



COLORADO
Department of Education

Colorado State Board of Education

TRANSCRIPT OF PROCEEDINGS
BEFORE THE
COLORADO DEPARTMENT OF EDUCATION COMMISSION
DENVER, COLORADO
March 12, 2015, Part 3

BE IT REMEMBERED THAT on March 12, 2015, the
above-entitled meeting was conducted at the Colorado
Department of Education, before the following Board
Members:

Marcia Neal (R), Chairman
Angelika Schroeder (D), Vice Chairman
Steven Durham (R)
Valentina (Val) Flores (D)
Jane Goff (D)
Pam Mazanec (R)
Debora Scheffel (R)



1 MADAM CHAIR: All back in session. The next
2 item on the agenda -- thank you -- is a continued
3 discussion of the Healthy Kids Survey. Commissioner?

4 MR. HAMMOND: Thank you, Madam Chair. As we
5 talked about at the last meeting, the purpose of this
6 meeting is to seek further input, as we talk about the
7 Healthy Kids Survey. We do have two staff members here
8 to make a brief presentation and answer any questions.
9 You also asked for some additional questions that we've
10 included in your packet. So, Rebecca, if you'd just talk
11 briefly and answer any questions, and then at that point
12 we have people here who want to talk.

13 UNIDENTIFIED VOICE: Madam Chair.

14 MADAM CHAIR: Yes.

15 UNIDENTIFIED VOICE: We've provided you all
16 with a revised fact sheet, and since we last spoke we've
17 shared the past instruments and the administration
18 timeline --

19 UNIDENTIFIED VOICE: Pull it up just a
20 little bit more.

21 UNIDENTIFIED VOICE: Oh, sorry. Details of
22 the timeline have been added to this fact sheet as well.
23 The fact sheet discusses the privacy, the past
24 interpretation, as well as the IRB process with the



1 University of Colorado at Denver.

2 I think rather than a lengthy presentation
3 we're happy to just take any remaining questions that you
4 all have, and then as the Commissioner mentioned, I know
5 we have about 20 people here for public comment.

6 MS. MAZANEC: Madam Chair.

7 MADAM CHAIR: Yes, I'm sorry. I was just
8 counting.

9 MS. MAZANEC: The districts say parents are
10 notified of this survey. How are they notified? Do you
11 know?

12 UNIDENTIFIED VOICE: Madam Chair.

13 MADAM CHAIR: Yes.

14 UNIDENTIFIED VOICE: So district policy and
15 the local decisions around that policy govern whether or
16 not a district uses opt in or opt out, and the Steering
17 Committee has advised districts to give plenty of
18 notification to make the survey available to them, but
19 ultimately that decision about notification and opt-in
20 and opt-out procedures is made based on local district
21 school boards.

22 MS. MAZANEC: Right. Are you aware of, or
23 do you have any information about when districts do
24 provide the information about the survey to parents,
25 whether it's opt in or opt out? Do you know anything



1 about how they provide information on the survey?

2 UNIDENTIFIED VOICE: Madam Chair.

3 MADAM CHAIR: Yes.

4 UNIDENTIFIED VOICE: With the great number
5 of districts that are survey you'd see a great variety of
6 process, and we don't have exact data on the variety of
7 those processes.

8 MADAM CHAIR: I guess Pam probably asked,
9 and I am fumbling around here so I'm maybe asking the
10 same question you did. Because I heard you say districts
11 might opt in or opt out. Was that choice that districts
12 could make, the decision, or that they want to have
13 people opt in or out, or was there a regular, different
14 decision as to how they got the notice?

15 UNIDENTIFIED VOICE: Sure. So districts
16 themselves can opt in or opt out of the survey, and as
17 you see in the fact sheet --

18 MADAM CHAIR: Okay.

19 UNIDENTIFIED VOICE: -- in the 2013
20 administration about 13 districts that were asked if they
21 wanted to be surveyed indicated they did not want the
22 survey in any school in their district, so they have an
23 opt-in/opt-out provision at that level. And then the
24 past question was to how districts might inform their
25 parents of the parent right to either opt in or opt out,



1 based on local board policy.

