

<p>Subject:</p> <p>Administration of Non-Academic Surveys or Questionnaires to Students</p> <p>Date issued: Aug. 28, 2023</p>	<p>Legal Reference – RSA 186:11, IX-d</p> <ul style="list-style-type: none"> • RSA 186:11, IX-d
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This Technical Advisory continues the New Hampshire Department of Education’s communication regarding issues arising from the field which require clarity from the Department. In anticipation of the new school year, this Technical Advisory provides guidance on RSA 186:11, IX-d, as it pertains to the administration of non-academic surveys or questionnaires to students.

Relevant Statutory Provision—RSA 186:11, IX-d:

This technical advisory offers guidance and clarification in support of New Hampshire educators who are planning for and who are administering surveys or questionnaires in their respective classes. We have found that educators inadvertently administer such surveys, often at the beginning of the year, in an effort to build rapport with students.

As an initial matter, the law defines the term “non-academic survey or questionnaire” as being any:

surveys, questionnaires, or other documents designed to elicit information about a student’s social behavior, family life, religion, politics, sexual orientation, sexual activity, drug use, or any other information which is not related to a student’s academics.

Which means, in short, questions which directly relate to a student’s academic content are appropriate to ask in a survey or questionnaire. Issues that fall outside of academics or which are set forth in the definition above, are deemed to be “non-academic” in nature. To ask “non-academic” questions, teachers and school districts must follow the procedure set forth in the law. The law requires school districts to adopt a policy governing the administration of non-academic surveys or questionnaires to students as follows:

The policy shall require school districts to notify a parent or legal guardian of a non-academic survey or questionnaire and its purpose. The policy shall provide that no student shall be required to volunteer for or submit to a non-academic survey or questionnaire, as defined in this paragraph, without written consent of a parent or legal guardian unless the student is an adult or an emancipated minor. . . . The school district shall make such surveys or questionnaires available, at the school and on the school or school district’s website, for review by a student’s parent or legal guardian at least 10 days prior to distribution to students.

Therefore, a teacher or school district seeking to administer a non-academic survey or questionnaire, must notify a parent or legal guardian of the survey or questionnaire and its purpose, and must make it available at the school, and on the school or school district's website for review at least 10 days prior to distribution to the students. While the law does not clarify if this is business days or calendar days, the individual school district policy can make this clarification and apply it consistently. Additionally, under the policy, no student shall be required to take a non-academic survey or questionnaire without the signed consent of a parent or legal guardian. This part of the non-academic survey or questionnaire law is what is commonly referred to as an "opt-in" provision.

The exception to the consent provision of the policy, as explained above, is for the Youth Risk Behavior Survey (YRBS), which is developed by the Centers for Disease Control and Prevention. However, if the school or district administers the YRBS, the governing policy must allow for a parent or legal guardian to "opt-out" in writing, either virtually or on paper, of having their child participate in the survey.

In sum, teachers should be mindful of the specific content of the survey or questionnaires that they administer to students and should consult their respective school district policy for guidance.

For questions related to this Technical Advisory, please contact:

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