

Nebo School District Board of Education

Policy JOA

POLICY ON PROTECTION OF PUPIL RIGHTS**I. Definitions**

For purposes of this policy, the following definitions apply:

1. **Instructional Material** means instructional material that is provided to a student, regardless of format, including printed or representational materials, audio-visual materials, and materials in electronic or digital formats (such as materials accessible through the Internet). The term does not include academic tests, academic assessments, or achievement tests.
2. **Invasive Physical Examination** means any medical examination that involves the exposure of private body parts, or any act during such examination that includes incision, insertion, or injection into the body, but does not include a hearing, vision, or scoliosis screening.
3. **Parent** or **Parents** means the parent(s) or legal guardian(s) of the student.
4. **Personal Information** means individually identifiable information, including: (a) a student's or parent's first and last name; (b) a home or other physical address, including street address and city; (c) a home telephone number; (d) student identification number; or (e) a social security number.
5. **Protected Area** means any one of the following concerning the student or the student's family members:
 - A. Political affiliations;
 - B. Political philosophies or beliefs, except as provided under Utah Code Ann., Section 53A13-101.1 or other applicable federal or state laws, rules, or regulations;
 - C. Mental or psychological problems;
 - D. Sexual behavior, orientation, or attitudes;
 - E. Illegal, anti-social, self-incriminating, or demeaning behavior;
 - F. Critical appraisals of other individuals with whom the survey respondents have close family relationships;
 - G. Legally recognized privileged or analogous relationships, such as those of lawyers, physicians, and ministers;
 - H. Religious practices, affiliations, or beliefs; or
 - I. Income (other than that required by law to determine eligibility for participation in a program or for receiving financial assistance under such program).

II. Protection of Student Rights

Nebo School District recognizes that applicable federal laws, including the Family Educational Rights and Privacy Act (FERPA), the Protection of Pupil Rights Amendment (PPRA), and the No Child Left Behind Act of 2001 (NCLB), as well as certain state laws, including the Utah Family Educational Rights and Privacy Act (UFERPA), require that certain notifications to eligible students/parents must be given before the administration to a student by or for the District or the school of any psychological or psychiatric examination, test, or treatment, or any survey, analysis, or evaluation that concerns one or more protected area as defined herein. In keeping with such requirements, the Board of Education of Nebo School District hereby establishes procedures and requirements to be followed before any examination, test, treatment, survey, analysis, or evaluation is administered to students regarding any protected area defined herein.

In the event that Nebo School District will administer any examination, test, treatment, survey, analysis, or evaluation of students which contains one or more questions about a protected area, the District or the school shall first obtain prior written and signed consent from the parent of any student who is to be involved in any such examination, test, treatment, survey, analysis, or evaluation. If any parent declines to give written consent, the student shall not be included in the examination, test, treatment, survey, analysis, or evaluation. Prior written and signed parental consent is required in all grades, kindergarten through grade 12.

In order for the written parental consent to be valid, the parent must be given at least two (2) weeks prior written notice, including notice that a copy of the educational or student survey questions to be asked of the student in obtaining the desired information is made available for inspection at the District or the school, and a reasonable opportunity to obtain written information concerning:

1. Records or information, including information about relationships, that may be examined or requested;
2. The means by which records or information shall be examined or reviewed;
3. This means by which the information is to be obtained;
4. The purposes for which the records or information are needed;
5. The entities or persons, regardless of affiliation, who will have access to the personally identifiable information; and
6. A method by which a parent of a student can grant permission to access or examine the personally identifiable information.

These prohibitions concerning protected area information also apply within the curriculum and other school activities, unless prior written consent of the student's parent has been obtained. Nebo School District shall notify parents that they have the right to review, upon request, any instructional materials used in connection with any such examination, test, treatment, survey, analysis, or evaluation, and any instructional material thereon which is used as part of the educational curriculum for the student. These rights also apply to the collection of information from students for marketing purposes, and certain non-emergency medical examinations.

The two (2) week prior written notice to the parent does not apply in the event of: (a) an emergency, as reasonably believed as such by the District or the school; (b) a situation arising under the Child Abuse or Neglect Reporting Requirements, Utah Code Ann., Section 62A-4a-401, et seq.; or (c) a court order. In addition, a parent may voluntarily waive the two (2) week minimum notification period by returning to the school a signed written waiver.