2 MADAM CHAIR: And the answer to that second
3 question?

4 UNIDENTIFIED VOICE: It's determined by
5 local board policy whether or not they use --

6 MADAM CHAIR: By local board policy.

7 UNIDENTIFIED VOICE: -- opt-in or opt-out
8 procedures, yeah.

9 MADAM CHAIR: Any other questions?

10 I understand there are members of the public
11 here who would like to testify. Unless there is an
12 objection, I will take public comment out of order on the
13 Healthy Kids Survey only. If you're signed up, we only
14 want to hear about Healthy Kids. You can do the other
15 later.

16 If you signed up for public comment on the
17 Healthy Kids Survey I will call your name to come to the
18 podium to address the Board. As usual, the person will
19 have three minutes. Please adhere to that time limit.
20 Carey Markel, over there, will ring a bell or wave a sign
21 or something for your three minutes. Finish the sentence
22 that you're in and then stop, and if you don't we'll ask
23 you to stop. It's very important that we stick to this
24 three minutes.

25 We have, I think, 15 or so people signed up,



1 which means we're going to be spending about 45 minutes
2 for public comment, so it's real important to stick to
3 this.

4 I will name the first three people and then
5 I'll kind of try -- so that if you know you're up next if
6 you'll be ready to get up and speak as soon as the person
7 ahead of you finishes. The very first person will be Dr.
8 Larry Wolk, followed by John Simmons, and Dr. Edwin
9 Asturias. All right, Dr. Wolk, would you like to begin?
10 We're ready to go.

11 DR. WOLK: Thank you, Madam Chair, and thank
12 you to the Board for allowing me to come speak to you. I
13 am open to answering any questions as really the primary
14 source of information for anything as it relates to the
15 Healthy Kids Colorado Survey.

16 I do want to reiterate what are the facts
17 about the survey, just to make sure that everybody is on
18 the same page. This is, in fact, a voluntary, anonymous
19 survey that provides our state with vital information
20 about the health and well-being of our middle and high
21 school students. I say it's a fact with regard to
22 voluntary. From our perspective I know that there was an
23 informal legal opinion provided to the Board, but at this
24 particular time my understanding is that the legal
25 determination is indeterminate and I would hope that the



1 Board wouldn't make any decisions with regard to legal
2 considerations as a result of the indeterminate analysis
3 of whether or not it should be considered voluntary or
4 not.

5 We need this data, from a health standpoint.
6 I think people are saying, well, there are other sources
7 of data, like sheriffs' departments and hospitals. Well,
8 sheriffs' departments collect data on arrest and
9 hospitals collect information on why kids come to the
10 emergency room, whether it's related to marijuana,
11 whether it's related to bullying or suicide attempts, or,
12 unfortunately, deaths as it results from suicide.

13 So if you want us to make policy decisions
14 through the Department of Public Health, and as a state,
15 based on these unfortunate end results, then you're
16 crippling our efforts if you do anything to change the
17 way the current Healthy Kids Colorado Survey is currently
18 administered, so that we can ask questions, students can
19 choose not to answer questions, not to participate in the
20 survey. Parents can opt their students out. Teachers
21 can opt out. Schools can opt out. School districts can
22 opt out. They can also choose to require parents to
23 actively opt their student in. So I do want to make sure
24 that you understand all of the facts and all of the
25 clarifications with regard to that.



1 The last thing I would say to emphasize my
2 last point is that we believe that this is a local
3 decision for schools and school districts and parents
4 that reside and send their kids to these schools. And so
5 the current policy does support that local decision-
6 making process without requiring something that some
7 districts, some parents, and some schools might not agree
8 with.

9 I thank you for the opportunity and would be
10 happy to answer any questions.

11 MADAM CHAIR: Thank you, Dr. Wolk.

12 DR. WOLK: Thank you.

13 MADAM CHAIR: John Simmons.

14 MR. SIMMONS: Thank you, Madam Chair, and
15 thank you, Board, for this opportunity to speak. I am
16 the executive director of student services for Denver
17 Public Schools. DPS values and relies upon the Healthy
18 Kids Colorado Survey data. It provides Denver Public
19 Schools with a reliable way to understand how students
20 feel, the choices they're making, and how this impacts
21 their success in school. This data gives us important
22 insight into the collective student experience so that we
23 can better work to meet student needs.

