau connection: 586-1710

--

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Subject: Support for House Bill 408

Date: Wed, 20 Feb 2002 14:01:54 -0900

From: "Toni-Jo Dalman, Juneau School District, Juneau, AK" <dalmant@jsd.k12.ak.us>

To: Representative_Con_Bunde@legis.state.ak.us, Representative_Bill_Hudson@legis.state.ak.us,
Representative_Beth_Kerttula@legis.state.ak.us, Representative_Fred_Dyson@legis.state.ak.us

I would like to support passage of House Bill 408. This information allows our district and the many agencies serving children to make meaningful and relevant decisions about prevention and treatment programs needed and about their efficacy.

Thank you,

Toni-Jo Dalman

22-LS1458\C
Ford
3/21/02

CS FOR HOUSE BILL NO. 408()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SECOND LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): HOUSE SPECIAL COMMITTEE ON EDUCATION

A BILL
FOR AN ACT ENTITLED

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

2 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

3 * Section 1. AS 14.03.110(a) is repealed and reenacted to read:

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

10 * Sec. 2. AS 14.03.110(b) is repealed and reenacted to read:

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

1 written denial of permission to take the questionnaire or survey.

2 * Sec. 3. AS 14.03.110(c) is repealed and reenacted to read:

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

7 * Sec. 4. AS 14.03.110(d) is repealed and reenacted to read:

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

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

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

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

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

16 (5) how to submit written

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

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

21 * Sec. 5. AS 14.03.110(e) is amended to read:

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



Alaska State Legislature

House Special Committee on Education Representative Con Bunde, Chair

State Capitol
Juneau, AK 99801-1182
(800) 892-4843 (907) 465-4843 (phone)
(907) 465-3871 (fax)
Representative_Con_Bunde@legis.state.ak.us

Brian Porter
Joe Green
Peggy Wilson
Gary Stevens
Reggie Joule
Gretchen Guess

MEMORANDUM

DATE: March 22, 2002
TO: House Health, Education, and Social Services Committee
FROM: Representative Con Bunde, Chair
RE: HB 408, "An Act relating to questionnaires and surveys administered in the public schools."

How HB 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 HB 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.

Letter to the Editor Jan 19, 1999

School business isn't surveys

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Parental rights are once again being usurped, and our children are being manipulated as though consumers. Last year, there was a concerted effort by different health care professionals to have the right to implement different youth surveys in our public schools.

First they wanted to do it without having written parental permission. When they discovered they couldn't do them without it, they forced the Anchorage School Board into passing an OK to do them without written parental permission. It was only because of the wise and honest decision of the superintendent of schools, Mr. Bob Christal, were parental rights protected.

This year, they will be administering different surveys to our children. Why? So that different agencies can then compete for federal and state and local grants and funding! Our children are being treated as mere consumers, another easy source of money.

These surveys are supposed to be anonymous. Still, if a child answers a survey question which would alarm the administrators of the test or others, it will be very easy for such people to narrow it down to what individual child it was. Even if answered in a joking manner, in today's current school climate, it will be taken as a "potential" threat. If the child answers negatively on any family issue or one regarding his parents, the next step will be for the authorities to begin an investigation into the parents!

The matters of home and family are private, and parents need to let the schools and those pushing these surveys find their funding another way and stay out of our private lives!

- Timothy Napier

Anchorage

Parents, OK those surveys

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Parents are in control, as Rep. Fred Dyson points out ("Be wary of surveys, parents," Letters, Jan. 11), so the ball is in our court. Let's allow our children to participate in the Search and Youth Tobacco Survey. We can bury our heads in the sand and deny that far too many of our youths have serious obstacles to becoming healthy, productive Alaskans, or we can face the facts by asking questions.

In these surveys, students will be asked about the positive and negative things in their lives that affect their decisions about school, extra-curricular activities, sports and other habits. Be encouraged that our School District wants to continue to gather this important information to better plan curricula, programs and activities as well as evaluate progress made. That means future decisions will be based on current information from the students rather than adult guesses and "national trends."

Active parent consent is a reality in other states too, in fact whenever federal funds are used to design Safe and Drug Free Schools Programs. The experience of parents in these communities is encouraging. Parents look forward to hearing about results and being part of the solution. That's how schools, parents, families and businesses can work together to address strengths and weaknesses in the community. The Anchorage School District will do that through this newspaper, meetings and reports to schools.

You are encouraged to stay involved with your kids by signing parent permission forms giving your approval for your child to complete the survey.

- Judith Bendersky

Anchorage

ANCHORAGE DAILY NEWS
Letters
APR 14 1999

HB 70 supports parents' rights

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I support passing House Bill 70 to protect my parental rights to give written permission when it deals with schools asking my children personal questions. I cannot depend on the Anchorage School District to guarantee that my children's right to privacy is protected. When schools ask students private questions, I want to know about it before they're asked.

It's my parental right to guide my children as they learn what and how much of themselves they should divulge and to whom. It's my parental duty, not the school's, to teach values to my children. It's my parental responsibility to keep track and monitor what my children do.

Please support HB 70 so it will become law. This school district has already shown me indifference when I've gone to them for help in resolving situations with my children. What about teaching students so they can get their diplomas, instead of snooping into private lives? Whose business is it anyway? Help me protect our children's right to privacy when we can't be there to protect them.

This bill was introduced by Rep. Fred Dyson and is being heard by the Health, Education and Social Services Committee. Call your local Legislative Information Office to find out when. Last I knew, they would take public testimony on the bill on Thursday. In Anchorage, call the LIO at 258-8111 and sign up to testify. Also send support by e-mail to Representative_Fred_Dyson@legis.state.ak.us.

P.S. I'm an ordinary citizen, I don't work in the health industry, and I don't live on the Hillside.

- Frank R. Phillips

Anchorage

Subject: HB 70 Support

Date: Wed, 14 Apr 1999 18:26:57 -0500

From: Andree McLeod <mcleodak@alaska.net>

To: Representative Dyson <Representative_Fred_Dyson@legis.state.ak.us>

Dear Representaive Fred Dyson,

Thank you for taking the time to protect parent's and family's right to privacy.

It's hard enough raising children without having to worry about government agencies going into schools behind our backs, intruding in on our children's privacy and diminishing their study time at school by asking questions. The compromise you have reached in your bill, as I understand it, is to give annual blanket permission at the time of school registration. Also, parents will be notified in advance before specific surveys are administered where parents can opt to not have their children participate. Again, thank you for all your efforts on this issue. It has not been easy dealing with most health professional in this state as they have used their power to usurp our privacy. But when the Attorney General's office backs the Administration's position, hopelessness and helplessness abounds for us common folk. You have truly been a saving grace.

Andree McLeod

Subject: PHHS Block Grant Follow-up

Date: Fri, 18 Sep 1998 10:39:14 -0800

From: "Ray, Glenn S." <GlenR@health.state.ak.us>

To: "McLeod, Andree" <mcleodak@alaska.net>

CC: "Carr, Patricia A." <PCarr@health.state.ak.us>,

"Johnson, Mark S." <MarkJ@health.state.ak.us>,

"Lowe, Sharon K." <SLOWE@health.state.ak.us>

This note follows our morning telephone conversation of September 18, 1998 in which you asked me for responses to the following three questions.

1. What is the purpose of the Preventive Health and Health Services (PHHS) Block Grant? According to the Public Health Service Act, Title XIX - Block Grants, section 1904, it reads "...payments made to a State under section 1903 may be used for: (A) Activities consistent with making progress toward achieving the objectives established by the Secretary for the health status of the population of the United States for the year 2000. (B) Preventive health services programs for the control of rodents and for community and school-based fluoridation programs. (C) Feasibility studies and planning for emergency medical services systems and the establishment, expansion and improvement of such systems.... (D) Providing services to victims of sex offenses and for prevention of sex offenses. (E) With respect to activities described in any of subparagraphs (A) through (D), related planning, administration and educational services. (F) Monitoring and evaluation of activities carried out under any of subparagraphs (A) through (E).

2. What is the amount of PHHS block grant funds being used for YRBS in SFY 99? \$64.0 is allocated for support of 1 FTE to implement the YRBS in SFY 99. The position is placed within the Section of Epidemiology and located in Anchorage. This \$64.0 for YRBS personnel is not included in the budget that Sharon Lowe reported in response to Rep. Mulder's question regarding the PHHS block grant because these YRBS funds are used directly by the Section of Epidemiology and do not pass through the Section of Community Health and EMS. The clerical person retrieving block grant budgetary information for Sharon was not familiar with the block grant and I was in Anchorage and unavailable to provide Sharon with the correct information.

3. What is the total amount of PHHS block grant funds and what is the amount of PHHS block grant funds not allocated for any program use in FY 99? This question is not easy to answer because, 1) I do not have a final fiscal report from the DHHS/Division of Administrative Services as to expenditures charged to the PHHS block grant during state FY 98 and 2) the amount of the federal FY 99 (FFY 99) PHHS block grant is currently being determined by Congress. Congress may reduce the total PHHS block grant by 29 million dollars in FFY 99 which will cause a decrease in the Alaska award by approximately \$106.0. Until there is a final Congressional decision it is safest to assume that there are no unallocated funds.

If the block grant is awarded in FFY 99 at the same level as the FFY 98 amount this would mean that there would be approximately \$100.0 unallocated funds available by July 1, 1999. But, if Congress significantly reduces the PHHS block grant allocation, even by \$50.0 or \$60.0, this will cause a re-evaluation of current funding priorities and it is not possible to guess at a likely unallocated amount.

Subject: Request for information about YRBS

Date: Fri, 2 Oct 1998 07:03:50 -0800

From: "Ray, Glenn S." <GlenR@health.state.ak.us>

To: "McLeod, Andree" <mcleodak@alaska.net>

Ms. McLeod, you requested information regarding how the Behavioral Risk Factor Surveillance Survey (BRFSS) is funded.

1. An amount of \$73,500 is allocated from the Preventive Health and Health Services Block Grant for BRFSS. In order to fully fund this program the state was successful in securing a grant from the Centers of Disease Control and Prevention (CDC) for \$87,000 specifically for the implementation of the BRFSS. This specific CDC grant was awarded for a five-year period which ends October 30, 1999.

2. Regarding use of the CDC/BRFSS grant, use of funds is determined in the application process. Funds may only be used for implementation of BRFSS with final approval by CDC of the state's yearly budget proposal.

