



131st MAINE LEGISLATURE

FIRST SPECIAL SESSION-2023

Legislative Document

No. 1643

H.P. 1053

House of Representatives, April 12, 2023

An Act Regarding Instructional Materials, Surveys, Analyses, Evaluations and Events at Public Schools

Reference to the Committee on Education and Cultural Affairs suggested and ordered printed.

A handwritten signature in cursive script that reads "Robert B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative SAMPSON of Alfred.
Cosponsored by Senator BRAKEY of Androscoggin and
Representatives: BOYER of Poland, DRINKWATER of Milford, FAULKINGHAM of Winter
Harbor, FOSTER of Dexter, LYMAN of Livermore Falls, POLEWARCZYK of Wiscasset,
QUINT of Hodgdon, WHITE of Guilford.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 20-A MRSA §4015** is enacted to read:

3 **§4015. Instructional materials, surveys, analyses, evaluations and events**

4 **1. Definitions.** As used in this section, unless the context otherwise indicates, the
5 following terms have the following meanings.

6 A. "Instructional material" means instructional content that is provided to a student,
7 regardless of its format, including printed or representational materials, audiovisual
8 materials and materials in electronic or digital formats. "Instructional material" does
9 not include academic tests or academic assessments.

10 B. "Invasive physical examination" means any medical examination that involves the
11 exposure of private body parts, or any act during such examination that includes
12 incision, insertion or injection into the body. "Invasive physical examination" does not
13 include a hearing, vision or scoliosis screening.

14 C. "Personal information" means individually identifiable information including:

15 (1) A student's, parent's or guardian's first and last name;

16 (2) A home or other physical address;

17 (3) A telephone number; or

18 (4) A social security number.

19 **2. Inspection of instructional materials by parents or guardians.** A school
20 administrative unit shall make all instructional materials, including teacher's manuals,
21 films, tapes or other supplementary material that is used in connection with any survey,
22 analysis or evaluation as part of any program administered by the department or the school
23 administrative unit, available for inspection by the parents or guardians of the children
24 enrolled in a school of the school administrative unit.

25 **3. Limits on surveys, analyses or evaluations.** A student may not be required, as part
26 of any program administered by the department or a school administrative unit, to submit
27 to a survey, analysis or evaluation that reveals information concerning:

28 A. The political affiliations or beliefs of the student or the student's family;

29 B. Mental or psychological problems of the student or the student's family;

30 C. Sexual behavior or attitudes of the student or the student's family;

31 D. Illegal, antisocial, self-incriminating or demeaning behavior of the student or the
32 student's family;

33 E. Critical appraisals of other individuals with whom the student has close family
34 relationships;

35 F. Legally recognized privileged or analogous relationships, such as those of lawyers,
36 physicians and ministers;

37 G. Religious practices, affiliations or beliefs of the student or the student's family; or

38 H. Income, other than that required by law to determine eligibility for participation in
39 a program or for receiving financial assistance under a program, without the prior

1 consent of the student, if the student is an adult or emancipated minor, or without the
2 prior written consent of the student's parent or guardian, if the student is an
3 unemancipated minor.

4 This subsection does not apply to a survey administered to a student in accordance with the
5 federal Individuals with Disabilities Education Act.

6 **4. Development of local policies concerning student privacy, parental access to**
7 **information and administration of certain physical examinations to minors.** Except as
8 provided in subsections 2 and 3, a school administrative unit shall develop and adopt
9 policies, in consultation with the parents or guardians of the children enrolled in a school
10 of the school administrative unit, regarding the following:

11 A. The right of a parent or guardian of a student to inspect, upon the request of the
12 parent or guardian, a survey created by a 3rd party before the survey is administered or
13 distributed by a school to the student;

14 B. Any applicable procedures for granting a request by a parent or guardian for
15 reasonable access to a survey pursuant to paragraph A within a reasonable period of
16 time after the request is received;

17 C. Arrangements to protect student privacy, including the right of a parent or guardian
18 of a student to inspect, upon the request of the parent or guardian, any survey containing
19 one or more of the subjects described by subsection 3;

20 D. The right of a parent or guardian of a student to inspect, upon the request of the
21 parent or guardian, any instructional material used as part of the educational curriculum
22 for the student, including any applicable procedures for granting a request by a parent
23 or guardian for reasonable access to instructional material within a reasonable period
24 of time after the request is received;

25 E. The administration of invasive physical examinations that the school may administer
26 to a student;

27 F. The collection, disclosure or use of personal information collected from a student
28 for the purpose of marketing or for selling that information or otherwise providing that
29 information to others for that purpose, including arrangements to protect student
30 privacy; and

31 G. The right of a parent or guardian of a student to inspect, upon the request of the
32 parent or guardian, any instrument used in the collection of personal information under
33 this section before the instrument is administered or distributed to a student, including
34 any applicable procedures for granting a request by a parent or guardian for reasonable
35 access to such instrument within a reasonable period of time after the request is
36 received.

37 **5. Notification of policies.** The policies developed by a school administrative unit
38 under this section must provide for reasonable notice of the adoption or continued use of
39 those policies directly to the parents or guardians of students enrolled in that school
40 administrative unit. At a minimum, the school administrative unit shall provide such notice
41 at least annually at the beginning of the school year and within a reasonable period of time
42 after any substantive change in those policies.

1 **6. Notification of events.** A school administrative unit shall directly notify a parent
2 or guardian of a student enrolled in a school of the school administrative unit, at least
3 annually at the beginning of the school year, of the specific or approximate dates during
4 the school year when activities described in this subsection are scheduled or expected to be
5 scheduled. The school administrative unit shall offer an opportunity for the parent or
6 guardian, and for purposes of an activity described in this subsection, in the case of a
7 student of an appropriate age, the student, to opt the student out of participation in that
8 activity. This subsection applies to:

9 A. Activities involving the collection, disclosure or use of personal information
10 collected from a student for the purpose of marketing or for selling that information or
11 otherwise providing that information to others for that purpose;

12 B. The administration of any survey containing one or more subjects described by
13 subsection 3; and

14 C. Any nonemergency, invasive physical examination or screening that is:

15 (1) Required as a condition of attendance;

16 (2) Administered by the school administrative unit and scheduled by the school
17 administrative unit in advance; and

18 (3) Not necessary to protect the immediate health and safety of the student or of
19 other students.

20 **7. Student rights.** The rights provided to a parent or guardian under this section
21 transfer to the student when the student attains 18 years of age or is an emancipated minor
22 at any age.

23 **SUMMARY**

24 This bill requires school administrative units to make all instructional materials
25 available for inspection by the parents or guardians of the children enrolled in a school of
26 the school administrative unit. The bill prohibits students from being required to submit to
27 a survey, analysis or evaluation that reveals certain information. The bill requires school
28 administrative units to adopt certain policies and notify parents or guardians of those
29 policies. The bill requires school administrative units to notify parents or guardians of
30 certain events and provide an opportunity for parents or guardians to opt students out of
31 those events. The bill provides that certain rights specified to parents or guardians transfer
32 to students when the students turn 18 years of age or are emancipated minors at any age.