24 Specifically, we use the data in three ways.
25 Number one, to better understand health behaviors and



1 attitudes among Denver youth. An important focus of the
2 Healthy Kids Survey is social and emotional health of
3 students. This focus helps DPS understand some important
4 factors such as bullying, mental health, and social
5 supports experienced by students.

6 Number two, we support new programs and
7 policies at the school and community level. We rely on
8 the Healthy Kids Survey data to support the Denver Plan
9 2020's goal of support for the whole child. Reliable
10 data is critical to ensuring that programs are targeted
11 to impact students in the most effective way.

12 And number three, we monitor trends in
13 health behaviors over time. The world that DPS students
14 live in is changing rapidly. Healthy Kids data allows
15 DPS to look at student behavioral trends over time, to
16 see how environmental changes, such as the legalization
17 of recreational marijuana, are impacting student
18 perceptions and choices.

19 We value the local control that's resident
20 in the current opt-out construct structure. As a school
21 district serving more than 90,000 students through 190
22 schools, we rely upon our school principals and school-
23 level leadership to understand the students and parent
24 communities they serve, and determine how best to
25 communicate with these communities.



1 Requiring active parental consent would
2 place a significant administrative and cost burden on
3 schools and may jeopardize the reliability of the data.
4 It is estimated that active consent would cost an
5 additional \$20 per student as compared to passive
6 consent. From a resource utilization and management
7 perspective, this presents a financial and resource
8 burden to Denver Public Schools. Additionally, the idea
9 of investing resources in administering the survey
10 without the guarantee of reliable data is very
11 concerning.

12 We ask that you maintain the current process
13 of the Healthy Kids Colorado Survey consent to help us
14 ensure our efforts to meet student needs. Thank you very
15 much.

16 MADAM CHAIR: Thank you. You will be
17 followed by Dr. Edwin Asturias, and he will be followed
18 by Katrina Colvin-Ruggles (ph), Nora Brooks, and Leslie
19 Delrio.

20 DR. ASTURIAS: Good afternoon, Madam
21 Chairman and members of the Board. My name is Edwin
22 Asturias and I'm a Denver resident and a father of
23 actually two kids in high school in the Denver Public
24 Schools. I'm also an associate professor of pediatrics
25 at Children's Hospital Colorado and I work in global



1 health and other endeavors.

2 I'm here representing Children's Hospital,
3 the institution, but also I'm here as a parent, and I can
4 tell you the Colorado Healthy Kids Survey, for me, a very
5 important tool to know how kids are trending in terms of
6 health in Colorado.

7 As you heard already this afternoon, the
8 survey that we are administering is voluntary, and we can
9 decline that survey at the level of the district, the
10 school, or any parent or child that don't want to take
11 the survey. And I don't think, in any way, this survey
12 violates my parental or my children's right to opt out of
13 the process.

14 You know, the other day I asked my daughter,
15 "What would happen if you were to bring a consent form
16 for me to allow her to take this survey?" And what she
17 said is, "You know, most of us actually will forget to
18 leave that form either at school or in my backpack." And
19 I said, "That's very interesting" because my daughter is
20 right. If we go into an opt-in survey then we will
21 prevent a lot of these kids to answering these questions
22 correctly. In fact, a lot of our research shows that in
23 states where we have allowed the active consent to be
24 implemented, that the dropout in participation has gone
25 from 80 percent to almost 40 percent, so a 40 percent



1 dropout in the participation of kids in this.

2 And the most important thing is not who are
3 we dropping out. It's the issue that, in the states
4 where the consents have been administered, most of the
5 kids that answered these surveys are girls, that come
6 from a double-parent household, that are highly educated.
7 So we're leaving out the most vulnerable kids, the ones
8 that actually are benefitting from the programs that we
9 are trying to institute.

10 So in many ways, I think, as a parent, I
11 want to know what are the trends I may want to use, I
12 want to know what are the risk behaviors that my kids are
13 having in school, because then I can have the proper
14 conversations with them at home. That way I can talk to
15 my daughter about, you know, if the trend of drug use is
16 going up, I want to be able to tell her that, and I will
17 be able to sort of have a discussion and a conversation
18 with appropriate data.

