



POSITION PAPER

No. 2/212th Legislature

(2006-07)

ISSUE:

Permits a student to participate in a voluntary survey provided the school district sends prior written notification to the student's parents.

BILL NO.

S-1268 (Turner)

A-2148 (Greenstein)

NCADD-NJ POSITION:

NCADD-NJ fully supports S-1268/A-2148 because, as was feared at the time active consent was signed into law, the current statute has seriously undermined the collection of data about student use of drugs and alcohol, along with other at-risk behavior, and the ability to effectively respond to these problems. Passive consent respects parental concerns about the material children are exposed to in voluntary, anonymous surveys administered at New Jersey schools. At the same time, it allows information about youth use of alcohol and drugs to be compiled. This information is then used to develop prevention programs that address the alcohol and drug trends identified in the surveys.

Acting Governor Codey's Steroid Task Force found in its December 2005 report that "The passage of N.J.S.A 18A: 36-34 in 2002, requiring the prior written consent of parents or legal guardians before their children can participate in surveys, has greatly affected the quality and quantity of New Jersey data." As a result, the Task Force could refer to only a minimal amount of current data specific to New Jersey, which was a significant impediment to accomplishing the objectives set forth by the Governor.

The Task Force recommended repeal of N.J.S.A. 18A: 36-34. NCADD-New Jersey instead advocates for enactment of passive consent provisions, such as S-1268/A-2148, which would permit a student to participate in a voluntary survey if the school district sends prior written notification to the student's parents and the parents do not expressly object. It is the agency's position that S-1268 /A-2148 strikes an appropriate balance between the parent's legitimate interest in the surveys administered in New Jersey's schools with the parent's and state's public health interest in ensuring the health and safety of youth.

In addition to the Task Force, numerous groups, recognizing the harmful and stifling effect P.L. 2001 c.34 has had on the ability to assess and respond to student drug and alcohol use, have supported passive consent. Seventeen public health and education associations have joined in opposition to active consent. These groups include school officials, law enforcement and substance abuse professionals.

Active consent has compromised the gathering of data about student drug use to the point that several of the surveys have been discontinued. This has occurred because requiring written permission on a per-survey basis proved too cumbersome and too costly to obtain a credible sample. The low student participation rates under active consent are not due to the majority of parents having express objections to their child's filling out the questionnaires but simply because the permission forms are often not returned to the schools in a timely manner.

In comparing the participation rate and cost of conducting a survey in passive consent versus active consent schools, the Department of Health and Senior Services (DHSS) found in the passive consent schools the cost of imple-



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menting the survey was \$1.80 per student. In the active consent schools, the cost was \$16.97 per student – nearly 10 times the cost of passive consent schools. The overall response rate in passive consent schools was 91 percent; the response rate for the active consent school was only 42 percent. The DHSS has concluded that these rates were not adequate to provide meaningful information about the youth populations under study and that state agencies cannot afford to conduct statewide surveys that mandate active consent.

Furthermore, without the capability to accurately document the scope of student drug and alcohol use, school boards may not be able to constitutionally justify policies for drug testing recently authorized by P.L. 2005, c. 209.

No one has suggested that parents should not have the right to prohibit their child from participating in a student survey, and S-1268/A-2148 provides this opportunity. Parents, however, also have a right to accurate information about potentially dangerous and risky conditions their children will confront in the schools they attend.

The success of the prevention programs resulting from student survey data has been recorded by the Partnership for a Drug Free New Jersey, which has noted a drop by New Jersey students below the national average in drug and alcohol use. The source of these advances has been jeopardized over the past several years, a fact the Legislature, in fulfilling its responsibility to protect all of New Jersey's school children, must recognize and remedy.

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