From: Andree McLeod [SMTP:mcleodak@alaska.net]
<mailto:mcleodak@alaska.net>
Sent: Monday, September 28, 1998 11:32 AM
To: Ray, Glenn S.
Subject: Re: Response to telephone message

Thank you Ray. I appreciate your help on all this. My question was: other than the \$73,500 allocated for the adult risk behavioral survey, what other money goes towards the survey and from where does it come from. I thought I remember you saying that CDC sends money to the survey through another grant. What is the total amount of that grant and who decides how that is spent? Thank you again. I'll try to make it to the telephone to make that meeting but prior commitments might supercede.

Ray, Glenn S. wrote:

> You may join the Community Health Promotion Advisory Committee meeting by
> dialing in on the Anchorage number that I previously sent you - 751-8000.
> The operator is likely to ask for your name and location (community name)
> and then connect you with the other people on line. If there is any
> difficulty reaching the teleconference operator you can call Eric Peter at
> my office for assistance - 465-3140.
>
> In your phone message there were several questions as to grants from the
Behavioral Risk
> Factor Surveillance Survey (BRFSS). I will be happy to supply you with any
> information that I have in response to your questions but, to help me be as
> accurate as possible I need you to submit your questions in writing. To
> save time this can be done via e-mail to glenr@health.state.ak.us
<mailto:glenr@health.state.ak.us> .

Subject: HB70

Date: Fri, 16 Apr 1999 07:12:28 -0800

From: "Larry Erickson" <erickson@ptialaska.net>

To: "[Carl Green](mailto:Representative_Carl_Green@legis.state.ak.us)",
"[Fred Dyson](mailto:Representative_Fred_Dyson@legis.state.ak.us)",
"[Jim Whitaker](mailto:Representative_Jim_Whitaker@legis.state.ak.us)",
"[Joe Green](mailto:Representative_Joe_Green@legis.state.ak.us)",
"[John Coghill](mailto:Representative_John_Coghill@legis.state.ak.us)",
"[Tom Brice](mailto:Representative_Tom_Brice@legis.state.ak.us)"

CC: "[Mike Tauriainen](mailto:mtpentl@alaska.net)",

"[Lisa Torkelson](mailto:Lisa_Torkelson@legis.state.ak.us)"

Honorable Representatives,

Thank you for passing HB70 out of committee on to the House. I pray that your colleagues will understand the importance of passing this bill as all of you have. I believe this bill will open many parents eyes to what the government funding school system is doing to our children. When parents have to give permission for their children to be exposed to the humiliating and degrading experience of having to read and answer the graphic and intrusive question that are on these government forced school surveys they many decide to get more involved in what the school system is spending their time and our children's time on.

Thank you again for caring for our children!

Larry Erickson

Subject: HB 70 "Public School Surveys"

Date: Sun, 18 Apr 1999 10:34:18 -0800

From: "jferrell" <jferrell@alaska.net>

To: <Representative_Fred_Dyson@Legis.state.ak.us>

Dear Representative Dyson:

I support the passage of HB 70. The kind of Personal information asked of our students on the Youth Risk Behavior Survey is alarming. I believe that underage, minor children are the chief responsibility of their parents. I empathize with the health care providers who feel this intimate information is essential to preventing some of these high risk behaviors. I believe the statistics are well known, knowing the exact numbers is not essential to helping youth avoid risky behavior. I would prefer to err on the side of parental authority. Thank you for your efforts on behalf of Parental Rights.

Sincerely,

Lorraine M. Ferrell

Fairbanks, Alaska

Parental Consent

Adopted by Alaska PTA Convention, April 27, 1990

- Whereas, Parents are recognized as the primary educators of their children; and
- Whereas, There has been an increase in the number of testing and survey instruments being used to evaluate our children's attitudes toward school, their coping skills, and their feelings about themselves and their experiences; and
- Whereas, Alaska School Law (Chapter 4, Sec. 14.03.110) mandates that questionnaires and surveys which inquire into the private family affairs of the student which are not a matter of public record require written permission from the student's parent or guardian before they may be administered; and
- Whereas, The Protection of Pupil Rights Act (20 U.S. Code 1232h) states that no student shall be required to take part in psychiatric or psychological examinations, testing, or treatment in which the primary purpose is to reveal private information, without the prior consent of the student (if the student is an adult or emancipated minor), or in the case of unemancipated minors, without the prior written consent of the parent; therefore be it
- Resolved, That the Alaska PTA supports strict adherence by all Alaska school districts to Federal and State laws requiring written, informed parental consent for both elementary and secondary students prior to the administration of the above described attitude surveys and tests.

Rationale

In an attempt to assess the needs of children, some school districts have developed a number of testing and survey instruments which measure the affective area of a child's being. These instruments attempt to measure things such as locus of control, attitude toward school, general self-esteem, academic self-esteem, social interaction, coping with stress and anxiety skills, health habits, and identification with school. In many cases, teachers, school psychologists, and administrators discuss and analyze results among themselves and with students, but not with parents. Students have been encouraged to dialogue with teachers about their feelings in regard to affective testing instruments, but parents have not generally been included.

Specific written parental consent forms are often utilized at the elementary level, but hardly ever at the secondary level.

High school students who are taking health classes or AIDS curricula are often required to take attitudes surveys dealing with feelings toward AIDS, homosexuals, sexual feelings, and sexual behavior. These surveys fall under the "Protection of Pupil Rights" federal statute and require written parental consent.

Clarification of and adherence to Federal and State statutes is required of all school districts in the State of Alaska. Psychological probing and surveying should not be done without parental consent and knowledge.



Paula Pawlowski
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Phi Delta Kappa Grant
Terry McDermott
 Past President
Sue Hull
 National PTA Region VII Director

Alaska PTA

PO Box 201496
 Anchorage, Alaska
 99520

The Alaska PTA, the state's largest child advocacy organization representing almost 16,000 members, follows the lead of the National PTA in support of the Youth Risk Behavior Surveys (YRBS).

The Alaska PTA delegates stated their concern about the health, safety and welfare of Alaska's children at our 1998 Issues Conference. The results of the survey will assist state and local agencies to plan and implement school health programs.

We encourage the parents to be informed and involved in these efforts and applaud the methodology of collection of the data that allows anonymity for the participants.

The Alaska PTA is pleased to support and cooperate with the Alaska's Departments of Health and Education.

Sincerely,

Paula Pawlowski
 Paula Pawlowski,
 Alaska PTA President

cc Tammy Green, Dept of Health & Human Services
 Bob Christal, Superintendent Anchorage School District
 Harriet Drummond, Chair, Anchorage School Board Association
 Diane Eter, President, Anchorage Council PTAs
 Ginger Jenkinson, Region IV, Alaska PTA Board of Managers
 Peggy Brown, Health & Safety Chair, Alaska PTA Board of Managers

Phone/Fax 907-279-9345

Email ak_office@pta.org

Subject: CSHB 70 (RLS)AM

Date: Thu, 13 May 1999 13:41:29 +0000

From: Charles Hubbard <chubbard@alaska.net>

To: Sentor_Tim_Kelly@legis.state.ak.us

CC: Senator_Loren_Leman@legis.state.ak.us, Senator_Mike_Miller@legis.state.ak.us,
Senator_Drue_Pearce@legis.state.ak.us, Senator_Johnny_Ellis@legis.state.ak.us,
Representative_Fred_Dyson@legis.state.ak.us,
Representative_Norm_Rokeberg@legis.state.ak.us,
Representative_Mary_Kapsner@legis.state.ak.us, Representative_Eric_Croft@legis.state.ak.us

Dear Senator Kelly and Members of the Rules Committee:

I am writing today to request that HB 70 (An act relating to questionnaires or surveys administered in public schools) be passed out of the Senate Rules Committee for Senate floor action prior to adjournment next week.

There has been a flurry of activity against this bill by DOE and DH&SS. Both Departments are quite willing to allow "passive" parent permission in response to administering the Youth Risk Behavior Survey. Passive permission means that if the school doesn't hear a "yes" or "no" from the parents, then it's OK.

Parents have become the bad guys, because parents are requesting that "active" parent permission be obtained prior to administering the surveys to their children. Active permission means that if there is no written response from parents (either a yes or no), then the child does not participate. What is so wrong with asking parents to state in writing a "yes" or "no" response to the question of letting their children participate in this survey? Parents are asked to actively give permission for or to participate in almost everything else that involves their children in school or in the classroom.

Actually the YRBS is just a catalyst to another larger problem. There are other surveys and questionnaires being given to children that the parents sometimes find out about and, I think, sometimes they don't. There have been some cases where the administration of a school doesn't even know about questionnaires being given to students in their own school.

Personally, I would rather have knowledge about what is being given to my children or any children, before they are asked to participate. I would also like to see what I'm paying for. I would like to know why any questionnaire is necessary, of what good are the results, how are the results going to be used and is this so necessary that it takes away instruction time from every student in the class.

These are questions that every parent should be asking, including many of you. If you don't currently have children in school, maybe you have nieces or nephews in school. You might have close friends that have children in school. School is a time for instruction and learning. Taking surveys and questionnaires might not be a part of the instruction and learning process. If they aren't, then parents should be given the "active" right to say "yes" or "no". A parent's right to participate in the classroom education process should not be abridged.

Thank you in advance for your consideration of my comments.

Sincerely,

Dee Hubbard
4251 Pinnacle Circle
Anchorage, AK 99504

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WorldNetDailyTM

Saturday, January 26, 2002

ELLEN MAKKAI
HEART OF THE MATTER



Schools snoop for scandal

By Ellen Makkai

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What happened to readin' and writin' and 'rithmetic? Today students are being grilled like delinquents about non-academics such as sex, drugs and hooch.

Invasive school surveys ask students if they drink, smoke, snort or steal. Are their parents political, abusive, divorced or dead? Do they believe in God, hell and heaven? Have they ever been bullied, pregnant, arrested or raped? Do they floss, bike or jog? Are they fat, skinny or suicidal? Do they have sex, hobbies or a gun?

Never are they asked if they are embarrassed by the questions. Nor are they read their Miranda rights.

School, government and psychology confederates seem pathologically compelled to guinea pig our kids. Questionnaires arrive from groups like the Centers for Disease Control, Weekly Reader, the U.S. Department of Education, the Kaiser Family Foundation and National Parents Commission.

Government and private grants seduce districts into using these student interrogations, which are then used to convince benefactors that districts need help – the bigger the problems, the bigger the prize.

"If a district proves itself to be in rough enough shape," financial faucets open, says Edward Freeland, associate director of the Survey Research Center at Princeton University. "Consequently, surveys contain some bizarre questions."

Not only are questions bizarre, many are offensive. And parents seldom know Junior is spilling the beans, says family advocate Brad Dacus, president of the non-profit Pacific Justice Institute.

Organizations hope data will translate into programs that preemptively squelch a myriad of social evils.