19 We at Children's Hospital of Colorado relied
20 on this survey in a number of departments and clinics.
21 In our Lesson (ph) Clinic, for example, we use it to
22 foster the programs, the community programs that we have
23 that are making a difference.

24 If we mandate the parents to sign an article
25 of consent of this anonymous and voluntary survey, we



1 will be trading its high quality and we will be turning
2 into a bias data of information, and we wouldn't be able
3 to fully trust the data that we are collecting from our
4 community and from children.

5 Public health and public safety share a lot
6 of things, and one of the most important things that they
7 share is good data drives good action.

8 MADAM CHAIR: Thank you.

9 DR. ASTURIAS: Thank you. Katrina?

10 MS. RUGGLES: My name is Katrina Ruggles. I
11 am a counselor at the Center Consolidated School District
12 in Center, Colorado. Our schools has a 91 percent free
13 and reduced lunch rate, the second-highest in the state.
14 We have a very high at-risk population, and I think
15 you've heard from us before about how important funding
16 is for an at-risk population.

17 We have been instituting the Healthy Kids
18 Colorado Survey since 2005, annually, and we've used this
19 data to literally go after hundreds of thousands of
20 dollars in grant money to address the issues that our
21 students face every day.

22 I have provided you with some of that data,
23 because we track it over time. First of all, we're not
24 afraid of our data, we're not afraid of knowledge, and we
25 believe that this information can help us to create



1 better programs, to make sure that we're filling in the
2 gaps and that we're addressing the needs of our students.
3 And we also use it to monitor how are we doing. If you
4 look at our data, if you at the ATOD, substance abuse
5 data, initially we noticed we had a high rate of use.
6 We've got to institute research-based programs. We did
7 that, and you can see our general decline, which, by the
8 way, I've done regression analysis on and it's a
9 statistically significant drop.

10 In addition, if you turn the page, if you
11 look at the mental health data, we noticed we had a
12 spike. We got several people trained to be assist. We
13 trained our staff in youth mental health first aid, and
14 you can see the drop there. We also started doing
15 universal screening, which is an active consent, to make
16 sure we're identifying students who then needed to have
17 support.

18 I had students research the fruit and
19 vegetable consumption. They said, "We need better fruits
20 and vegetables here." So we worked with Live Well
21 Colorado for our cafeteria.

22 On the last page you'll see the parental
23 data, and I had students look at this data and they said,
24 "Miss, you know why we're using drugs and we're engaging
25 in sex? It's because we don't have good parental



1 support." Look at that. Only about 60 percent of kids
2 say they have parental support. We started doing a
3 monthly parent education night, boosting up our parent
4 engagement efforts, getting them on leadership
5 opportunities, and you can see the increase of parental
6 supports that students report.

7 Our sexual health data. We looked at that
8 data, and according to the CDPHE, in 2004, 53.6 per 1000
9 was our fertility rate. Last year we were at 25.8. We
10 used the data that said our kids were sexually active.
11 We instituted programs to address that.

12 If you require that we do active consent --
13 I'm a master's-level counselor -- I'm going to spend my
14 time collecting surveys, or permission, rather than
15 working directly with students, which is where I want to
16 be. It's going to skew the data to the kids that are,
17 you know, most likely to get the survey back, the kids
18 who can't remember it in their backpack, the kids whose
19 parents say, "I'll get to that later." We won't hear
20 from them. So you're going to silence the voice of our
21 students, because we use their voice to create programs
22 and to address the needs of our students.

23 The last thing I'd say is that we'll lose
24 the normative data as well, that we use to compare to the
25 rest of the state.



1 So I thank you for your time. If you have
2 any questions I'll answer those.

3 MADAM CHAIR: Nora?

4 MS. BROOKS: Hi. Thank you. My name is
5 Nora Brooks and I'm the parent of three public school
6 children, and I am here to support not changing anything
7 about the way this data is collected, especially in the
8 environment we now have in Colorado with drug use going
9 up. Due to recreational marijuana, we need to understand
10 the trends so that we can provide the programs and
11 support we need for these children. Thank you.

12 MADAM CHAIR: Thank you. She will be
13 followed by Leslie Delrio, Henry Lasley, and Scott
14 Romero. Leslie?

15 MS. DELRIO: Hi. Good afternoon. My name
16 is Leslie Delrio. I am a former graduate of DPS,
17 Florence Crittenton High School, which is a high school
18 for pregnant and parenting teen moms. I have a child who
19 is four years old so I'm going to come at this with a
20 couple of lenses.

