

Screening/Testing of Students (And Treatment of Mental Disorders)

A. Survey, analysis or evaluation of students

Survey, analysis or evaluation for which consent is required

Except as otherwise required by law, students shall not be required to submit to a survey, analysis, or evaluation related to curriculum or other school activities that is intended to reveal information, whether the information is personally identifiable or not concerning the student or the student's parents/guardians, without written parental consent, that reveals information concerning:

1. political affiliations
2. mental or psychological problems potentially embarrassing to the student or the student's family
3. sex behavior or attitudes
4. illegal, anti-social, self-incriminating and demeaning behavior
5. critical appraisals of other individuals with whom the student has a close family relationship
6. legally recognized privileged or analogous relationships, such as those with 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 such program)
8. religious practices, affiliations or beliefs of the student or the student's parents/guardians

School personnel responsible for administering any such survey, analysis or evaluation shall give written notice at least two weeks in advance to the student's parent/guardian or the eligible student (student 18 years old). The notice shall offer to provide the following written information upon request:

1. records or information that may be examined and required in the survey, analysis or evaluation
2. the means by which the records or information shall be examined, reviewed, or disseminated
3. the means by which the information is to be obtained
4. the purposes for which the records or information is needed
5. the entities or persons, regardless of affiliation, who will have access to the information; and
6. a method by which a parent/guardian can grant or deny permission to access or examine the records or information

These notice provisions also apply to any survey, analysis or evaluation funded by the U.S. Department of Education.

Notice and right to “opt out” for surveys, analysis or evaluation for marketing purposes

Parents/guardians and eligible students (students 18 years of age) shall receive notice and have the opportunity to opt a student out of activities involving the collection, disclosure or use of personal information collected from the student for the purpose of marketing or selling that information or otherwise providing the information to others for that purpose.

Right to review

Parents/guardians and eligible students (students 18 years of age) have the right to review, upon request, any survey, analysis or evaluation administered or distributed by a school to students whether created by the district or a third party.

Exceptions to policy

Nothing in this section of the policy shall:

1. prevent a student who is working under the supervision of a journalism teacher or sponsor from preparing or participating in a survey, analysis or evaluation without obtaining consent as long as such participation is not otherwise prohibited by federal law
2. be construed to prevent a district employee from reporting known or suspected child abuse or neglect as required by state law
3. be construed to limit the ability of a health professional that is acting as an agent of the school district to evaluate an individual child
4. be construed to require parental notice or consent for a survey, analysis or evaluation related to educational products or services for or to students or educational institutions. These products and services include, but are not limited to, the following:
 - college or other postsecondary education recruitment or military recruitment activities
 - book clubs, magazines and programs providing access to low-cost literary products
 - curriculum and instructional materials used by district schools
 - tests and assessments used by district schools to provide cognitive, evaluative, diagnostic, clinical, aptitude, or achievement information about students
 - the sale by students of products or services to raise funds for school-related or education-related activities
 - student recognition programs

Confidentiality

Any survey, analysis or evaluation administered or distributed by a school to students shall be subject to applicable state and federal laws protecting the confidentiality of student records.

Eligible students

A student 18 years or older is eligible to consent to revealing such information without parental consent.

Notice of this section of policy

The district shall inform parents/guardians and eligible students of their rights under this section of the policy.

B. Psychiatric/psychological/behavior testing methods or procedures

Students shall not be required to submit to any psychiatric or psychological methods or procedures for the purpose of diagnosis, assessment or treatment of any emotional, behavioral or mental disorder or disability as part of any classroom or instructional activity without parental knowledge and consent. In addition, school personnel are prohibited from testing or requiring testing for a student's behavior without giving notice to the parent/guardian describing the recommended testing and how any test result will be used and obtaining prior written permission from the student or the student's parent/guardian.

However, a student 15 years or older may consent to receive mental health services without parental consent when services are rendered by a facility (such as a clinic or community mental health center) that provides such treatment or by a person licensed to practice medicine in this state or a psychologist certified to practice in this state. A student 18 years or older is eligible to consent to psychiatric or psychological methods or procedures without parental consent.

Licensed school personnel are encouraged to be knowledgeable about psychiatric or psychological methods and procedures but shall not be involved in any diagnosis, assessment or treatment of any type of mental disorder or disability unless appropriately certified. In accordance with state law, school personnel including certified school psychologists are not authorized to practice psychotherapy or utilize any psychiatric or psychological procedure outside of or beyond their area of training, experience or competence.

Psychological tests shall be administered to students only by appropriately certified school personnel employed for this purpose or by interns under their supervision. Adherence to this policy shall ensure quality psychological services and shall protect the educational rights, dignity and privacy of students and parents/guardians.

Psychological examination and testing shall be made only after informed and written consent of the student's parents/guardians is obtained unless the student is of legal age to give informed and written consent. Psychological data shall be only one of several criteria for determining any change in a student's educational program. Psychological

data older than three years shall not be used as the basis for prescriptive teaching or placement.

Ordinary classroom instruction, activities and techniques involving the approved curriculum that teach about psychological or psychiatric methods or procedures shall be permissible and considered outside the scope of this policy. It is understood that there is a significant difference between practicing therapy and providing activities that may be therapeutic in nature. In all cases, care must be exercised to protect the privacy rights of students.

C. Special education evaluation

The giving of parental permission for evaluation in anticipation of a special education staffing and possible provision of services for a handicapped student and any subsequent approval for the provision of such services is governed by state and federal law and is outside the scope of this policy.

This policy is in addition to and does not supersede any other legal rights or obligations of parents/guardians and students.

Adopted: September 16, 2003

LEGAL REFS.: C.R.S. 22-1-123 (*district shall comply with federal law on protection of pupil rights; Colorado provisions regarding survey, analysis and evaluation of students*)
C.R.S. 22-32-109(1)(ee) (*duty to adopt policy prohibiting personnel from ordering behavior tests without parent permission*)
C.R.S. 22-32-109.2 (*screening and treatment of emotional/mental disorders or disabilities*)
C.R.S. 27-10-103 (*voluntary applications for mental health services*)
C.R.S. 13-22-101 (*18 is age of competence for certain purposes*)
20 U.S.C. 1232h (*protection of pupil rights*)
20 U.S.C. 1232(c) (*Family Education Rights and Privacy Act*)

CROSS REFS.: GBEB, Staff Conduct
GCS, Professional Research and Publishing
ILBA, District Program Assessments
ILBB, State Program Assessments
JID, Students of Legal Age
JLCA, Physical Examinations of Students
JRA/JRC, Student Records/Release of Information on Students
LC, Relations with Education Research Agencies