But do they? Principal Frank DeAngelis said the Columbine killers projected no criminal indicators at school before their rampage.

Also, data is compromised. A 12-year-old New Jersey jokester confided he morphed into an 18-year-old Chinese girl on his survey. Another supposedly had 12 sex partners in a week.

Anonymity isn't guaranteed because some schools pre-labeled polls or have kids sign names. Teacher integrity is questioned – they snoop, say enraged Oregonians, whose kids responded to the Values Appraisal Scale.

If school boards and legislators don't halt the practice, students will continue to slog through surveys, exposing family ills and ills to the scrutiny of strangers.

"Notification and permission slips are so vague, no one suspects what's happening," says parent Carole Nunn, whose complaint prompted recent New Jersey state legislation. With any hint of a survey, "parents need to read them and opt kids out."

New Jersey's law states that students cannot be quizzed on personal issues unless parents give informed written consent. It is the only state to do so.

The new federal education reform bill tried for similar protection. Groups like the American Psychological Association – worried parents would deny them access to their kids – lobbied successfully to have it diluted.

"If you could eliminate an entire race, would you? Which one?" a Bettendorf, Iowa, survey asked in 1992. Youngsters get details on oral sex in one question on the CDC's 1999 Youth Risk Behavior Surveys given to grades seven to 12. Another lists street names where illegal drugs are sold and asks which substances respondents have sampled.

Dr. Freeland wonders if such questions nudge kids to explore behavior noted in the questions themselves. "There is no data about the potential harm rendered," he says. This begs the question: Does negative scrutiny send negative signals? Is a child's self-perception damaged when respected adults deem it necessary to quiz her on immoral and illegal conduct? "We need to look at these factors," says Dr. Freeland.

Ask me; I know. I am a refugee of childhood physical and psychological inquisitions. My psychiatrist father saw me as a handy specimen for perpetual analysis.

I was a "polio pioneer," testing the Salk vaccine in the early '50s. Rorschach inkblots probed my psyche. As a humiliated 11-year-old, I was photographed in my underpants at school for posture screening. Intermingled throughout was a psychiatric couch.

I wondered what acute personal flaws prompted the unceasing assessments.

When I taught 30 years ago, family sovereignty was honored, except in unique crises. Students concentrated on academics, athletics and the arts. Today, educators must refocus on that original scholastic mandate.

And ditch the ignoble school survey, which is little more than a sociological strip search.

Ellen Makkai began writing columns 16 years ago in response to what she perceived as the moral and

Members of the House HESS Committee

Re: HB 408

We would appreciate your giving this measure very critical consideration.

While the objective of the school districts seems laudible enough, that is, having sufficient information to justify federal grant requests, the potential for abuse by school districts and the patent ability within the language of the proposed bill to circumvent parental desire for their children not to participate in personal surveys or questionnaires makes it very inappropriate to change the procedures placed in statute only three years ago.

Three years ago, the Legislature adopted a comprehensive method for school districts to conduct surveys and questionnaires that balanced the interest of the schools to have information with the parents' rights to review and refuse participation in surveys or questionnaires that they felt delved into personal family matters which they did not want documented.

This office is concerned that these surveys can, and in other places do, probe into family health issues, religious practices, student participation in out of school activities and other matters well beyond the purvue of student education.

We do not categorically oppose surveys or questionnaires of any kind, but we do believe that it is essential for parents to have adequate notice of these surveys and the ability to review them and consider whether their child should participate in them before the survey or questionnaire is taken.

We favored the 1999 legislation because it placed the burden on the school district to notify parents and obtain affirmative permission to include students in the study. The proposed legislation reverses the burden and makes it incumbent upon parents to know when surveys might be administered, to make inquiry as to the content, purpose, etc. of the surveys and then to notify of their denial of permission.

It is inappropriate and impractical to expect parents to be constantly inquiring of the school as whether they are contemplating a survey. This legislation gives school districts too much latitude to presume permission and conduct invasive studies without any parental awareness.

We would be most grateful if you would include these concerns in your review of this legislation.

Yours cordially,

Richard L. Block

Richard L. Block

(t) 907 562 5183

Christian Science Committee on Publication (Ak.t.f.) 877 330 5183

for the State of Alaska (f)

907 562 5187

360 W. Benson Blvd., Suite 301 (e)

akcompub@sinbad.net

Anchorage, Alaska 99503

My name is Lisa Torkelson. I'm a parent of two and a contributor to that big Federal money pot in the sky. Three short years ago, HB 70 passed overwhelmingly with only 3 nay votes between the house and senate, and was signed into law by the Governor. HB 408 before you now rips the heart out of HB 70 under the guise of minor cosmetic surgery. Whereas parents were specifically added to the process, HB 408 neatly carves them out. With all its repealing and reenacting, HB 408 appears to have changed little from the original bill. However, the little that remains doesn't include parents. You may hear that schools need HB 408 to do the Youth Risk Behavior Survey and get Federal grant monies. Well, HB 70 never ended survey collection. There is nothing in current law that prohibits school districts from getting information they want. They just need to notify parents of their intentions; permission is only required for inquiries into "personal or family affairs". To promote efficiency, "blanket permission" was allowed at the beginning of each school year (as in during registration when parents and students are already signing other paperwork). The goal was to include parents in the loop, but not make the process onerous and cumbersome for the schools. On the other hand, under HB 408, anonymous surveys of any subject would no longer have a check and balance system. On page 1, Line 6-7, 11, as long as anonymity is maintained, a district inquiring about students, their families, or any other subject would be totally permissible. That's like telling parents, "leave us your kids, but don't let the door hit you on your way out". Current law requires at least notification for every other type of non-personal survey. This still keeps parents in the loop, but provides more of a "heads up" than requires an active role. In HB 408, it is no longer clear whether or not "notification" is even required for anonymous surveys. And finally, HB 70 narrowly defined "questionnaire or survey". This definition no longer exists in the bill before you now. You may hear from schools that they are finding it difficult to get parents permission which is why they need the onus of getting it removed. However, has it occurred to them that perhaps parents don't want their kids surveyed? Parents are the best judges of what their kids should be exposed to and when. Long ago it was decided that children below the age of majority were to be under their parents' jurisdiction. This is still true today no matter how noble the cause. When schools want to ask personal and probing questions, parents have a right to respond with their child's best interest in mind. HB 70 was all about protecting parents; HB408 is all about protecting funding for bureaucracies. I'll conclude by requesting you to support parents' rights and vote Do Not Pass on HB 408. Thank you for your time and listening ears. By the way, Mr. Chairman, how will you respond to HB 408 gutting the intent of your original bill?



Alaska State Legislature

Please enter into the record my testimony to the _____

HES S

Committee name

Committee on _____

HB 408

, dated _____

3-26-02

Bill/Subject

I support HB 408.

From my observations of parents in the Mat-Su S.D., they have been open to having their students participate in school surveys. However, logistics under AS 14.03.110 for getting a signed permission slip for over 13,000 students has proved an overwhelming task for our schools. Under this statute we have seriously reduced numbers of students participating in surveys. This school year we did not receive enough signed permission slips for the Youth Risk Behavior Survey to constitute a representative sample of the students in the District. The information gathered with this survey is especially useful in planning programs and other required as background information when writing and applying for federal grants.

Signed: _____

George Trull

Testifier

Mat-Su Borough School District

Representing (Optional)

125 W. Evergreen, Palmer, AK 99645

Address

(907) 746-9272

Phone number

Subject: HB 408 As it pertains to inschool surveys

Date: Sat, 06 Apr 2002 17:19:11 -0900

From: allen johnson <ajohnson@kpunet.net>

To: Representative Con Bunde <Representative_Con_Bunde@legis.state.ak.us>

**CC: Peggy Wilson <Representative_Peggy_Wilson@legis.state.ak.us>,
Fred Dyson <Representative_Fred_Dyson@legis.state.ak.us>**

Representative Bunde,

Quite a tragic moment to learn that you are the lead on this bill. Aside from the "Loss" of Federal Money, often is a better choice than the consequence of accepting what is never "Free". There is a price and in the case of this funding, intrusion beyond the need to know.

I am here to strongly object to the content of this bill as it relates to school surveys. As a former school board member who had involvement and strong disagreement with this type of program I objected to any format that did not require written approval prior to any survey to a child by that child's parent(s) or guardian. Period end of discussion.

The Hatch law is clear as to what is disallowed in such a survey. Sex information, family information and such is absolutely the privilege of the family not the social agencies that constantly band together to form strong lobby pressure for more "Fed Funds". *(I don't particularly care if your shorts are dirty and I sure as hell don't want you to know if my are!!! but in essence this is the quality of the questions that these surveys project .)*

What has transpired in terms of improvement or corrections as a result of past survey information obtained by this dubious method? Nothing. Nothing will result of any future surveys except the huge expenditure of federal funding and the intrusion into family areas that are not the concern of outsider social manipulators. So where is the requirement of private schools or home schoolers to provide this data? There is none and rightfully so. Because is is a public education, parents and guardians are not to be ignored or bypassed.

Please advise me if you have had the second thoughts on this bill and will withdraw your support, that a man of your character should be demonstrating to the general public. I request your reply as a long time supporter of past endeavors by your good office.

Respectfully

Al Johnson- Ketchikan

Subject: HB 408

Date: Sat, 6 Apr 2002 20:07:52 +0400

From: "Bejean Page, Owner/ Forget-Me-Not Demos" <demosalaska@gci.net>

To: "Representative Con Bunde" <Representative_Con_Bunde@legis.state.ak.us>

CC: "Fred Dyson" <Representative_Fred_Dyson@legis.state.ak.us>, "Peggy Wilson" <Representative_Peggy_Wilson@legis.state.ak.us>

Dear Con,

As constituents of yours for many years, my wife Bejean and I have been proud and supportive of most positions you have taken in the legislature. We commend you for the good work you have done to maximize the benefit for tax dollars expended, and the good judgment that has been a hallmark for you.

So, I need a big explanation for why you are ramrodding the latest liberal effort to violate parents rights made clear in Title 20 1232h of the United States Code (aka Protection of Pupil Rights).

Prior to taking this lead position on HB408 I would suspect that you had reviewed circumstances in 1999 when the Anchorage School District got slapped down when they wanted to subject kids as young as twelve to a two plus hour inquisition into their sexual histories and attitudes, drug and social attitudes, and more. ASD was correctly advised that explicit parental approval was required - and Con, when you expressly ask for a parent's permission for their son or daughter to take this exhaustive, supposedly anonymous, personal violation - the door is slammed shut - because it is not a publicly financed schools business!!