21 I am here, like other people are saying, to
22 support that nothing changes with the Healthy Kids
23 Colorado Survey. I have taken the survey. I never felt
24 pressured to, and I felt like all my answers were
25 anonymous, and this helps create a change.



1 I was the at-risk youth that you guys are
2 talking about, that these programs help change, and if
3 wasn't for this, my peers at the high school, and my
4 colleagues now, that I work there, have changed. You
5 know, we've seen a decline in teen pregnancy because of
6 this data. You know, we've seen that having, you know,
7 these programs in place, we wouldn't have targeted those
8 youth at risk if it wasn't for this data.

9 So I would say to keep it in place, like it
10 is. Parents need to know what their kids are doing, and
11 as a mother I would like to know if my child is at risk
12 for using marijuana. Colorado is changing so rapidly,
13 like our education system, so we need to grow with it and
14 we need to keep this the same, because we need to know
15 what kids are doing, and we need to know how to change
16 it.

17 And as a young person I feel like it's
18 important. I feel like my voice should be heard, and
19 there is no safe place to do it. I wouldn't have
20 answered the questions honestly if I had to say it to a
21 counselor or if I had to my mom permission to do this
22 survey. And that's the honest truth, because my mom
23 would have asked, "Why are they asking you about sex?
24 Why are they asking you about marijuana use? Are you
25 doing it?" I wouldn't have answered it and my mom would



1 probably have opted me out.

2 So thank you for your time.

3 MADAM CHAIR: Thank you. Henry. Is that
4 Henry? Henny. I'm sorry.

5 MS. LASLEY: I know. It's usually
6 surprising.

7 My name is Henny Lasley. Good afternoon,
8 Madam Chair and members of the Board. I am a Colorado
9 resident and the mom of three graduates of our local
10 public school system. I also happen to have two bucks
11 and a ram (ph). I am here today as a parent and also as
12 the co-founder of Smart Colorado.

13 As you know, in 2012, Colorado voters
14 amended our state constitution allowing for adult use and
15 retail sale of recreational marijuana on top of an
16 already commercialized model for medical marijuana. When
17 the governor formed the task force to set up the
18 regulatory structure to govern retail, the task force
19 prioritized their objectives. The public health and
20 safety of Colorado kids ranked dead last on the
21 priorities of the task force. A group of parents quickly
22 realized that the most important voice, that of Colorado
23 kids, had been silenced. We could not sit by and let
24 this happen.

25 We are an all-volunteer-led, nonpartisan



1 organization made up of several thousand members
2 interested in only one thing -- raising awareness and
3 educating Colorado youth, parents, educators, business
4 leaders, political leaders about the impact on Colorado
5 youth of the commercialized marijuana market.

6 As you all know, the world is watching but
7 Smart focuses on the eyes of Colorado youth looking back
8 at the adults of this state, looking for guidance on how
9 to navigate this new landscape.

10 Here are a few facts for you to consider,
11 and these were all taken, of course, before retail became
12 legal. 36.9 percent of our high school students have
13 tried marijuana more than one time. 86.4 percent of
14 those think that their parents would think this was very
15 wrong for the student to use marijuana, and 8 percent had
16 tried marijuana before the age of 13. 36 percent know
17 someone with a medical marijuana card, and in the first
18 four months of the commercialized retail market, we saw a
19 46 percent increase in the number of medical marijuana
20 cards issued to those between 18 and up to the age of 21.
21 Nearly 1 in 4 of our high school seniors report using
22 marijuana in the past 30 days.

23 Did you know that there has been an
24 explosion of nearly 300 food products infused with
25 marijuana concentrates for sale, including candy,



1 cookies, baked goods, and pasta sauce? Did you know that
2 marijuana could be concealed and vaporized in methods
3 that now look like a highlighter or an asthma inhaler?

4 I understand how important and complicated
5 this discussion is for you today. I get it. As a
6 parent, I appreciated the opportunity to have a choice
7 about things directly impacting my children when they
8 went to school every day. The information from our
9 school to make a decision was what mattered to me, not
10 whether or not I had to go the extra step to opt in or
11 opt out.