Unless otherwise agreed, the parent's consent is valid only for the activity for which it was granted. Any written withdrawal of consent submitted to the District or the school by the authorizing parent terminates the consent. A general consent used to approve admission to school or involvement in special education, remedial education, or a school activity does not constitute written consent under this policy.

The following specific provisions apply to this policy:

1. The administration shall develop and implement appropriate arrangements to protect student privacy in the event any examination, test, treatment, survey, analysis, or evaluation that contains one or more questions into or about a protected area, and shall make appropriate arrangements for any parent to inspect, upon request, any such related documentation.
2. Parents shall have the right to inspect, upon request, any instructional material used as part of the educational curriculum for students. Upon such request being made, the administration shall notify the requesting parent within a reasonable time that the requested material may be inspected, together with the time and place such inspection may be conducted.
3. Personal information will not be collected from students for the purpose of marketing or selling, or otherwise providing such information to others for the purpose, without, prior public notice sufficiently in advance so that a parent may opt-out of such disclosure. However, under federal and state law, general directory information as defined in the annual Family Education Rights and Privacy Act (FERPA) notification is normally subject to release for any lawful purpose, unless a parent has requested that general directory information not be released for his/her student.
4. Prior to collection of personal information for any marketing or similar purpose as described in the preceding paragraph, Nebo School District shall permit a parent, upon request, to inspect any instrument used in the collection of such personal information before the instrument is administered or distributed to a student. Upon such request being made, the administration shall notify the requesting parent within a reasonable time that the instrument may be inspected, together with the time and place such inspection may be conducted.

The requirements concerning activities involving the collection and disclosure of personal information from students for marketing purposes do not apply to the collection, disclosure, or use of personal information collected from students for the exclusive purpose of developing, evaluating, or providing educational products or services for or to students or educational institutions. Examples may include, but shall not be limited to, the following:

1. College or other post-secondary education requirement, or military recruitment.
2. Book clubs, magazines, and programs providing access to low-cost literary products.
3. Curriculum and instructional materials used by elementary and secondary schools.
4. Tests and assessments used by elementary and secondary schools to provide cognitive, evaluative, diagnostic, clinical, aptitude, or achievement information about students.
5. The sale by students of products or services to raise funds for school-related or education-related activities.
6. Student recognition programs.

The policy does not limit the ability of the student to spontaneously express sentiments or opinions otherwise protected against disclosure under this policy.

III. Medical Examinations or Screenings.

In the event that any medical examination or screening shall be required of students, prior notice thereof shall be given to parents, to include the nature and purpose of the examination or screening, whether it is required by law, and any opt-out provisions that may be allowed by law. The applicable provisions of federal and state law shall control whether a parent may opt-out a student from any examination or screening. Under federal law, a parent may opt-out his/her student from participating in any non-emergency, invasive physical examination or screening that is: (a) required as a condition of attendance; (b) administered by the District and scheduled in advance; and (c) not necessary to protect the immediate health and safety of the student or of other students. If a parent opts-out his/her student from such examination or screening, the District may require the parent to provide documentation of such examination or screening by the physician at the parent's expense, and the results thereof. Provided, however, any physical examination or screening that is permitted or required by applicable Utah law, including physical examinations or screenings permitted without parental notification, shall not be subject to this provision.

Nebo School District shall annually give written public notice to students and parents of their rights under this policy and the applicable federal and state laws.

Nebo School District shall provide training to administrators and teachers on the implementation of this policy. Violations of the policy may result in disciplinary action.

Approved: 5-11-05

REFERENCES:

Utah Family Educational Rights and Privacy Act (UFERPA) Utah Code Ann., Section 53A-13-301, et seq.
Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. Section 1232g & 34 CFR Part 99
Protection of Pupil Rights Amendment (PPRA), 20 U.S.C. Section 1232h & 34 CFR Part 99
No Child Left Behind Act of 2001 (NCLB), 20 U.S.C. Section 6301, et seq. & 34 CFR Part 200