Con, I have served as chair of the Chamber's Crime Prevention Committee, I co chaired a sub committee of the Governor's Conference on Youth & Justice, was president of the Youth Crime Prevention Education Committee, served on Mayor Fink's Panel on Youth Crime, and served on the legislatively mandated Adolescent Health Advisory Committee. Nothing I have seen would suggest that surveying total school populations with the Youth Risk Behavior Survey, or any similar survey will render reliable data resulting in effective prevention strategies. For crying out loud Con, no more than 5-10% of teens are at risk of indulging chronically in seriously unhealthy behavior.

If you want to do something responsible, spend more intense time with the small minority of kids we know to be "at risk".

Does it ever bother you to see Alaska's education and social service bureaucrats trying to implement programs like this one (all day kindergarten, later hour start for high school, etc.) almost simultaneously with New Jersey, California, Massachusetts and other states? Alaska (and those other states) all present the program as if it is presented in response to local concerns? It makes me sick.

HB 408 makes me sick, and I am sorry to see you sully yourself with it. I hope you reconsider the entire matter. I hope you and your staff do more research. I hope this bill dies a slow and glorious death in committee somewhere.

Jay Page

Subject: HB 408

Date: Mon, 8 Apr 2002 13:40:44 -0800

From: "Kevin Clarkson" <kclarkson@gci.net>

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

Thank you Fred for standing against HB 408 and the School District's attempt to diminish parental rights regarding the surveying of their children. Keep up the good work.

Kevin

Subject: Fw: "Freedom of Choice"

Date: Tue, 9 Apr 2002 21:53:29 -0800

From: "Charlie Jones" <cwjones@wwdb.org>

To: "Annette Kreitzer" <Annette_Kreitzer@legis.state.ak.us>,
"Sharron Odell" <Sharron_Odell@legis.state.ak.us>,
"Linda Hay" <Linda_Hay@legis.state.ak.us>,
"Leona Oberts" <Leona_Oberts@legis.state.ak.us>,
"Kelly Huber" <Kelly_Huber@legis.state.ak.us>,
"Jennifer Yuhas" <Jennifer_Yuhas@legis.state.ak.us>,
"Linda Sylvester" <Linda_Sylvester@legis.state.ak.us>,
"Tammy Davis" <Tammy_Davis@legis.state.ak.us>,
"Janey Wineinger" <Janey_Wineinger@legis.state.ak.us>,
"Jason Hooley" <Jason_Hooley@legis.state.ak.us>,
"Arleen Voorhees" <Arleen_Voorhees@legis.state.ak.us>,
"Whitney Highland" <Whitney_Highland@legis.state.ak.us>,
"Randy Ruaro" <Randy_Ruaro@legis.st.ak.us>,
"Representative Lesil McGuire" <Representative_Lesil_McGuire@legis.state.ak.us>

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

From: Charlie Jones

To: Charlie Jones

Sent: Tuesday, April 09, 2002 7:19 AM

Subject: "Freedom of Choice"

Dear Alaska State Legislative Member:

I am writing to ask your support for the successful movement and passage of SB 346 and HB 464 regarding Correspondence Programs in the State of Alaska. In my opinion, these bills offer critical long-term protection of a basic freedom for residents of Alaska--the freedom to choose how your own children are educated.

We currently teach our 4 children at home (ages 4,8,12, & 14) and are convinced that they are learning in the most efficient manner possible. Furthermore, they are developing a love of learning and constantly challenge us as parents to provide more varied subject matter based on their individual interests. The Correspondence Programs available in Alaska provide an invaluable resource that allows us to keep up with their progressing interests.

Please help protect the freedom and privilege of teaching our own children. I beseech you to get these bills moving right away. Give parents the right to determine how their children are educated and show your support for protection of one of our most basic freedoms--the "Freedom of Choice".

Thank you very much for your support.

Sincerely,

Charles W. Jones
10002 Crazy Horse Drive
Juneau, AK 99801
907-789-7636 (w)

Representative Lesil McGuire <Representative_Lesil_McGuire@legis.state.ak.us>; Senator Robin Taylor <Senator_Robin_Taylor@legis.state.ak.us>; Senator Lyda Green <Senator_Lyda_Green@legis.state.ak.us>; Senator Georgianna Lincoln <Senator_Georgianna_Lincoln@legis.state.ak.us>; Representative Jeannette James <Representative_Jeannette_James@legis.state.ak.us>; Representative Joe Hayes <Representative_Joe_Hayes@legis.state.ak.us>; Senator Alan Austerman <Senator_Alان_Austerman@legis.state.ak.us>; Senator John Cowdery <Senator_John_Cowdery@legis.state.ak.us>; Senator Bettye Davis <Senator_Bettye_Davis@legis.state.ak.us>; Senator Dave Donley <Senator_Dave_Donley@legis.state.ak.us>; Senator Johnny Ellis <Senator_Johnny_Ellis@legis.state.ak.us>; Senator Kim Elton <Senator_Kim_Elton@legis.state.ak.us>; Senator

Subject: Lisa's HB 408 testimony for April 9th

Date: Tue, 9 Apr 2002 15:12:00 -0800

From: Lisa Torkelson <lisa@advanced-design.com>

To: Jason_Hooley@legis.state.ak.us

My name is Lisa Torkelson. I am not paid by any organization, school district or agency to talk to you today. I am a full-time parent and I am here because HB 408 should...not...pass.

Passive consent is not consent. At the bank, in the school, and at the grocery store, only our signatures are consent. Surveys should be treated no differently.

I offer some brief points to consider:

1. Kids cannot go on field trips without parent's permission nor can they be given aspirin. Surveys should be no different.
2. There are sources of documented evidence that anonymity does NOT exist when surveying students in school.
3. There is a list of places where hard, reliable data can be gathered and it's not from a student survey.
4. We have been told that the Federal government does not make money contingent on the provision of specific survey data.
5. Federal law also prohibits making the 'sharing of personal data' mandatory when it is tied to grants.
6. Self-reported data is not reliable. The committee sources that can show where students have lied, bragged and played games with their answers.
7. If this bill passes, the school district will stand wide-open for potential lawsuits. And, I can tell you that lawsuits are much more expensive than most grants.
8. Finally, HB 408 does not limit questions to just those found in the YRBS...as if those aren't enough to make you pause. There is documented evidence that any topic is (and has been) open for discussion within the confines of a survey (race and gender of other family members, family stability, parent income, family extracurricular activities, allowance amounts, who all lives in a particular home, if parents like their kids, and a whole lot more but I will stop there).

Thank you for your time and attention. I know it is valuable. Please respect our right to privacy and vote Do Not Pass on HB 408.

Subject: Lisa's HB 408 testimony "backup"

Date: Tue, 9 Apr 2002 15:14:03 -0800

From: Lisa Torkelson <lisa@advanced-design.com>

To: Jason_Hooley@legis.state.ak.us

1)

ASD field trips require parent permission, but nothing is posted for surveys:
<http://www.asd.k12.ak.us/aboutasd/registration.html#fieldtrip>

2)

From: "Carole Nunn" <Caroleanunn@aol.com>

Date: Mon, 8 Apr 2002 07:40:29 EDT

Anonymity does not exist when surveying students in schools. These surveys ask such specific questions (age, race, grade, sex, if you live with one or both parents, how long you've lived in town, the level of education of your father, of your mother, what grades you get, etc.). I would have no trouble picking out my child's survey out of 2000 surveys. These surveys are given in classes of 20-25 students, thus narrowing down which survey belongs to whom. Kids were saying that they had to hand in their surveys front-to-back, row-by-row (every teacher has a seating assignment chart). One student at our high school said he was caught changing his race on his survey so the administrator made him go to another room and fill it out correctly. A mother complained that when her child missed the survey on Friday, upon his return to school on Monday, he was made to take the survey while the rest of the class read. Another mother said her son was pulled into the office and questioned about his "alarming" answers on his survey. At one school, the surveys were actually labelled with the students' names. Let's not forget that these surveys have our children's fingerprints all over them. Ridgewood ignored the guidelines for administering the survey in an anonymous and voluntary fashion -- the only guideline they followed was that the students use a #2 pencil! What's to stop another school district like Ridgewood from doing the same thing?

3)

From: "Carole Nunn" <Caroleanunn@aol.com>

Date: Mon, 8 Apr 2002 07:40:29 EDT

It seems to me that the Feds would want valid, accurate and reliable hard data. This can be found by gathering data from police stations, emergency rooms, drug and rehab centers, planned parenthood, mental health clinics, fire stations, social service agencies, etc. Relying on students to be truthful about their risky behaviors is not the way to go.

4)

From: "Carole Nunn" <Caroleanunn@aol.com>

Date: Sat, 6 Apr 2002 08:26:28 EST

Testimony was heard from all the state agencies (state attorney general's office, health department, education department, schools boards association, etc.) bemoaning the fact that they would lose federal funding if they couldn't survey students and get back a high percentage of completed surveys (which would require passive consent because with active consent a low percentage of consent forms come back from the parents). Senator Martin, Chairman of the Senate Education Committee, **demande**d that these state agencies hand over to him letters from the federal agencies stating that federal funds were contingent on survey data. These state agencies could not produce these letters because no federal agency was going to put that in writing. Therefore, Senator Martin considered their testimony invalid.

5)

Federal Law: Title 20 USC 1232i:

(a) Refusal to supply personal data on students or families

Except as provided in section 1232g(b)(1)(D) of this title, the refusal of a State or local educational agency or institution of higher education, community college, school, agency offering a preschool program, or other educational institution to provide personally identifiable data on students or their families, as a part of any applicable program, to any Federal office, agency, department, or other third party, on the grounds that it constitutes a violation of the right to privacy and confidentiality of students or their parents, shall not constitute sufficient grounds for the suspension or termination of Federal assistance. Such a refusal shall also not constitute sufficient grounds for a denial of, a refusal to consider, or a delay in the consideration of, funding for such a recipient in succeeding fiscal years. In the case of any dispute arising under this section, reasonable notice and opportunity for a hearing shall be afforded the applicant.

6)

From: "Carole Nunn" <Caroleanunn@aol.com>

Date: Mon, 8 Apr 2002 07:40:29 EDT

Firstly, self-reported data is neither valid nor reliable. Kids lie on these surveys -- kids were bragging about how they changed their age, race and sex and then the fun and games began. Studies show that asking teens about their risky behaviors is not the way to seek legitimate survey data.

