

15-117. Surveys; pupil information; parental permission and informed consent; exceptions; penalties; definitions

A. Notwithstanding any other law, each school district and charter school shall obtain written informed consent from the parent of a pupil before administering any survey that solicits personal information about the pupil regarding any of the following:

1. Critical appraisals of another person with whom a pupil has a close relationship.
2. Gun or ammunition ownership.
3. Illegal, antisocial or self-incriminating behavior.
4. Income or other financial information.
5. Legally recognized privileged or analogous relationships, such as relationships with a lawyer, physician or member of the clergy.
6. Medical history or medical information.
7. Mental health history or mental health information.
8. Political affiliations, opinions or beliefs.
9. Pupil biometric information.
10. The quality of home interpersonal relationships.
11. Religious practices, affiliations or beliefs.
12. Self-sufficiency as it pertains to emergency, disaster and essential services interruption planning.
13. Sexual behavior or attitudes.
14. Voting history.

B. At least seven days before administering any survey to a pupil, every school district and charter school shall provide a copy of the survey to the pupil's parent along with a written informed consent form and shall obtain written informed consent from the pupil's parent for the pupil to participate in the survey pursuant to subsection A of this section. The pupil's parent may at any time revoke consent for the pupil to participate in any survey pursuant to subsection A of this section. For any pupil who is at least eighteen years of age, the permission or consent that would otherwise be required from the pupil's parent pursuant to this section is required only from the pupil. All surveys conducted pursuant to subsection A of this section shall be approved and authorized by the school district or charter school. The school district or charter school is subject to the penalties prescribed in subsection L of this section. A teacher or other school employee may not administer any survey pursuant to subsection A of this section without written authorization from the school district or charter school.

C. This section applies to all surveys conducted pursuant to subsection A of this section:

1. Regardless of the stated purpose of the survey.
2. Regardless of the quantity or percentage of questions that solicit data pursuant to subsection A of this section.
3. Including written or digital surveys.

D. This section does not apply to:

1. Mental health screening pursuant to section 15-104 or the identification of or programming for children with disabilities or gifted pupils pursuant to chapter 7, articles 4 and 4.1 of this title.
2. Class instruction, discussion or assignments on subjects within the purview of the course.
3. Private schools.
4. Any exam administered by a nationally recognized college entrance or career readiness exam provider that a student takes on public school property, regardless of whether the exam is taken during the school day.
5. Any survey conducted or implemented by the Arizona criminal justice commission if, at least seven days before the survey is administered to a pupil, the school district or charter school provides the pupil's parent with a paper or electronic copy of the survey or electronic access to the survey.
6. Any method of surveying a student that is conducted because a person has a reasonable belief that a minor is or has been a victim of abuse pursuant to section 13-3620.

E. A penalty may not be imposed on a pupil or the parent of a pupil who does not participate in any survey conducted pursuant to subsection A of this section. Participation in any survey pursuant to subsection A of this section is not required:

1. To demonstrate that a pupil has met competency requirements for any grade level, course or subject.
2. For a pupil to qualify for placement into any grade level, course or subject.

3. For a pupil to be promoted to the next grade.
4. For a pupil to receive credit for any course or as part of a letter grade for any course.
5. For a pupil to graduate from high school.
6. For a pupil to obtain a high school equivalency diploma.

F. A school district or charter school shall provide an alternative educational activity for any pupil whose parent does not consent for that pupil to participate in a survey conducted pursuant to subsection A of this section.

G. Any pupil whose parent does not give written informed consent for that pupil to participate in any survey pursuant to subsection A of this section and who attends the alternative educational activity pursuant to this section shall be counted toward daily attendance and average daily membership for the school pursuant to section 15-901 and may not be counted absent from school.

H. Responses to any survey pursuant to subsection A of this section may not be included:

1. As part of a school academic performance indicator pursuant to section 15-241, or as part of any other similar school rating system.
2. In the education learning and accountability system pursuant to section 15-249, or in any other similar system.
3. In the student accountability information system pursuant to section 15-756.10 or 15-1041, or in any other similar system.

I. A penalty may not be imposed on and a reward may not be granted to a teacher, administrator, other school employee, school district, school or charter school based on the pupil participation rate in any survey conducted pursuant to subsection A of this section.

J. On request, a charter school or school district shall provide any available information in a timely manner to the parent of a pupil regarding a survey administered pursuant to subsection A of this section, including:

1. The name of the survey.
2. The date or dates on which the survey will be administered.
3. The method or methods of administering the survey.
4. The amount of time required to administer the survey.
5. The type of information collected by the survey.
6. The reasons for administering the survey.

K. A parent of a pupil that has a reasonable belief that a school district or charter school has violated this section may file a complaint with the attorney general or the county attorney for the county in which an alleged violation of this section occurred. The attorney general or the county attorney for the county in which an alleged violation of this section occurred may initiate a suit in the superior court in the county in which the school district or charter school is located for the purpose of complying with this section. After receiving written notice of an alleged failure to comply with this section, a school district or charter school that determines that a violation has occurred is not subject to a penalty or cause of action under this section if the school district or charter school cures the violation. For the purposes of this subsection, "cure" means to destroy any information gathered in violation of this section and to provide written instruction to the individual circulating the survey, to be kept on file for one year after receipt of the written notice of the alleged failure to comply.

L. For each violation of this section, the court may impose a civil penalty not to exceed \$500. The school district or charter school determined to be out of compliance with this section shall pay all penalties.

M. An attorney acting on behalf of a public school may request a legal opinion of the county attorney or attorney general as to whether the public school would violate this section.

N. All penalties collected by the court for a suit initiated in superior court by the attorney general shall be paid to the office of the attorney general for the use and reimbursement of costs of prosecution pursuant to this section. All penalties collected by the court for a suit initiated in superior court by a county attorney shall be paid to the county treasurer of the county in which the court is held for the use and reimbursement of costs of prosecution pursuant to this section.

O. For the purposes of this section:

1. "Parent" has the same meaning prescribed in section 15-101, except that parent does not mean this state if the pupil is a ward of the state.
2. "Survey" means:
 - (a) When used as a noun, an instrument that investigates the attitudes, behaviors, beliefs, experiences, opinions or thoughts of a pupil or group of pupils.
 - (b) When used as a verb, to use an instrument to investigate the attitudes, behaviors, beliefs, experiences, opinions or thoughts of a pupil or group of pupils.