



NDSBA
**NORTH DAKOTA SCHOOL
BOARDS ASSOCIATION**

1224 West Owens Avenue
Bismarck ND 58501
1-800-932-8791 • (701)255-4127
www.ndsba.org

SB 2105
Testimony of Amy De Kok
Senate Education
January 21, 2025

Chairman Beard and members of the Senate Education, my name is Amy De Kok. I am the executive director of the North Dakota School Boards Association. NDSBA represents all 168 North Dakota public school districts and their governing boards. I am writing to express our opposition to SB 2105, which seeks to impose additional limitations on the administration of surveys to students in kindergarten through grade twelve.

While the protection of student privacy is a priority we all share, this bill raises serious concerns regarding its potential impact on the ability of schools to effectively address student needs, comply with federal law, and foster a supportive learning environment. In particular, the provisions of SB 2105 conflict with the requirements and intentions of the Protection of Pupil Rights Amendment (PPRA), a federal statute that already establishes clear safeguards for student and parental rights concerning surveys and data collection.

The PPRA ensures that schools **must obtain parental consent before administering surveys** funded by the U.S. Department of Education that solicit certain sensitive information. These include:

- Political affiliations or beliefs of the student or parent;
- Mental or psychological problems of the student or family;
- Sexual behavior or attitudes;
- Illegal, anti-social, self-incriminating, or demeaning behavior;
- Critical appraisals of others with whom the respondents have close family relationships;
- Legally recognized privileged or analogous relationships, such as those of lawyers, physicians, and ministers;
- Religious practices, affiliations, or beliefs of the student or parent; and
- Income, other than as required by law to determine eligibility for participation in a program.

For surveys that students are not required as part of a program administered by the Department of Education, to participate in but that are administered by a school that is the recipient of federal funds, PPRA requires that the school “directly” notify (i.e., U.S. Mail or email), parents of students who are

scheduled to participate in a survey that asks questions about one or more of the eight protected areas listed above in order to provide them with **an opportunity to opt their children out of participation.**

Additionally, PPRA requires school districts to work with parents to develop policies addressing key elements of survey administration. These include providing notice regarding **the right to inspect a survey** created by a third party before it is administered or distributed to a student and outlining procedures for granting reasonable access to such surveys. Policies must also ensure arrangements to protect student privacy when surveys include one or more of the eight areas identified above. These collaborative efforts are essential to maintaining trust and transparency between schools and families. PPRA further specifies that the policies adopted by a school district must provide reasonable notice of the adoption or continued use of such policies. At a minimum, the school district is required to provide such notice at least annually, at the beginning of the school year, and also within a reasonable period of time if any substantive change is made to the policies. Further, school districts must offer an opportunity for parents to opt-out of (remove their child) from participation in the administration of any third-party (non-USDE funded) survey containing one or more of the above-described eight items of information.

SB 2105 introduces additional barriers by requiring parental authorization for virtually all surveys administered by third parties. While this may seem aligned with PPRA, it significantly hampers the ability of schools to identify and address critical issues like behavioral health, bullying, and community needs, which often rely on aggregated and anonymous data collected through surveys. The bill's vague language regarding what constitutes a "third party" or "behavioral health survey" creates unnecessary ambiguity and may inadvertently restrict the work of trusted educational partners.

Behavioral health and well-being are critical components of a successful educational experience. By imposing stringent limitations on the use of surveys, SB 2105 could:

- Delay schools' ability to identify emerging mental health crises among students;
- Limit opportunities to gather valuable data to improve school safety and climate;
- Discourage parental involvement by overburdening families with unnecessary paperwork for routine, anonymous surveys.

These consequences disproportionately affect vulnerable student populations who benefit the most from targeted interventions informed by survey data. Further, SB 2105's exclusion of surveys conducted by the Department of Public Instruction ignores the collaborative role other organizations, like the ND Department of Health and Human Services, play in supporting schools and students.

In its current form, SB 2105 undermines the ability of schools to serve their students effectively, particularly in addressing behavioral health and safety concerns. I respectfully urge you to issue a DO NOT

PASS recommendation on this bill and instead work toward solutions that balance privacy protections with the need for meaningful data to support student success.

Thank you for your attention to this critical issue. I welcome any questions or opportunities to collaborate on more effective policy solutions.