

State of South Dakota

NINETIETH SESSION
LEGISLATIVE ASSEMBLY, 2015

387W0277

SENATE BILL NO. 104

Introduced by: Senators Otten (Ernie), Brown, Haggar (Jenna), Holien, Lederman, Olson, Peters, Rave, Soholt, Solano, and Tidemann and Representatives Sly, Bolin, Craig, Cronin, Gosch, Haggar (Don), Kaiser, Langer, Mickelson, Novstrup (Al), Otten (Herman), Verchio, Westra, and Wink

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding student surveys.

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 Section 1. That § 13-3-51.2 be amended to read as follows:

4 13-3-51.2. No elementary school or secondary school student ~~shall~~ may be required to
5 submit to a survey, analysis, or evaluation that reveals information concerning:

6 (1) Political affiliations or beliefs of the student or the student's parent;

7 (2) Mental or psychological problems or aspects of the student or the student's family;

8 (3) Sex behavior or attitudes of the student or the student's family;

9 (4) Illegal, anti-social, self-incriminating, or demeaning behavior;

10 (5) Critical appraisals of other individuals with whom respondents have close family
11 relationships;

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

14 (7) Religious practices, affiliations, or beliefs of the student or student's parent;



1 (8) Personal or family gun ownership; or
2 (9) Income (other than that required by law to determine eligibility for participation in
3 a program or for receiving financial assistance under such program);
4 without the prior consent of the student (if the student is an adult or emancipated minor), or in
5 the case of an unemancipated minor, without the ~~prior written~~ consent of the parent as provided
6 in section 2 of this Act. The list of information in subdivisions (1) to (9), inclusive, is not an
7 exclusive list. The secretary of the Department of Education may add to the list of information
8 in subdivisions (1) to (9), inclusive, other data, facts, or information that is of a similar nature
9 that a student may not be required to disclose.

10 The term, parent, for purposes of this section, includes a legal guardian or other person
11 standing in loco parentis.

12 ~~Nothing in this section is intended to supersede or modify any other state law or any~~
13 ~~provision in 20 U.S.C. § 1232h or 34 C.F.R. Part 98, as amended to January 1, 2014. For~~
14 purposes of this section, the terms, survey, analysis, or evaluation, mean a written question or
15 questions, in hard copy or electronic form, that is devised for the purpose of statistical study
16 regarding a class or group of students and is not related to the academic instruction or academic
17 progress of a student or otherwise required by state law.

18 Section 2. That chapter 13-3 be amended by adding thereto a NEW SECTION to read as
19 follows:

20 For any survey, analysis, or evaluation referenced in section 1 of this Act, the school shall
21 provide to the parent, at least fourteen days before administration of the survey, analysis, or
22 evaluation, a notice containing:

- 23 (1) An explanation of the types of questions to be included;
24 (2) The date and location where the survey, analysis, or evaluation will take place;

1 (3) How the results of the survey, analysis, or evaluation will be utilized;

2 (4) The persons or entities which will have access to the results of the survey, analysis,
3 or evaluation;

4 (5) A statement that a copy of the actual survey, analysis, or evaluation is available for
5 inspection and copy upon request at convenient locations and times; and

6 (6) A form for the parent to exclude a student from the survey, analysis, or evaluation.

7 The form referenced in subdivision (6) of this section shall be established by the department
8 of education. If the school does not receive the signed and dated form from the parent before
9 the survey, analysis, or evaluation is administered, the school may presume that the parent
10 consents to the child taking the survey, analysis, or evaluation.