7)

From: "Carole Nunn" <Caroleanunn@aol.com>

Date: Sat, 6 Apr 2002 08:26:28 EST

Regarding our lawsuit, after two years of court battle, we are just now entering into deposition and discovery. My attorney estimates that his legal bill so far is \$50,000 which means the school district's bill is probably about the same. Now that we are into the deposition and discovery phase, the legal fees are going to soar! Thank God Rutherford Institute is footing the bill. Of course, when (not if) we win the lawsuit, the school district's insurance company will be footing the total bill ... which I imagine will be in the hundreds of thousands.

8)

From: Caroleanunn@aol.com

Date: Sat, 6 Apr 2002 08:26:28 EST

Site related to the Ridgewood, New Jersey case in court
<http://www.geocities.com/ridgewoodschools/school.html>

Also, the United States Justice Foundation lists samples* (in PDF format) that can be downloaded:
<http://www.usjf.net/html/surveys.html>

*I will send these PDF files in a separate e-mail.

USJF NOTE: The following is a reproduction of survey material. The format has been adapted on these pages for viewing on the Web. Therefore, it is intended for reference only.

Personal Assessment and Awareness

Am I This or That?

Are you (circle the appropriate word in bold in each item);

1. More like a **teacher** or a student?
2. More **yes** or no?
3. More **here** or there?
4. More **political** or apolitical?
5. More **religious** or irreligious?
6. More like the **country** or the city?
7. More like the **present** or the future?
8. More of a **leader** or a follower?
9. More **physical** or mental?
10. More of an **arguer** or an agree-er?
11. More **Intuitive** or rational?
12. More **establishment** or anti-establishment?
13. More like a **tortoise** or a hare?
14. More likely to walk on thin **Ice** or to tiptoe through the tulips?
15. More like **patent leather** or suede?
16. More like a **paddle** or a ping pong ball?
17. More like a **word processor** or a quill pen?
18. More like a **falling star** or a beacon light on a mountain?
19. More like a **rock band** or a baroque string quartet?
20. More like a **clothes line** or a kite string?
21. More like a "No Trespassing" sign or a "**Pub'ic Fishing**" sign?
22. More like a **fly swatter** or fly paper?
23. More like **rollerblades** or a pogo stick?
24. More like a **file cabinet** or a liquor chest?
25. More like a **motorcycle** or a tandem bicycle?
26. More like a **gourmet** or a MacDonal'd's fan?
27. More like a **bubbling brook** or a placid lake?
28. More like a **screened porch** or a picture window?
29. More like a **mountain** or a valley?
30. More like a "Stich in Time" or "**Better Late than Never?**"

GETTING TO KNOW YOU

NAME _____ HOME PHONE # _____

WITH WHOM DO YOU LIVE?

WHAT KIND OF JOB DO THEY DO?

ARE YOUR PARENTS MARRIED__SEPARATED__DIVORCED __NEVER MARRIED__?

IF YOU HAVE A STEPPARENT, PLEASE TELL ME WHAT KIND OF RELATINSHIPYOU HAVE WITH THAT STEPPARENT?

HOW DO YOU GET ALONG AT HOME?

WHAT DO YOU CONSIDER TO BE THE BEST THING ABOUT YOUR HOME & THE WORST?

BEST

WORST

HOW DO YOU FEEL ABOUT SCHOOL?

WHY?

DO YOU HAVE A HARDTIME CONTROLLING YOUR TEMPER?

DO YOU THINK YOU WILL GRADUATE FROM HIGH SCHOOL?

WHY OR WHY NOT?

WHAT IS YOUR CAREER INTEREST?

HAS ANYBODY CLOSE TO YOU DIED IN THE LAST YEAR OR. SO?

IF YES, TELL WHO _____ WHEN _____ HOW _____

IF YOU COULD CHANGE ONE THING ABOUT YOUR FAMILY WHAT WOULD IT BE AND WHY?

IF YOU COULD CHANGE ONE THING ABOUT YOURSELF, WHAT WOULD IT BE AND WHY?

IF YOU COULD CHANGE ANYTHING IN THE WORLD WHEN YOU GROW UP. WHAT WOULD IT BE AND WHY?

WHAT'S THE MOST DIFFICULT THING FOR YOU IN YOUR LIFE RIGHT NOW & WHY?

WHAT'S THE MOST IMPORTANT THING TO YOU & WHY?

ARE YOU HAPPY? AND WHY?

WHAT KINDS OF THINGS DO YOU WORRY ABOUT?

DO YOU WORK? _____ WHERE? _____

WHAT'S THE THING YOU NEED MOST THAT YOU ARE NOT GETTING FROM YOUR FAMILY?

SELECT THE GROUP COUNSELING SESSIONS YOU WOULD LIKE TO PARTICIPATE:

- | | |
|--|---|
| <input type="checkbox"/> MANAGING ANGER | <input type="checkbox"/> INTERPERSONAL RELATIONSHIP |
| <input type="checkbox"/> PARENT /TEEN CONFLICT | <input type="checkbox"/> GRIEF/LOSS |
| <input type="checkbox"/> COPING WITH STRESS | <input type="checkbox"/> STUDY SKILLS |
| <input type="checkbox"/> NONE | OTHER _____ |

IS THERE ANYTHING EXTRA YOU WOULD LIKE TO TELL ME ABOUT YOURSELF?

For Reference Only

USJF NOTE: The following is a reproduction of the survey given in a journalism and history class, in Bettendorf Iowa. The format has been adapted on these pages for viewing over the Web. Therefore, it is intended for reference only.

Bettendorf Survey

Note: This poll is entirely anonymous except for your sex and your graduation year. Please answer as honestly as possible

Are you male or female?

What year are you?

Do you regard yourself as a bigot?

Do you think homosexuality is a problem society must deal with as strictly as possible?

Do you think people are born homosexual or do you think they choose to be homosexual?

Do you think everyone who wishes to become a United States citizen should be made to speak a minimal amount of the English language?

Do you think the United States was stolen from Native Americans or do you think Europeans rightfully colonized it?

Have you ever rolled up your car windows in a predominantly minority neighborhood?

Have you ever rolled up your windows in a predominately poor white neighborhood?

How would you feel about having a minority as your Physician?

Nationalities & Religions

- | | | |
|-----------------------------|--------------------------------|------------------------------|
| 1) Irish-Americans | 7) French-Americans | 13) Viet Nameese-Americans |
| 2) Hispanic-Americans | 8) Polish-Americans | 14) Native-Americans |
| 3) Italian-Americans | 9) German-Americans | 15) Middle-Eastern-Americans |
| 4) African-Americans | 10) Eastern-European-Americans | 16) Jews |
| 5) Eastern Indian-Americans | 11) Nordic-Americans | 17) Catholics |
| 6) British-Americans | 12) Japanese-Americans | 18) Protestants |
| | | 19) Other (Please Name) |

Which of the above do you think is responsible for the decline in the U.S.'s economy?

Which of the above do you think is more susceptible to alcoholism?

Which of the above do you think is the most likely to raise a large family (8 or more children)?

Which of the above do you think is most subject to suspicious criminal activity?

Which of the above are you most likely to assume does not speak fluent English?

Which of the above do you think is most likely to have any connection to organized crime?

Which of the above do you think is the most likely to have an income of over \$50,000?

Which of the above do you think would be most likely to eliminate an entire race?

Who has most influenced the way you feel about other races?

With whose influence have you most strongly disagreed?

If you could eliminate an entire race would you?

If yes, which one? (Responses will not be published)

Have you ever put someone down because they were of a different religion than you?

Have you ever or would you ever physically assault someone because of their sexual preference?

Would you ever associate with someone of the same sex who was either rumored to be or a self-declared homosexual?

Why or why not?

What do think about racism in general?

What do you think about individuals who use violence to support their bigoted beliefs?

Would someone else regard you as a bigot?

**ANCHORAGE SCHOOL DISTRICT
Anchorage, Alaska**

PARENT PERMISSION FORM

TO: _____ DATE: _____ 20____
(Name of school)

I/we hereby give permission for our son/daughter _____
(Name of student)
to attend the _____
(Activity)
in _____ on _____
(Location of activity) (Date of activity)

I/We understand that he/she will be traveling to this function via _____
and that proper supervision and chaperoning will be provided by the Anchorage School
District. It is agreed that _____
(Name of student)
will abide by all rules and regulations imposed by the School District authorities.

I/We further consent to emergency treatment by a physician in the event of injury to or illness
of my child during his/her participation in the above stated activity and waive, on behalf of
myself and my child, any liability to the Anchorage School District, and any of its agents or
employees, arising out of such treatment.

DATED IN _____, ALASKA, THIS _____ DAY
OF _____, 20_____.

Signature of Parent or Guardian

Signature of Student

01.14.2002

Sectional Analysis HB 408

Section 1: Repeals and rewrites a AS 14.03.110(a) thereby changing existing statute to allow 1) anonymous surveys without written permission. 2) It also removes a prohibition about questions that inquire into personal or private affairs.

Section 2: Repeals and rewrites 14.03.110(b) thereby it: 1)removes the section that allows the school district to get annual permission (for anonymous surveys) from the parents, and, 2) removes the requirement to notify parents 2 weeks before a survey. These two concepts are replaced with a requirement that each student's parent shall be provided the "opportunity to submit... denial of permission.

Section 3: Repeals and rewrites 14.03.110(c) thereby 1) removing the requirement for written permission and, 2) the requirement for a two week notice for non-anonymous surveys. These two concepts are replaced with a requirement for at least two weeks written notice of the right to ***grant or deny permission.*** No direction is given on what should be done with the written notice other than the school "shall provide" it. (The intent of this section could be technically satisfied with a posting on a "parent's bulletin board" in some remote corner of the school)

Section 4: Repeals and rewrites 14.03.110(d) The only significant change is that the written notice that must be "provided" to parents is defined to include directions for permission for taking the survey (which would not be needed if this bill was to pass) or for denial of permission.

Section 5: Amends 14.03.110(d) to require the parent to take the initiative to provide written denial of permission

United States Code : Title 20, Section 1232h

<http://www4.law.cornell.edu/uscode/20/1232h.text.html>

Sec. 1232h. Protection of pupil rights

(a) Inspection of instructional materials by parents or guardians

All instructional materials, including teacher's manuals, films, tapes, or other supplementary material which will be used in connection with any survey, analysis, or evaluation as part of any applicable program shall be available for inspection by the parents or guardians of the children.

(b) Limits on survey, analysis, or evaluations

No student shall be required, as part of any applicable program, to submit to a survey, analysis, or evaluation that reveals information concerning -

- (1) political affiliations;
- (2) mental and psychological problems potentially embarrassing to the student or his family;
- (3) sex behavior and attitudes;
- (4) illegal, anti-social, self-incriminating and demeaning behavior;
- (5) critical appraisals of other individuals with whom respondents have close family relationships;
- (6) legally recognized privileged or analogous relationships, such as those of lawyers, physicians, and ministers; or
- (7) income (other than that required by law to determine eligibility for participation in a program or for receiving financial assistance under such program), without the prior consent of the student (if the student is an adult or emancipated minor), or in the case of an unemancipated minor, without the prior written consent of the parent (*emphasis added*).