12 The unique circumstance facing our kids
13 regarding marijuana and the consistent method of data
14 collection is especially critical today. How else can we
15 better know where our youth need leadership? Smart
16 believes this is an important point for our youth, as
17 they attempt to navigate this uncharted landscape. This
18 is about collecting information consistently and
19 considering that what is best for the common and public
20 good.

21 MADAM CHAIR: Yes, ma'am. Thank you.

22 MS. LASLEY: Please do not change the
23 method. Thank you.

24 MADAM CHAIR: Thank you. Scott.

25 MR. ROMERO: Good afternoon, Madam Chair,



1 Board, distinguished guests. My name is Scott Romero and
2 I work with the Denver Public Schools Healthy Schools
3 team, and I have the privilege to work with some of the
4 best principals in the state of Colorado.

5 Healthy Kids Colorado Survey data is used by
6 schools to inform program planning for student services
7 and to help schools understand how to best serve
8 students. School staffs use data to provide programming
9 both during the school day and after school. These data
10 inform the management of resources, including staffing
11 for nurses, social workers, teachers, and school
12 counselors, as well as our valued partners in the
13 community. Without the type of information that the
14 Healthy Kids Survey provides, the district and school
15 leaders will be blindly making decisions in the absence
16 of understanding the experiences our students face.

17 Place Bridge Academy serves 1,100 students
18 through the ages of early childhood and eighth grade.
19 It's the first school in Colorado to incorporate Healthy
20 Kids Colorado measures into the unified improvement plan
21 for the Colorado Department of Education. Principal
22 Brenda Kazin and her staff use these measures to maximize
23 school-based health center reach and provide an extensive
24 list of student support services for whole-child
25 wellbeing. Local school-level control allows principals



1 to determine the best communication strategies with their
2 parents.

3 With the current consent structure, school
4 principals and leaders can use a variety of methods to
5 communicate with parents, such as automated calls,
6 website postings, or information can be sent home with
7 students based on the communication strategies that
8 they've found to be effective in schools. Typically,
9 parents are faced with a significant amount of paper
10 communication from schools. The communication procedures
11 afforded by the current opt-out structure can minimize
12 the paperwork burden by parents and allow for alternative
13 communication practices.

14 Requiring active consent would make it less
15 likely that schools and partners could obtain
16 representative data for health. We rely on Healthy Kids
17 Colorado Survey data for policy development, program
18 planning, resource allocation, and program evaluation.
19 With the current consent structure, our schools determine
20 whether they will participate in the survey. Our schools
21 understand the needs and concerns of parents in their
22 communities and base their decision on this knowledge.
23 Research shows that student response rates are much lower
24 with active consent and this could jeopardize the ability
25 to obtain data that are truly representative of Denver



1 youth.

2 DPS, Denver Public Schools, asks that you
3 maintain the current process of the Healthy Kids Colorado
4 Survey to help ensure our efforts meet the needs of our
5 communities and ultimately our families and students.

6 Thank you.

7 MADAM CHAIR: Thank you. You must have
8 timed that.

9 The next one is Yashana (ph) and followed by
10 Nicole and Cindy. Yashana (ph)?

11 UNIDENTIFIED VOICE: Hello, everyone. My
12 name is Yashana Swaren (ph). I'm 18 years old and I'm a
13 senior at Cherry Creek High School. I'm here today for
14 all the youth that couldn't be here because they are in
15 school, because our systems right now aren't set up to
16 support the youth voice.

17 I've experienced first-hand how the Healthy
18 Kids Colorado Survey is absolutely essential in
19 supporting Colorado's youth. I understand that there are
20 serious concerns regarding the survey and I would like to
21 talk to you about a few of those today.

22 The questions on the Healthy Kids Colorado
23 Survey have been said to be too personal or mature, but
24 the matter of the fact is that these surveys are
25 completely anonymous and the questions are appropriate.



1 There is no identifying information taken from the
2 students and the survey is completely voluntary. If a
3 youth truly feels uncomfortable they hold the power to
4 opt out.

