

Protection of Pupil Rights Amendment (PPRA) and UT FERPA Policy

Policy Statement

Merit Academy shall ensure that parental involvement occurs in cases where information collected from a student would generally raise privacy concerns in accordance with 20 USC 1232h and UCA 53E-9-203.

Procedures

1. Third party surveys.

- 1.1. Before the administration or distribution of any survey created by a third party, Merit Academy shall provide notice to parents and the opportunity to inspect the survey within a reasonable time of receiving the request.

2. Collection of sensitive information.

- 2.1. **Restrictions on collecting sensitive information.** Written parental consent shall be required before students are administered a psychological or psychiatric examination, test, or treatment, or any survey, analysis, or evaluation in which the evident intended effect is to cause the student to reveal information concerning one or more of the following sensitive areas about the student or any family member:

- Political affiliations or beliefs or, except as provided under UCA 53G-10-202 or rules of the state board, political philosophies;
- Mental or psychological problems;
- Sex behavior, orientation, or attitudes;
- Illegal, anti-social, self-incriminating, or demeaning behavior;
- Critical appraisals of others with whom the student or family member has close family relationships;
- Legally recognized privileged relationships, such as with lawyers, medical personnel, or ministers;
- Religious practices, affiliations, or beliefs of the student or student's parent; or
- Income, other than as required by law to determine program eligibility.

- 2.2. **Scope of written consent requirement.** Prior written consent shall be required:

- in all grades, kindergarten through grade 12;

- within the curriculum and other school activities; and
- whether the information collected is personally identifiable or not.

2.3. **Validity of written consent.** The following procedures dictate the validity of written consent:

- Written consent shall be considered valid only if notice was given in accordance with the notification requirements of this policy;
- The authorization shall only be valid for the activity for which it was granted;
- A written withdrawal of authorization submitted to the school principal by the authorizing parent terminates the authorization;
- A general consent used to approve admission to school or involvement in special education, remedial education, or a school activity does not constitute written consent under this section.

2.4. **Exceptions.** Prior written consent shall not be required:

- as part of a suicide prevention program as described in [UCA 53G-9-702](#) where the parent has received notification and the ability to opt out of the process in accordance with the notification section of this policy; or
- if there is a reasonable belief that there is an emergency, child abuse, neglect, or a serious threat to the wellbeing of the student in accordance with the Emergency Situations section of this policy.

2.5. **Data disclosures.** Sensitive information collected under this policy may be shared in accordance with the [Family Educational Rights and Privacy Act \(FERPA\), 20 USC 1232g](#), and [UCA 53E-9-308](#).

2.6. **Data storage restriction.** Sensitive information collected from a survey may not be stored in a student's Student Achievement Backpack as defined in [UCA 53E-3-511](#).

2.7. **Expressions of belief.** This policy does not limit the ability of a student to, under [UCA 53G-10-203](#), spontaneously express sentiments or opinions otherwise protected against disclosure under this policy.

3. Inspection of instructional materials.

Merit Academy shall provide notice and an opportunity to a parent to inspect any instructional content that is provided to a student, regardless of its format, including printed or representational materials, audio-visual materials, and materials in electronic or digital formats (such as materials accessible through the Internet) used as part of the educational curriculum for the student.

3.1. **Exclusion for academic tests or academic assessments.** The opportunity to inspect instructional materials shall not extend to academic tests or academic assessments.

4. Nonemergency, invasive physical examinations.

Merit Academy shall provide notification to parents and the opportunity to opt out of nonemergency, invasive physical examination that is:

- Required as a condition of attendance;
- Administered by the school and scheduled in advance; and

- Not necessary to protect the immediate health and safety of the student, or of other students.

- 4.1. **Definition.** The term “invasive physical examination” means 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 a hearing, vision, or scoliosis screening.
- 4.2. **Exception.** This policy does not apply to any physical examination or screening that is permitted or required by an applicable Utah law, including physical examinations or screenings that are permitted without parental notification.