(c) Notice

Educational agencies and institutions shall give parents and students effective notice of their rights under this section.

(d) Enforcement

The Secretary shall take such action as the Secretary determines appropriate to enforce this section, except that action to terminate assistance provided under an applicable program shall be taken only if the Secretary determines that -

- (1) there has been a failure to comply with such section; and
- (2) compliance with such section cannot be secured by voluntary means.

(e) Office and review board

ice of The Times

Solution to school survey issue at hand

By ANDRÉE MC CLOUD

Here are the top 10 reasons why people should contact legislators in support of House Bill 70, "An act relating to questionnaires or surveys administered in public schools."

1. Defend and protect privacy.

The Alaska Constitution states, "The right of the people to privacy is recognized and shall not be infringed upon." Parents are legally responsible for their children, who they send to school with an understanding that they'll be taught to read, write and do math. Anything done outside those parameters cannot be done without parents' prior knowledge. School administrators, teachers and parents work extremely hard at maintaining this fragile and sensitive mutual trust. Violating this trust has a chilling effect on this all-too-important partnership.

2. Ensure parents' right to know.

Existing state law says that parents must provide written permission before a school may hand out surveys dealing with "private family affairs." Bureaucrats in the Alaska Health and Social Services department find this phrase ambiguous. With legal opinions in hand challenging the meaning of the phrase, they have proceeded this past school year to insidiously, and in a stealth-like manner, administer surveys to students in 26 out of 28 school districts without getting prior written consent from parents. The surveys consisted of extremely private questions dealing with a student's personal behavior outside of school. (Anchorage Superintendent Bob Christal did not permit the surveys in the Anchorage School District, so students here were not harassed with these invasive surveys.) HB70 adds the word "personal" to the existing state law, which hopefully will dispel future confusion on the part of health department officials.

3. Clarify the term "written permission."

The bill stresses the type of permission schools must obtain before handing out surveys. Parents will decide to give or deny permission, in writing, at the time they register their child about whether they want their child to answer personal questions in anonymous surveys. For non-anonymous surveys, the school must contact parents and obtain additional written permission at least two weeks prior to administering them.



4. Stop erosion of academic time.

Surveys dealing with personal behaviors detract from the important task of learning. Parents who don't want their children wasting time on surveys finally have a say in the matter. One potential result of HB70 will be to indulge students with learning matters of academic substance instead of diminishing their educational opportunities.

5. Allow parents opportunity to accept rights and responsibilities.

Parents can exercise their right, duty and responsibility to teach children about privacy issues and when, how and to whom children should divulge private information.

6. Make parents accountable.

The governor's children's agenda is admirable in its intent to curb the abuse of children. However, most parents do follow the rules and don't break these laws. In the state's quest to find the people who violate child abuse laws, great care should be taken to not dilute personal and civil liberties of innocent people. Those fighting the war against abuse must look with a broader view and recognize that many Alaskan families lead functional lives. Most parents do know what is best for their children and strive to do better by them without government intervention.

7. Efficient government.

State health officials must find innovative methods for information gathering. Why survey each child? How about a stratified sample of the population? Or obtaining real, hard numbers by surveying health clinics and physicians who compile patient and service records? Health educators have told me that the "key-determinant" method of collecting data is not only more accurate but cheaper. It's our money paying for all this prying, after all.

8. Stimulate community involvement.

HB70 encourages communities and groups to start talking with young citizens. Sitka's Teen Center is in the forefront of this by initiating a program bringing adults and children together, outside of school, to speak about issues important in maintaining a healthy and risk-free community.

9. Track public health spending.

The controversy surrounding the bill should send a red flag to the Legislature to initiate a full and complete audit of public health and education funds used in this state. The reason for the intense lobbying efforts by health officials appears to have more to do with perpetuating their own welfare than that of the children. Bringing about accountability of public funds will guide the Legislature and inform taxpayers, who want to know where all the money is going.

10. The government's right to know does not supercede the right to privacy of Alaskan families.

Legislators are told that mainstream Alaskan parents don't really object to the way schools administer surveys. As a parent, I have strong feelings about being put in a taxing position, lobbying legislators to demand state health officials abide to the intent of the law (1979 House Journal), as students are used as guinea pigs to generate money from the feds, behind the back of parents.

Please support the survey bill by contacting the sponsor, Rep. Fred Dyson, as soon as you can. Phone: (907) 465-2199; Fax: (907) 465-4587; e-mail: Representative_Fred_Dyson@legis.state.ak.us

Andrée McClood of Anchorage is, among other things, a concerned parent and an unabashed citizens' advocate.

WE'RE BACK!

THE 83's

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Voters say loud, clear 'no'



Alaskans want fund left alone

By LIZ RUSKIN
Daily News reporter

The proposal to spend Permanent Fund earnings to balance Alaska's state budget went down in a landslide of "no" votes Tuesday.

With 100 percent of the precincts reporting statewide in the nonbinding, advisory election, 83 percent of voters said no.

The heart of the fiscal plan on the ballot was a proposal to use part of the earnings of the Permanent Fund for government, although it also pledged more budget cuts and about \$100 million in unspecified new revenue. The ballot: "After paying annual dividends to residents and inflation-proofing the permanent fund, should a portion of permanent fund investment earnings be used to help balance the state budget?"

Permanent Fund dividends would have been reduced in 2001 to \$1,340 — about \$500 less than they are otherwise projected to be.

Thirty-six percent of registered voters statewide came to the polls, although turnout was as high as 70 percent in some Bush villages. In several small communities — Bettles, Circle, Egegik, Foxton, Podre Bay, Stony River, Tuntutuliak — the vote was unanimous against the plan.

While "no" came in loud and clear from the polls, in urban Alaska as well as the Bush, what voters mean by it was harder to say. An unlikely coalition emerged to work for its defeat — slash-the-government conservatives alongside tax-the-oil-companies environmentalists, among others — and voters interviewed Tuesday offered many reasons for voting no.

Some said they didn't believe the state has really cut the budget, despite the Legislature's claim that it has reduced state spending more than \$200 million over the past three

Mark Chocoma, Eddie Burke and Steve Conn celebrate at the South Anchorage Civic Center after the election. Chocoma said Alaska voters rejected the proposal to spend Permanent Fund dough.

BOB WALLHEIM / Anchorage Daily News

Back Page, VOTE

NEWS


Sharpened knives, sacred cow

Alaska Association of School Administrators
LEADERSHIP FOR LEARNING

323 Fourth St., Suite 404 • Juneau, AK 99801-1101

Phone: (907) 586-9702 (800) 478-9702 • Fax: (907) 586-5879



Date: April 9, 2002
To: Representative Con Bunde
From:  Warroll Hargraves, Executive Director
Subject: Support for HCR 23, Creating an Education Committee

Support was given to encourage the creation of standing committees for education at a recent meeting of public school superintendents. We have witnessed the massive workload for the current HESS committees and believe that health and social service activity is a tremendous workload without the activity required by education. Education has more bills introduced during a legislature than does any other state function.

A standing committee for education will provide adequate time and effort for the ever-increasing complexities of modern day educational issues.

The Alaska Association of School Administrators supports your effort to establish standing committees for education.

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-CITE-

20 USC Sec. 1232h

01/02/01

-EXPCITE-

TITLE 20 - EDUCATION

CHAPTER 31 - GENERAL PROVISIONS CONCERNING EDUCATION

SUBCHAPTER III - GENERAL REQUIREMENTS AND CONDITIONS CONCERNING

OPERATION AND ADMINISTRATION OF EDUCATION PROGRAMS: GENERAL

AUTHORITY OF SECRETARY

Part 4 - Records; Privacy; Limitation on Withholding Federal Funds

-HEAD-

Sec. 1232h. Protection of pupil rights

-STATUTE-

(a) Inspection of instructional materials by parents or guardians

All instructional materials, including teacher's manuals, films, tapes, or other supplementary material which will be used in connection with any survey, analysis, or evaluation as part of any applicable program shall be available for inspection by the parents or guardians of the children.

(b) Limits on survey, analysis, or evaluations

No student shall be required, as part of any applicable program, to submit to a survey, analysis, or evaluation that reveals information concerning -

- (1) political affiliations;
- (2) mental and psychological problems potentially embarrassing to the student or his family;
- (3) sex behavior and attitudes;
- (4) illegal, anti-social, self-incriminating and demeaning behavior;
- (5) critical appraisals of other individuals with whom respondents have close family relationships;

(6) legally recognized privileged or analogous relationships, such as those of lawyers, physicians, and ministers; or

(7) income (other than that required by law to determine eligibility for participation in a program or for receiving financial assistance under such program),

without the prior consent of the student (if the student is an adult or emancipated minor), or in the case of an unemancipated minor, without the prior written consent of the parent.

(c) Notice

Educational agencies and institutions shall give parents and students effective notice of their rights under this section.

(d) Enforcement

The Secretary shall take such action as the Secretary determines appropriate to enforce this section, except that action to terminate assistance provided under an applicable program shall be taken only if the Secretary determines that -

(1) there has been a failure to comply with such section; and

(2) compliance with such section cannot be secured by voluntary means.

(e) Office and review board

The Secretary shall establish or designate an office and review board within the Department of Education to investigate, process, review, and adjudicate violations of the rights established under this section.

-SOURCE-

(Pub. L. 90-247, title IV, Sec. 445, formerly Sec. 439, as added Pub. L. 93-380, title V, Sec. 514(a), Aug. 21, 1974, 88 Stat. 574; amended Pub. L. 95-561, title XII, Sec. 1250, Nov. 1, 1978, 92 Stat. 2355; Pub. L. 103-227, title X, Sec. 1017, Mar. 31, 1994, 108 Stat. 268; renumbered Sec. 445, Pub. L. 103-382, title II, Sec. 212(b)(1), Oct. 20, 1994, 108 Stat. 3913.)

-MISC1-

PRIOR PROVISIONS

A prior section 445 of Pub. L. 90-247 was classified to section 1233d of this title prior to repeal by Pub. L. 103-382.

AMENDMENTS

1994 - Pub. L. 103-227 amended section generally, substituting in subsec. (a), provisions relating to inspection of instructional materials by parents or guardians for similar provisions, in subsec. (b), provisions relating to limits on survey, analysis, or evaluations for provisions relating to psychiatric or psychological examinations, testing, or treatment, and adding subsecs. (c) to (e).

