

2024 H.B. 182:

USBE Guidance for LEA Leaders

Last updated June 18, 2024

Introduction

Intended audience

The intended audience for this document is local education agency (LEA) leaders, such as superintendents, charter directors, assessment directors, and technology directors.

About the document

In Utah's 2024 legislative session, the state legislature passed [H.B. 182: Student Survey Amendments](#). The Utah State Board of Education (USBE) has created this guidance document in response to the many questions the agency has received surrounding this bill. Because USBE does not provide legal counsel, please note that this document constitutes guidance, not legal advice. LEA leaders are encouraged to consult with their legal counsel for interpretation of the law.

Key Points

Amendment to existing law

H.B. 182 amends a long-existing law, [Utah Code Section 53E-9-203](#). This law, sometimes called "Utah PPRA," is Utah's version of a similar federal law called the [Protection of Pupil Rights Amendment](#), or PPRA. The law requires schools to obtain parent consent before administering a psychological or psychiatric examination, test, treatment, survey, analysis, or evaluation that solicits information from students surrounding certain "protected topics."



New protected topic

H.B. 182 retains the existing eight protected topics in [Section 53E-9-203](#), but adds “gender identity” to the list. This means that before an employee of an LEA administers a psychological or psychiatric examination, test, treatment, survey, analysis, or evaluation that asks a student about the student’s gender identity, or the gender identity of any of their family members, the school must first provide notice to the parent and obtain parent consent.

Providing notice and collecting consent at registration

Updated [Section 53E-9-203](#) requires LEAs to, at the time a student registers for school, provide notice of and collect parent consent (opt in) for three types of surveys:

- Surveys associated with an early warning program, as defined in [Section 53F-4-207](#)
- Surveys containing social emotional learning questions
- School climate survey, as defined in [Section 53G-8-802](#)

Please note that these surveys require an opt *in*, not opt *out*.

Notices

When seeking parent consent for surveys associated with an early warning program, surveys containing social emotional learning questions, the school climate survey, or any other solicitation of information implicated by [Section 53E-9-203](#) (e.g. “protected topics surveys”), LEAs must provide a notice to parents. Each of these notices need to include:

- The actual survey that will be administered
- The intended purposes and uses of the data collected in the survey
- The types of persons of governmental entities that share the collected data, including a list of recipients who will receive the student-level data
- The types of persons or governmental entities that receive the data collected from a governmental entity on a regular or contractual basis
- If applicable, the record series that would apply to the data collected. Work with your appointed records officer or legal counsel to determine which record series applies, if any.

Please see the example notice for the school climate survey in the Resources section of this document.

Early Warning System Surveys

[2024 H.B. 84](#) updated [Utah Code Section 53F-4-207](#), which requires all LEAs to adopt an early warning program (more commonly known as an early warning system, or EWS). However, administering surveys as a part of an EWS is not required and not every EWS has student surveys integrated into the system. If an LEA adopts an EWS and also elects to use an associated student survey as part of their EWS implementation, H.B. 182 updates [Section 53E-9-203](#) to require that the LEA provide notice to and obtain prior written consent from a parent for a student to participate in the survey. This notice and opportunity to provide consent needs to be provided to the parent at the time the student registers with the LEA.

Surveys containing social emotional learning questions

H.B. 182 requires LEAs to provide a notice of and receive parent consent for “surveys containing social emotional learning questions.” This term is not defined in the bill. Your LEA may want to consider creating a policy defining “surveys” or “surveys containing social emotional learning questions.”

School Climate Survey

Prior to 2024, administering the USBE model school climate survey was mandatory for LEAs. Now, LEAs may choose to administer the model school climate survey created by USBE. H.B. 182 updates [Section 53G-8-802](#) to make administering any school climate survey optional.

Please note that, as stated in [Administrative Rule R277-609](#), LEA school discipline policies are still required to be informed and updated by data obtained by any regular safety or health related survey, including a school's climate survey.

If your LEA chooses to administer the USBE model school climate survey, make sure you provide notice and obtain parent consent at the time a student registers for school.

Providing rewards or consequences for survey completion

H.B. 182 updates [Section 53E-9-203](#) to make clear that an LEA may not:

- Offer a reward to a student for a student's participation in any psychological or psychiatric examination, test, treatment, survey, analysis, or evaluation,

- Administer a consequence to a student for a student's lack of participation in any psychological or psychiatric examination, test, treatment, survey, analysis, or evaluation.

FAQs

How should LEAs approach H.B. 182 for the 2024-2025 School Year?

For certain surveys, H.B. 182 updates [Section 53E-9-203](#) to require LEAs to provide notice and collect parent consent at the time a student registers. We recognize that student registration for the 2024-2025 school year is currently underway in most LEAs.

LEAs will need to update their registration process as soon as possible to include notices and collect parent consent. In the case that students have already registered for the 2024-2025 school year, an LEA is not expected to require parents to “redo” registration. However, an LEA must still obtain consent before the beginning of the school year for implicated surveys that an LEA will be administering.

How does this bill affect the Student Health and Risk Prevention (SHARP) survey?

H.B. 182 does not change the notice and opt-in requirements for administering the SHARP survey. The SHARP survey contains protected topics questions, and thus requires LEAs to provide notice to parents and collect consent prior to administering the survey to students. Additionally, depending on how your LEA defines surveys containing social emotional learning questions, your LEA may be required to obtain parent consent for the SHARP survey at the time a student registers.

As always, LEAs have the option of administering the SHARP survey, but they are not obligated to do so. Please note that the Utah Department of Health and Human Services (DHHS), as the entity that oversees the administration of the SHARP survey, is aware of the requirement to provide notice and obtain parental consent and has already had a parental consent process in place for a number of years. If your LEA opts to administer the SHARP survey, please consult with DHHS about this process and then consult with your LEA's legal counsel to ensure that the process complies with the requirements of [Section 53E-9-203](#) as amended by H.B. 182.

