

TESTIMONY IN OPPOSITION TO

L.D. 1439—AN ACT TO PROTECT THE HEALTH AND WELFARE OF CHILDREN IN PUBLIC SCHOOLS BY REQUIRING PARENTAL CONSENT FOR CERTAIN TESTS, ANALYSES AND DIAGNOSES

AND

L.D. 919—AN ACT TO REQUIRE PARENTAL PERMISSION FOR CERTAIN SURVEYS AND QUESTIONNAIRES ADMINISTERED TO MINORS IN SCHOOLS

April 15, 2025

Senator Rafferty, Representative Noonan Murphy and members of the Education and Cultural Affairs Committee, I am Steven Bailey, the Executive Director of the Maine School Management Association, testifying on behalf of the legislative committees of the Maine School Boards Association and the Maine School Superintendents Association in opposition to L.D. 1439 and L.D. 919. Both of these bills introduce restrictive measures that undermine the role of educators in understanding the children under their care and how best to serve them based on daily evaluations and observations.

L.D. 1439 proposes requiring parental consent for certain evaluations that involve testing of students' intellectual, emotional, behavioral, psychological, or physical development and L.D. 919 proposes that schools obtain parental permission before administering any surveys or questionnaires that ask for a student's full name.

We have attached *MSMA Policy ILD: Educational Research: Student Submission to Surveys, Analyses, or Evaluation*, which is grounded in federal education law, including the Protection of Pupil Rights Amendment (PPRA). This policy, which is already in use in school districts across Maine, clearly lays out students' and parents' rights and permissions around surveys and evaluations and ensures that parents and families are well-informed. These procedures help to ensure open communication and collaboration between families and schools – a vital part of each child's education.

It is also important to understand that other kinds of daily evaluation already take place in various forms – and we are concerned these could fall under the definition of “evaluations” in L.D. 1439. As some examples: students are asked to write their first and last names on papers to assess their literacy skills and self-recognition. Their intellectual development is evaluated whenever they take regular tests or assessments in subjects such as math, reading, spelling, or history. Students in physical education are frequently assessed through various tests, which are essential for monitoring physical development and overall health.

Emotional and behavioral development is also continuously observed by educators. Teachers assess how students respond to challenges, interact with their peers, follow rules, and navigate disappointments.

Additionally, teachers evaluate students' emotional states, such as how they appear when they get off the bus in the morning, which provides valuable insight into their readiness for the school day.

The knowledge that is gained as a result of these evaluations allows educators to understand and support students in their academic, physical, and emotional growth.

Importantly, surveys and questionnaires have long been a part of basic school operations. Educators and principals need answers to basic questions, such as who is going on the field trip next week, or which kids want chocolate or regular milk at snack time? Requiring written parental permission for all of these surveys would represent an undue administrative burden on both parents and schools, forcing educators to spend far more time on paperwork than teaching children.

Both bills fail to account for the thoughtful approach that schools take in assessing students, which is already in line with state and federal law. These measures introduce burdensome requirements that could undermine the ability of educators to monitor students effectively and respond to their needs in a timely manner. By restricting evaluations and surveys, these bills would prevent educators from gathering critical information needed to support students' development across academic, physical, and emotional domains.

For these reasons, we strongly urge the committee to oppose L.D. 1439 and L.D. 919. It is important to maintain the ability of educators to assess students in the most effective way possible without unnecessary and burdensome restrictions.

**EDUCATIONAL RESEARCH: STUDENT SUBMISSION TO SURVEYS,
ANALYSES, OR EVALUATIONS**

In this policy, “surveys, analyses, or evaluations” refer to methods of gathering data for research purposes.

No student shall be required as part of any program wholly or partially funded by the U.S. Department of Education to submit to any survey, analyses, or evaluation that reveals information concerning:

- A. Political affiliations or beliefs of the student or the student’s parent;
- B. Mental or psychological problems of the student or the student’s family;
- C. Sex behavior or attitudes;
- D. Illegal, anti-social, self-incriminating, or demeaning behavior;
- E. Critical appraisals of other individuals with whom respondents have close family relationships;
- F. Legally recognized privileged or analogous relationships, such as those of lawyers, physicians, and ministers;
- G. Religious practices, affiliations, or beliefs of the student or student’s parents; or
- H. Income (other than that required by law to determine eligibility for participation in a program or for receiving financial assistance under such program without the prior written consent of the student’s parent/guardian, or of the student, if he/she is 18 years of age or older.

All instructional materials, including teachers’ manuals, films, tapes, or other supplementary material which will be used in connection with any such survey, analysis, or evaluation shall be available upon request for inspection by the student’s parent/guardian. For the purpose of this policy, “instructional material” does not include academic tests or assessments.

A parent may inspect, upon request, a survey created by a third party before the survey is administered or distributed to a student.

The Superintendent/designee will be responsible for implementing any procedures necessary to protect the privacy of participating students and to provide parents with access to surveys within a reasonable time before administration or distribution.

The school unit will notify parents of this policy at least annually at the beginning of the school year and within a reasonable time of any substantive change in policy. Insofar as practicable,* the school unit will also directly notify parents annually at the beginning of the school year when surveys, analyses, or evaluations are scheduled or anticipated. Parents shall have the opportunity to opt their child out of participation in any survey, analysis, or evaluation. Students who are 18 years of age or older may opt out of such surveys, analyses, or evaluations.

[NOTE: “Insofar as practicable” acknowledges that there may be circumstances in which a research request is made or is approved only after the school year has begun. When this occurs, the school unit should notify parents far enough in advance for them to access surveys and related instructional materials and to opt their children out, if desired.]

Legal reference: 20 U.S.C. § 1232(h)

Cross reference: JRA—Student Educational Records and Student Information

Adopted: _____

PLEASE NOTE MSMA sample policies and other resource materials do not necessarily reflect official Association policy. They are not intended for verbatim replication. Sample policies should be used as a starting point for a board’s policy development on specific topics. Rarely does one board’s policy serve exactly to address the concerns and needs of all other school units. MSMA recommends a careful analysis of the need and purpose of any policy and a thorough consideration of the application and suitability to the individual school system.

MSMA sample policies and other resource materials may not be considered as legal advice and are not intended as a substitute for the advice of a board’s own legal counsel.