1978 - Pub. L. 95-561 designated existing provisions as subsec. (a) and added subsec. (b).

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-561 effective Oct. 1, 1978, see section 1530(a) of Pub. L. 95-561, set out as a note under section 1221e-3 of this title.

EFFECTIVE DATE

Section 514(b) of Pub. L. 93-380 provided that: ''The amendment made by subsection (a) (enacting this section) shall be effective upon enactment of this Act (Aug. 21, 1974).''



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20 USC Sec. 1232i

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-EXPCITE-

TITLE 20 - EDUCATION

CHAPTER 31 - GENERAL PROVISIONS CONCERNING EDUCATION

SUBCHAPTER III - GENERAL REQUIREMENTS AND CONDITIONS CONCERNING

OPERATION AND ADMINISTRATION OF EDUCATION PROGRAMS: GENERAL

AUTHORITY OF SECRETARY

Part 4 - Records; Privacy; Limitation on Withholding Federal Funds

-HEAD-

Sec. 1232i. Limitations on withholding of Federal assistance

-STATUTE-

(a) Refusal to supply personal data on students or families

Except as provided in section 1232g(b)(1)(D) of this title, the refusal of a State or local educational agency or institution of higher education, community college, school, agency offering a preschool program, or other educational institution to provide personally identifiable data on students or their families, as a part of any applicable program, to any Federal office, agency, department, or other third party, on the grounds that it constitutes a violation of the right to privacy and confidentiality of students or their parents, shall not constitute sufficient grounds for the suspension or termination of Federal assistance. Such a refusal shall also not constitute sufficient grounds for a denial of, a refusal to consider, or a delay in the consideration of, funding for such a recipient in succeeding fiscal years. In the case of any dispute arising under this section, reasonable notice and opportunity for a hearing shall be afforded the applicant.

(b) Noncompliance with nondiscrimination provisions of Federal law

The extension of Federal financial assistance to a local educational agency may not be limited, deferred, or terminated by the Secretary on the ground of noncompliance with title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) or any other nondiscrimination provision of Federal law unless such agency is accorded the right of due process of law, which shall include -

(1) at least 30 days prior written notice of deferral to the agency, setting forth the particular program or programs which the Secretary finds to be operated in noncompliance with a specific provision of Federal law;

(2) the opportunity for a hearing on the record before a duly appointed administrative law judge within a 60-day period (unless such period is extended by mutual consent of the Secretary and such agency) from the commencement of any deferral;

(3) the conclusion of such hearing and the rendering of a decision on the merits by the administrative law judge within a period not to exceed 90 days from the commencement of such hearing, unless the judge finds by a decision that such hearing cannot be concluded or such decision cannot be rendered within such period, in which case such judge may extend such period for not to exceed 60 additional days;

(4) the limitation of any deferral of Federal financial assistance which may be imposed by the Secretary to a period not to exceed 15 days after the rendering of such decision unless there has been an express finding on such record that such agency has failed to comply with any such nondiscrimination provision of Federal law; and

(5) procedures, which shall be established by the Secretary, to ensure the availability of sufficient funds, without regard to any fiscal year limitations, to comply with the decision of such judge.

(c) Failure to comply with imposition of quotas

It shall be unlawful for the Secretary to defer or limit any Federal financial assistance on the basis of any failure to comply with the imposition of quotas (or any other numerical requirements which have the effect of imposing quotas) on the student admission practices of an institution of higher education or community college receiving Federal financial assistance.

-SOURCE-

(Pub. L. 90-247, title IV, Sec. 446, formerly Sec. 440, as added Pub. L. 93-380, title V, Sec. 515(a), Aug. 21, 1974, 88 Stat. 574; amended Pub. L. 94-482, title IV, Sec. 407, 408, Oct. 12, 1976, 90 Stat. 2232, 2233; renumbered Sec. 446 and amended Pub. L. 103-382, title II, Sec. 212(b)(1), (3)(C), Oct. 20, 1994, 108 Stat. 3913.)

-REFTEXT-

REFERENCES IN TEXT

The Civil Rights Act of 1964, referred to in subsec. (b), is Pub. L. 88-352, July 2, 1964, 78 Stat. 241, as amended. Title VI of the Civil Rights Act of 1964 is classified generally to subchapter V (Sec. 2000d et seq.) of chapter 21 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of this title and Tables.

-MISC2-

PRIOR PROVISIONS

A prior section 446 of Pub. L. 90-247 was classified to section 1233e of this title prior to repeal by Pub. L. 103-382.

AMENDMENTS

1994 - Subsec. (a). Pub. L. 103-382, Sec. 212(b)(3)(C), made technical amendment to reference to section 1232g(b)(1)(D) of this title to reflect renumbering of corresponding section of original act.

1976 - Pub. L. 94-482 designated existing provisions as subsec. (a) and added subsecs. (b) and (c).

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-482 effective 30 days after Oct. 12, 1976, except either as specifically otherwise provided or, if not so specifically otherwise provided, effective July 1, 1976, for those amendments providing for authorization of appropriations, see section 532 of Pub. L. 94-482, set out as a note under section 1001 of this title.

EFFECTIVE DATE

Section 515(b) of Pub. L. 93-380 provided that: ''The amendment made by subsection (a) (enacting this section) shall be effective upon enactment of this Act (Aug. 21, 1974).''



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New Jersey Permanent StatutesTITLE 18A EDUCATION18A:36-34. School surveys, certain, parental consent required before administration

1. a. Unless a school district receives prior written informed consent from a student's parent or legal guardian and provides for a copy of the document to be available for viewing at convenient locations and time periods, the school district shall not administer to a student any academic or nonacademic survey, assessment, analysis or evaluation which reveals information concerning:

- (1) political affiliations;
- (2) mental and psychological problems potentially embarrassing to the student or the student's family;
- (3) sexual behavior and attitudes;
- (4) illegal, anti-social, self-incriminating and demeaning behavior;
- (5) critical appraisals of other individuals with whom a respondent has a close family relationship;
- (6) legally recognized privileged or analogous relationships, such as those of lawyers, physicians, and ministers;
- (7) income, other than that required by law to determine eligibility for participation in a program or for receiving financial assistance under a program; or
- (8) social security number.

b. The school district shall request prior written informed consent at least two weeks prior to the administration of the survey, assessment, analysis or evaluation.

c. A student shall not participate in any survey, assessment, analysis or evaluation that concerns the issues listed in subsection a. of this section unless the school district has obtained prior written informed consent from that student's parent or guardian.

d. A school district that violates the provisions of this act shall be subject to such monetary penalties as determined by the commissioner.

L.2001,c.364.

FAX COVER SHEET**DATE:** April 9, 2002**FAX TO:** Representative Fred Dyson, Chairman
House Health, Education & Social Services (HESS) Committee
Fax: 907-465-4587**FROM:** Carole A. Nunn Ph: 201-444-8449
515 Summit Street Fax: 201-251-9789
Ridgewood, NJ 07450 E-mail: caroleanunn@aol.com**MESSAGE:**

I would hope that as your committee meets today to discuss HB 408 (passive parent permission for student surveys), your committee members would keep in mind the rights of parents and students under the U.S. Constitution. In our much publicized lawsuit involving the Ridgewood, NJ student survey issue, we allege that the administration of the survey:

- Compelled speech in violation of the First Amendment;
- Was an unreasonable intrusion into the household in violation of the Fourth and Fourteenth Amendments;
- Violated the substantive due process rights for the adults to raise their children as guaranteed by the Fifth and Fourteenth Amendments;
- Contravened the right to privacy under the Fourth, Fifth and Fourteenth Amendments;
- And violated the Fifth Amendment privilege against self-incrimination.

The Third Circuit Court of Appeals in their 12/10/01 decision stated that we failed to allege a violation of the "Fifth Amendment protection against compelled self-incrimination." They said in order for self-incrimination to be compelled, there must be a coercion that attaches significant penalties to non-compliance. Students were warned over the loudspeaker that if they did not report to take the survey, it would be considered a cut. Apparently, the court did not see that as a significant penalty. HOWEVER ... the Third Circuit Court went on to say: "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 violation of the other constitutional rights asserted."
A family's constitutional rights should come first.

Carole A. Nunn

A school survey outrage in Ridgewood, N.J.

Imagine a school where 13-year-old children are asked to report whether they have multiple sex partners and to answer questions concerning their parents and relatives' marital practices, addictions, weight and diseases. Could this be the Soviet Union, perhaps? Nazi Germany? Or America's own Ridgewood, New Jersey — where students and parents recently celebrated a victory won in a federal court, which ruled the families could argue in federal court that a forced survey gleaning personal information from students was unconstitutional.

The U.S. Department of Education also ruled that the school district violated federal law by surveying students on sex, drugs, and suicide without parental consent. The Ridgewood case also served as a catalyst for a new law passed in New Jersey on Jan. 7, which made it a federal requirement for parents to give informed written consent before students are given surveys or tests which could reveal such personal information as sexual behavior, family income and other personal family matters, regardless of whether the test was federally funded or not. Why does it take a new law and a two-year lawsuit to convince school board officials to respect civil liberties? The bad news is, it hasn't.

In the fall of 1999, students ages 11 to 18 in the Ridgewood School District were required to answer questions about their own drug use, sexual life and any illegal activity they had been involved in. The 156-question survey asked students to name how many times they had tried to kill themselves, made themselves throw up after they eat, used contraception or breathed the con-

they had been forced to take the survey during class time or be counted as absent. The case then went on to the U.S. Court of Appeals for the Third Circuit, where the three-judge panel ruled the district court was wrong, that plaintiffs could argue in federal court that the survey violated rights to silence, substantive due process, privacy and from household intrusion as pro-

from the appeals court which just ruled against them, and the case cannot proceed back to the U.S. District Court for the District of New Jersey until the panel decides whether to grant the school board's request.

Meanwhile, Ridgewood students were forced to submit to more of the same type of nosy questions — and worse. In a different survey disbursed once

ners, no protection from STDs or unwanted pregnancy, etc)?"

• "Are there guns in your home or the homes of your friends?"

• "Has your life changed significantly in the past year (e.g. through illness, your parents' divorce, a death in the family, financial problems, a move to another city)?"

If the child made it through questions on how many times he brushed his teeth, takes illegal drugs and drives drunk, he then gets to divulge the private life of mommy and daddy: "Do you have a parent, grandparent, brother, sister, aunt, or uncle who . . . Developed breast cancer? . . . Is an alcoholic? Is significantly overweight? Developed colon cancer?"

