

REGULATION MONTGOMERY COUNTY PUBLIC SCHOOLS

Related Entries: AFA-RA, BLB, BLC, ECH-RA, IJA-RA, JFA, JFA-RA, JOA-RA, KLA-RA

Responsible Office: Shared Accountability

Related Sources: Protection of Pupil Rights Amendment, 20 U.S.C, Section 1232(h); Code of Federal Regulations, 34CFR 98.1 et seq; No Child Left Behind Act, Section 1061

Federal Requirements for Use of Protected Student Information

I. PURPOSE

To comply with federal law and provide for the protection of student rights regarding the administration of surveys and physical exams, marketing of personal information, and the inspection of certain material.

II. DEFINITIONS

The following terms and definitions from the federal statute apply to this regulation, JFF-RA, *Federal Requirements for Use of Protected Student Information*, only.

- A. *Protected information* means details about students' lives that are contained in the following categories:
1. Political affiliations.
 2. Mental or psychological problems of the student or student's family.
 3. Sexual behavior or attitudes.
 4. Illegal, antisocial, self-incriminating, or demeaning behavior.
 5. Critical appraisals of the student's family members.
 6. Privileged or similar relationships recognized by law, such as with attorneys, doctors, and ministers.
 7. Religious practices, affiliations, or beliefs of the student or student's parents.

8. Income other than that required by law to determine program eligibility.
- B. *Invasive physical examination* is 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 hearing, vision, or scoliosis screening.
- C. *Eligible students* are students who are eighteen years old or older, or who are emancipated minors.
- D. *Instructional materials* are curricular materials provided to a student. For purposes of parental inspection, the term does not include academic tests, quizzes, or assessments.
- E. *Personal information* means individually identifiable information, including:
 1. a student or parent's first and last names;
 2. a home or other physical address of the student (including street name and city or town);
 3. a telephone number; and,
 4. a Social Security number.
- F. *Survey* is a questionnaire or other inquiry into the attitudes or personal opinions of a student about protected information categories.

III. PROCEDURE

Parents and eligible students have the right to:

- A. Receive notification of their rights under the Protection of Pupil Rights Amendment (PPRA).
- B. Consent to participate in federally funded surveys concerning protected information. If the U.S. Department of Education funds a survey in whole or in part, a student's parents or an eligible student must consent in writing before the student may participate in the survey.
- C. Opt out of certain surveys and physical exams. Montgomery County Public Schools (MCPS) will provide parents and eligible students notice of any of the following activities and their right to opt out of the activities:

1. Any survey of protected information, regardless of funding. Parents and eligible students must be notified in advance in writing of the intention to administer a survey that includes protected information categories.
 2. Any nonemergency invasive physical exam or screening required as a condition of attendance, administered by the school or its agent and scheduled by the school; and not necessary to protect the immediate health and safety of a student or of another student (such as flu shots), except for hearing, vision, or scoliosis screenings, or any physical exam or screening permitted or required under state law.
 3. Activities that involve collection, disclosure, or use of personal information obtained from students for the purposes of marketing or selling or otherwise distributing the information to others, subject to the Exceptions in IV.
- D. Inspect certain material. Upon written request to principal or designee, parents and eligible students have the right to inspect the following before MCPS administers or uses them:
1. Surveys that include protected information categories, including any instructional materials used in connection with a protected information survey.
 2. Documents used to collect personal information from students for any of the above marketing, sales, or other distribution purposes.
 3. Instructional material provided to students used as part of the educational curriculum (except tests, quizzes and assessments used by the instructors).
- E. Report violations. Parents and eligible students have the right to file a complaint with the U.S. Department of Education concerning the alleged failures by MCPS to comply with the requirements set forth in this regulation.

IV. EXCEPTIONS

- A. 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, such as the following:

1. College or other postsecondary education recruitment, or military recruitment.
 2. Book clubs, magazines, and programs providing access to low-cost literary products.
 3. Curriculum and instructional materials used by schools.
 4. Tests and assessments used by schools to provide cognitive, evaluative, diagnostic, clinical, aptitude, or achievement information about students and the subsequent analysis and public release of the aggregate data from such tests and assessments.
 5. The sale by students of products or services to raise funds for school-sponsored or education-related activities.
 6. Student recognition programs.
- B. The requirements concerning physical examinations do not apply to hearing, vision, scoliosis screening, or any other physical examination or screening that is permitted or required by state law, and permitted without parental notification.
- C. The requirements concerning inspection of instructional materials do not include a right to inspect academic tests, quizzes, or academic assessments.

Regulation History: New Regulation September 12, 2008.