For more information about the SHARP survey, please refer to the [DHHS SHARP webpage](#). LEAs may also want to refer parents to the webpage for concerns and questions.

Will USBE continue to administer the School Climate Survey?

USBE will continue to administer the online school climate survey via Qualtrics every other year for LEAs that choose to participate and will provide support for the implementation of the survey.

If your LEA will be administering the model school climate survey, USBE needs updated contact information to provide support for the 2025 spring administration. LEA superintendents and charter directors have been emailed to provide updated contact information.

When does an LEA need to decide if they want to participate in USBE's School Climate Survey?

By June 30, 2024. Survey best practices recommend preparation in advance of administration. To best meet the needs of schools and LEAs, USBE needs to know which LEAs will be participating in by June 30, 2024.

If an LEA wants to create their own School Climate Survey, what should it include?

If the LEA is not administering the USBE model survey, H.B.182 does not provide specific criteria for other climate surveys, deferring to local control. Specific criteria for the model school climate survey can be found in [Section 53G-8-802](#) and [Rule R277-623](#).

If an LEA chooses to administer the model School Climate Survey, where can I find information about the data collection process?

Data collected for the model school climate survey is housed by Qualtrics, while access to the data is managed by the LEA and USBE. Temporary access to survey data can be granted by LEA and USBE brand administrators of the survey to Qualtrics and Merkle (e.g. technical assistance). Additional information about Qualtrics can be found in the links below:

- [Privacy Policy](#)
- [General Data Protection Regulation](#)
- [Data Protection & Privacy](#)

What counts as a “survey with SEL questions?”

The term “surveys containing social emotional learning questions” is not defined in Utah Code or Board Rule. LEAs may want to consider creating their own policies to define “surveys” or “surveys including social emotional learning questions.”

Assuming that “surveys with SEL questions” will be defined by LEAs and not the State Board, what resources can local school boards turn to in creating this policy?

Social emotional learning or “SEL” is defined by the USBE under [Rule R277-100](#) of the Utah Administrative Rules, as: “the process through which students acquire and effectively apply the knowledge, attitude, and skills necessary to:

- (a) understand and manage emotions;
- (b) set and achieve positive goals;
- (c) feel and show empathy for others;
- (d) establish and maintain positive relationships;
- (e) make responsible decisions; and
- (f) self-advocate.”

LEAs may choose to adopt USBE’s definition, or they can choose to adapt or expand the USBE’s definition to meet the needs of their local community. USBE has also issued a [technical assistance document](#) to provide more information about SEL, and LEAs may use that document as a resource as they create their policy.

Do all early warning systems have associated surveys?

All LEAs are required to adopt an early warning program (more commonly known as an early warning system, or EWS). Not all EWS will have surveys included in the system; however, any surveys administered as a part of an early warning program will require the LEA to provide notice and obtain parent consent at the time of registration in order for the student to participate.

Do LEAs need to provide any notice when it's time to actually administer the surveys they have previously sought consent for?

The law does not address this question. Nothing in the law prevents or requires LEAs to provide notice multiple times.

Can parents later change their mind about consent they gave at registration, meaning they could opt-in later or revoke previously given consent?

The law does not address this question.

Do LEAs need to provide a separate notice for each survey, or can they be combined?

Each survey requiring a notice should have its own separate notice. This is because the content of the notices will be different.

Other questions

If you have additional questions, LEAs are encouraged to develop their own policies and consult with their legal counsel to address implementation of the law.

Potential Actions

Below is a list of potential actions your LEA may consider taking as a result of H.B. 182.

- ☐ Determine what surveys will be administered in your LEA this year, and which of these will require parent notice and consent.
- ☐ Create or update notices for applicable surveys. Create a separate notice for each applicable survey.
 - ☐ For the USBE model school climate survey, consider using the [School Climate Survey Model Parent Notification and Opt-In Form](#)

- ☐ For surveys associated with an early warning system, consider asking your early warning system vendor if they have a model notice. LEAs using Panorama can refer to the [Panorama Parental Consent/Opt-In Packet for Utah](#)
- ☐ Update registration process or system to provide notices and collect parent consent.
- ☐ Review and update policies as needed. This could include defining in policy “surveys” or “surveys containing social emotional learning questions.”
- ☐ Provide training to educators and other relevant LEA staff, including on the addition of gender identity as a topic requiring parent consent as described in [Section 53E-9-203](#).

Resources

- [Administrative Rule R277-609 Standards for LEA Discipline and Emergency Safety](#): Board rule stating that school discipline plans must be informed and updated by data obtained by any regular safety or health related survey including a school's climate survey
- [Administrative Rule R277-623 Climate Survey Administration](#): Board rule for the administration of the School Climate Survey
- [Department of Health and Human Services SHARP Webpage](#): Website that contains general information about the SHARP survey, including information for parents, data reports from past survey administrations, and survey questions
- [H.B. 182 Student Survey Amendments](#) (2024)
- [H.B. 182 Webinar](#): Training from USBE Student Data Privacy
- [Panorama Parental Consent/Opt-In Packet for Utah](#): Toolkit for for LEAs using Panorama to help meet the obligations of H.B. 182
- [School Climate Survey Model Parent Notification and Opt-In Form](#): Example notice for School Climate Survey
- [Social Emotional Learning - A Utah State Board of Education Technical Assistance Document](#)
- [Utah Code Section 53E-9-203](#): Statute which H.B. 182 amends
- [Utah Code Section 53G-8-802](#): Statute establishing the model School Climate Survey