The child must then graph his positive and negative behaviors so that he can see in black and white how "at-risk" he is. A better question would be to ask how at-risk families are of being controlled by school board secret agents. The Department of Education ruling carried with it no penalties for the school district. Perhaps that could be amended to force the Ridgewood Board of Education to take the same surveys it gave to the children, and let the families of Ridgewood do the grading.

Sarah Means is an editorial writer for The Washington Times.

Students were asked to rate themselves on how at-risk they were for bad behavior. The children would then graph their positive and negative behaviors so that they could see in black and white how "at-risk" they are. A better question would be to ask how at-risk families are of being controlled by school board secret agents.

tents of an aerosol spray can to get high. This, without the parents' written consent or knowledge of the questions that would be asked. Judge Nicholas Politan of the U.S. District Court for the District of New Jersey dismissed the case in February of last year, falsely claiming that federal funds were not used — in fact, \$5,000 was gleaned from taxpayers for the survey — and disregarding students' sworn affidavits that

tected by the First, Fifth, Fourth and Fourteenth Amendments.

But that wasn't enough for the Ridgewood school board and Ridgewood Schools Superintendent Frederick Stokley, who still maintain that the survey was voluntary, even though every student in grades seven through 12 of the affected schools was made to take it, even if they had been absent. They have called for a rehearing by the same three-judge panel

again during gym class without parents' permission to George Washington Middle School last year, students were asked to rate themselves on how at-risk they were for bad behavior. Students had to put their names on the survey, titled "How am I," and were given a grade for it. A few of the survey questions given to seventh graders:

• "Are you engaging in risky sexual behavior (multiple part-

Surveys stir debate over privacy rights versus research

By Cheryl Wetzel
THE WASHINGTON TIMES

Have you ever had sexual intercourse ("gone all the way, made love")? As of January, students in New Jersey public schools can't be asked this kind of personal question on a survey without their parents' prior written consent.

The Jan. 9 law enacting this change has been hailed as a victory for privacy rights of parents and their children and something that should be adopted nationally.

Researchers, however, say the law is "excessive" and will jeopardize important research into teen behavior.

There has long been a tug of war over student surveys in schools.

Researchers agree that schools are the ideal place to survey teens and have typically addressed the need for parental consent with a technique called "passive consent," "active dissent" or "opt out."

With this technique, schools inform parents of an upcoming survey and ask them to tell the school if they don't want their children to take it — parents must "actively dissent" or "opt out." If the school doesn't hear from the parents, it assumes it has their "passive consent" to give the survey to their children.

The New Jersey law requires "active consent," which means par-

ents must tell the school that their children can take a survey. If parents don't say yes, their children cannot participate in any school survey that asks questions about politics, sex, drugs and other personal issues.

The law stems from a battle over a 156-question survey that was given in 1999 to more than 2,000 public middle- and high-school students in Ridgewood, N.J.

The survey asked teens about sexual activity, birth control, drugs, liquor, cigarettes, binge eating, depression, suicide, stealing, physical violence, and relationships with family and friends.

School officials said they notified parents several times about the survey but did not seek parental consent because the survey was voluntary.

Many Ridgewood parents were outraged by the survey, saying it introduced children to bad behaviors, invaded family privacy and instilled a politically liberal worldview.

"The questions were so politically correct," said Ridgewood mother Frances Edwards, noting that students were asked to assess their feelings about race relations, poverty and "speaking up for equality."

Amid a lengthy battle — which includes an ongoing lawsuit — New Jersey officials passed their law, which was hailed as a "great victory for parents" by Phyllis Schlafly, founder of the Eagle Forum.

"The school system is just obsessed with giving these nosy questionnaires," Mrs. Schlafly said.

Schools shouldn't use valuable classroom time on social surveys, but if they do, they should all require active parental consent, she said.

"Now in New Jersey, there will be one state where the parents will not always lose," said Michael Schwartz, vice president for government relations at Concerned Women for America, which supports parental rights in surveys.

Getting active parental consent for student surveys is "analogous to doing medical research," Mr. Schwartz said. Medical research can only be conducted on people who consent to it, he said. "Why in the world would we think you can do research on children without their parents' knowledge and consent?"

Shepherd Smith, president of the Institute for Youth Development, which publishes a journal on teen behaviors, is "empathetic to both sides" in the issue.

"Clearly as a parent, I'm not real excited about intrusive surveys in high school," he said. "At the same time, I understand that the data gained in these surveys is critically important to ultimately reducing the negative behaviors."

Supporters of the New Jersey law "may have won a Pyrrhic victory," said Lloyd D. Johnston, direc-

tor of the Monitoring the Future (MTF) survey.

The federally funded MTF, founded in 1975, goes into 400 schools every year to ask eighth, 10th- and 12th-graders about their substance abuse and other behaviors.

MTF uses active dissent in almost all its schools, said Mr. Johnston, who works at the Institute for Social Research at the University of Michigan.

In the few schools that require active consent, he said, MTF researchers have found that many parents don't return the consent form — "they didn't open their mail or get around to answering it," Mr. Johnston said.

As a result, as many as 30 percent of students are excluded from taking the MTF survey, even though, based on deeper research, fewer than 2 percent of parents actually object to the survey.

The loss of so many students "skews the findings in a serious and important way," Mr. Johnston said.

"Parents, more than anyone, stand to benefit from our having this knowledge," he said, noting that the MTF helped alert the nation to expanding marijuana use in the 1970s, cocaine use in the 1980s and ecstasy use in the 1990s.

"So I'm not sure the interests of parents are being well-served, even though it's in their name that these

efforts are taken," he said.

"I have yet to hear someone come up with an alternative approach to getting data other than asking the question," said Sarah Brown, director of the National Campaign to Prevent Teen Pregnancy.

Parental concerns about sensitive surveys of young teens are reasonable and should be addressed, perhaps with opt-out techniques, said Mrs. Brown. But there are compelling public health concerns that require data about teen behavior that have to be addressed as well, she said.

It's difficult to ask teens questions about topics such as oral sex, and yet "every time there's something in the paper, we get hysterical calls asking isn't it true that all the middle schoolers are having oral sex?"

"And I have to say, 'Well, I actually don't have any information. All I have is anecdotes,'" Mrs. Brown said.

"I see [the New Jersey law] as excessive," said Michael D. Resnick, a pediatrics professor at the University of Minnesota and researcher with the National Longitudinal Study of Adolescent Health (Add Health).

"The vast majority of parents are all right [with surveys] as long as they are informed," he said, citing his two decades of experience in researching teen behavior.

Board games prove popular in terror's wake, amid recession

HOUSE COMMITTEE REPORT

(7)

Date Referred to Committee: February 20, 2002

FURTHER REFERRALS:

Date of Committee Action: 4.9.02

The HEALTH, EDUCATION AND SOCIAL SERVICES Committee considered:

HB 408

HOUSE BILL NO. 408

STUDENT QUESTIONNAIRES AND SURVEYS

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

Recommends it be replaced with CS HB 408 (HES) Same Title New Title
 For Senate Bills with new title: Technical Title New Title: HCR _____

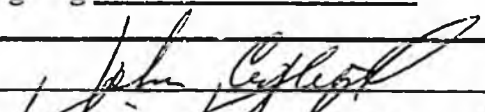
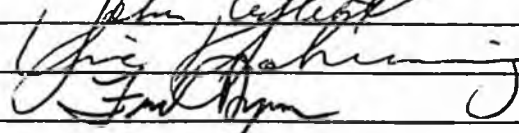
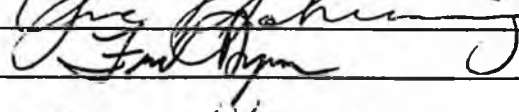

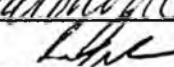
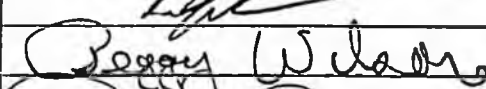
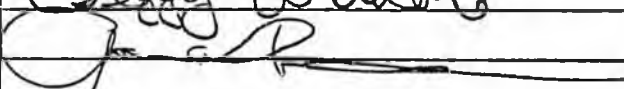
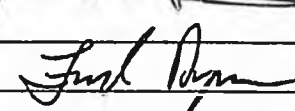
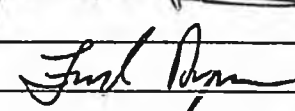
- attach amendments
- add new referral to _____ Committee
- Letter of Intent _____ Committee

List of Abbrev. for Depts.:

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- COR
- CRT
- EED
- DEC
- DFG
- GOV
- HSS
- LAA
- LAW
- LWF
- MVA
- DNR
- DPS
- REV
- DOT
- UA

<u>NEW FISCAL NOTES</u>				
*For Chief Clerk's Office Use Only				
List by Dept(s):	*FN#	Fiscal	Indet.	Zero

<u>PREVIOUS FISCAL NOTES</u>				
List by Dept(s):	FN#	Fiscal	Indet.	Zero
EED	1			✓

<u>Signing with recommendations</u>	Printed Last Name	DP	DNP	NR	AM
	Coughlin		✓		
	Bohannon		X		
	Ryan		✓		
	CISSNA	✓			
	Soule	✓			
	Wilson	✓			
	STEVE	X			
Chair: 	Ryan				
Chair: 	Ryan				

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EDUCATION REPORTER

NUMBER 191

THE NEWSPAPER OF EDUCATION RIGHTS

JANUARY 2002

C.N. v. Ridgewood Board of Education

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

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. Consistent 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/Mariorie O. Rendell
Circuit Judge

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Subject: RE: HB408

Date: Tue, 9 Apr 2002 11:02:56 -0400

From: Rebecca A OHara <rebohara@juno.com>

To: Representative_Fred_Dyson@legis.state.ak.us,
Representative_Peggy_Wilson@legis.state.ak.us,
Representative_John_Coghill@legis.state.ak.us,
Representative_Gary_Stevens@legis.state.ak.us,
Representative_Vic-Kohring@legis.state.ak.us,
Representative_Sharon_Cissna@legis.state.ak.us,
Representative_Reggie_Joule@legis.state.ak.us

CC: cabushnell@ak.net

Dear HESS Committee Members,

Please preserve adequate, timely parent notification of all student surveys, and please preserve the parent's opportunity to preview surveys. And please, please preserve the right of parents to opt their child(ren) out of participation in surveys in a convenient manner. Please keep School Districts accountable to parents when it comes to surveying students. Parents have a right to know when and where their child(ren) will be surveyed, and parents have a right to know what questions their children will be asked. Finally, parents have the right to not have their children participate in surveys.

Thank you for your work on this issue and other education issues.

Rebecca O'Hara

Anchorage Council of PTAs

V.P. Legislation