5. Marketing surveys.

Merit Academy shall provide notice of and an opportunity to opt out of activities involving collection, disclosure, or use of personal information collected from students for marketing or to sell or otherwise distribute the information to others.

- 5.1. **Exceptions.** The requirement to provide notice and the opportunity to opt out does 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:
- College or other postsecondary education recruitment, or military recruitment.
 - Book clubs, magazines, and programs providing access to low-cost literary products.
 - Curriculum and instructional materials used by elementary schools and secondary schools.
 - Tests and assessments used by elementary schools and secondary schools to provide cognitive, evaluative, diagnostic, clinical, aptitude, or achievement information about students (or to generate other statistically useful data for the purpose of securing such tests and assessments) and the subsequent analysis and public release of the aggregate data from such tests and assessments.
 - The sale by students of products or services to raise funds for school-related or education-related activities.
 - Student recognition programs.

6. Notification.

Merit Academy shall provide notification to parents of this policy as follows:

- 6.1. **Required notifications.** Merit Academy shall provide the following notifications:
- 6.1.1. notification at the beginning of each school year regarding this policy and within a reasonable period of time after any substantive changes to this policy;
- 6.1.2. notification at the beginning of each school year of any planned third-party surveys;
- 6.1.3. direct notification annually at the beginning of the school year by postal mail, hand, or email, including the specific or approximate dates, of any
- marketing survey; or

- nonemergency, invasive physical examination;

6.1.4. direct notification by postal mail, hand, or email, including the specific or approximate dates, annually at the beginning of the school year and at least two weeks prior to the administration of any collection of sensitive information. This notice shall also include:

- an internet address where the parent can view the exact survey to be administered to the parent's student, and a notice that a copy of the survey questions will also be made available at the school.
- notice that a parent has a reasonable opportunity to obtain in writing the following information concerning the survey:
 - records or information, including information about relationships, that may be examined or requested;
 - the means by which the records or information shall be examined or reviewed;
 - the means by which the information is to be obtained;
 - the purposes for which the records or information are needed;
 - the entities or persons, regardless of affiliation, who will have access to the personally identifiable information; and
 - a method by which a parent of a student can grant permission to access or examine the personally identifiable information

6.2. **Waiver of two-week's notice requirement.** The two-week's notice requirement for a collection of sensitive information may be waived in the following circumstances:

- In response to a situation which a school employee reasonably believes to be an emergency, or as authorized under [UCA 62A-4a-4](#), Child Abuse or Neglect Reporting Requirements;
- By order of a court; or
- After receiving notice of a collection of sensitive information protected by this policy, a parent may waive the two-week's notice requirement.

7. Training.

Merit Academy shall provide training for teachers and administrators on the implementation of this policy.

8. Emergency situations.

If a school employee, agent, or school resource officer believes a student is at-risk of attempting suicide, physical self-harm, or harming others, the school employee, agent, or school resource officer may intervene and ask a student questions regarding the student's suicidal thoughts, physically self-harming behavior, or thoughts of harming others for the purposes of:

- Referring the student to the appropriate prevention services; and
- Informing the student's parent without delay.

8.1. **Exception to notifying parents of an emergency situation.** If the matter has been reported to the Division of Child and Family Services within the Department of Human Services, it is the

responsibility of the division to notify the student's parent of any possible investigation, prior to the student's return home from school.

8.2. **Minimum degree of intervention.** School employees, agents, or school resource officers shall use the minimum degree of intervention to accomplish the goals of this policy.

9. Students who have turned 18 and emancipated minors.

The rights to notification and opt out shall transfer to the student when the student turns 18 years old or is an emancipated minor.

9.1. **Exception.** The notification shall be given to and written consent required from the parent in all grades, kindergarten through 12, regardless of the student's age, before a collection of sensitive information shall be administered.