



CALIFORNIA
DEPARTMENT OF
EDUCATION

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JACK O'CONNELL

State Superintendent of
Public Instruction

PHONE: (916) 319-0800

February 11, 2004

Dear County and District Superintendents:

PARENTAL CONSENT REQUIREMENTS AND THE CALIFORNIA HEALTHY KIDS SURVEY

The purpose of this letter is to inform school district superintendents of a change in law affecting the administration of the California Healthy Kids Survey (CHKS).

Since 1998, the CHKS has been an anonymous, voluntary, and confidential student survey that local educational agencies (LEAs) have used in the planning, assessment, and evaluation of their alcohol, tobacco, other drug, and violence prevention efforts. The CHKS has always been administered with prior written parental consent, also known as "active consent," consistent with Education Code section 51513. Senate Bill 71 (Chapter 650, Statutes of 2003), recently modified the requirement for written parental consent by adding Education Code section 51938(b), allowing for written parental notification and for a parent to opt his/her child out of participation, also known as "passive consent".

Effective January 1, 2004, LEAs have the option of administering the CHKS in grades 7 through 12 using either active or passive parental consent. However, the option for passive consent applies only to grades 7 through 12; LEAs must continue to obtain written parental permission prior to administration of the required fifth grade module of the CHKS. Where prior written permission is not required, SB 71's provision for passive consent requires parental notification, opportunity for inspection, and the ability to opt their child out of participation.

The new Education Code provisions for parental notification, inspection, and opt out parallel those in the federal Protection of Pupil Rights Act (20 USC §1232h, as amended by Title X, Section 1061 of the No Child Left Behind Act of 2001, (Pub.L. 107-110 (Jan. 8, 2002))). LEAs that wish to administer the CHKS under passive consent should revise their existing procedures and parent notices, consistent with California Education Code Sections 51513 and 51938(b) and the federal Protection of Pupil Rights Act (PPRA), 20 USC section 1232h.

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The California Department of Education, Safe and Healthy Kids Program Office is working with WestEd, its contractor for the CHKS, to realign the procedures and technical assistance materials for administering the CHKS, incorporating the option for passive consent. As always, LEAs preparing to administer the CHKS should work closely with WestEd.

The option for passive consent also creates additional emphasis on the voluntary nature of the CHKS. The federal Protection of Pupil Rights Act allows for passive parental consent only for surveys in which the student is not required to participate. Although the CHKS is an anonymous, voluntary survey, LEAs administering the CHKS using passive parental consent must ensure that no student is made to believe that participation in the survey is not voluntary.

If you have any questions regarding the California Healthy Kids Survey, or the new passive consent requirements, please call Robin Rutherford, School Health Education Consultant, Safe and Healthy Kids Programs Office, at 916-319-0194. If you have technical or practical concerns about how to administer the CHKS, desire additional training, or want to schedule a date for your survey, please contact the WestEd CHKS Assistance Center at 888-841-7536.

Sincerely,



SUE STICKEL
Deputy Superintendent
Curriculum & Instruction Branch



WADE S. BRYNELSON
Assistant Superintendent
Learning Support and Partnerships Division

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