5 But the questions on the survey aren't at
6 all graphic or suggestive. In fact, the Healthy Kids
7 Colorado Survey has utilized youth input in the creation
8 of the survey and the wording of the questions. I've
9 been a part of the Youth Partnership for Health, an
10 advisory council comprised of diverse Colorado youth, for
11 five years, and I've interacted with the survey
12 throughout these five years, ensuring the questions on
13 the survey are appropriate and understandable. The
14 Healthy Kids Colorado Survey has taken initiative to
15 ensure that they are responsive to youth culture,
16 ensuring the questions are within reason.

17 The aim of the survey is to collect data to
18 keep youth healthy, and that's exactly what it does
19 through these carefully selected questions. By making
20 the survey an opt-in survey, we put the data and the
21 success of the survey at great risk. Let me tell you, as
22 a high schooler, any reason to not take a survey or a
23 test is a good one, so without the data the conclusions
24 made from the survey will not be accurate.

25 I understand the concerns that have been



1 raised surrounding the survey. However, I don't think
2 increasing barriers around the survey is the solution.
3 Instead, educate parents and youth about the importance
4 of the survey and explain some of the content. If
5 students or parents are uncomfortable with the survey,
6 allow an opt-out option.

7 I'm sure I don't have to convince you of the
8 fact that we must invest in today's youth. What I will
9 say is that to effectively invest in today's youth we
10 need the data. Adults need to understand this, how the
11 systems in place affect us, and what supports are
12 present, what risks we're facing, and how to help us
13 conquer these challenges.

14 The Healthy Kids Colorado Survey identifies
15 exactly these things. As a youth, I've seen first-hand
16 what drives my fears to participate in risky behaviors.
17 I've seen what pushes a high schooler to start drinking
18 or smoking. I've seen smart, ambitious, talented peers
19 lose themselves in drug addictions. I've seen youth
20 succeed outstandingly and I've seen youth falter without
21 the correct supports.

22 This is preventable. The problem is not
23 many legislators and program directors truly understand
24 the experience of our youth, nor have the opportunity to
25 see what it's like to be a youth these days. This survey



1 allows adults a window into the world of youth. It's a
2 way for youth to communicate their experiences, to help
3 adults understand what key issues are facing today's
4 youth are. Thank you very much.

5 MADAM CHAIR: Thank you very much. Nicole.
6 Nicole Croy (ph)? Cindy Kronauge, I believe. Am I
7 close?

8 MS. KRONAUGE: A little.

9 MADAM CHAIR: Cindy. Thank you.

10 MS. KRONAUGE: Hi, Madam Chair and Board.
11 Thank you. My name is Cindy Kronauge. I'm the health
12 data specialist for Weld County Department of Public
13 Health and Environment. I have extensive training and
14 experience in conducting surveys, and I oversee data and
15 evaluation activities at the Health Department. I am
16 also a member of the state-wide Healthy Kids Colorado
17 Survey Advisory Commission.

18 Since 1993, we have been successfully
19 working with 12 school districts to voluntarily administer
20 the Youth Risk Behavior Survey or the Healthy Kids
21 Colorado Survey, with each school district's preferred
22 parental consent method. All districts have volunteered
23 to participate on one or more occasions over the years.
24 And I can tell you very briefly, to answer your question,
25 that the method that we've notified has changed over the



1 years from mailing letters home to emails to backpacks
2 with students to back-to-school nights, when parents are
3 there.

4 I have three points to make today. My first
5 point concerns why the survey is important. The survey
6 provides some valuable longitudinal data that helps us
7 understand the healthy and not-so-healthy behaviors of
8 our children. The survey is the only population-based
9 source of information about adolescent health and
10 wellbeing that is available locally. As a community, we
11 need to be as well informed as we can be.

12 My second point concerns how we currently
13 use the data in Weld County. Over the past 22 years, we
14 have used these data to track the ongoing health status
15 of our communities, like we have done in this report
16 here, and I can leave copies with your attendant. We use
17 it strategically to prioritize programming, given that
18 our public health resources are limited. For example, we
19 use it to direct our activities in our healthy dating and
20 relationship program for adolescents, called WeldWAITS.
21 Without these data there is less impetus to do a program
22 like WeldWAITS. Without an accurate picture of
23 adolescent sexual behavior, WeldWAITS may not have been
24 initiated in our county. By changing social norms around
25 sexual behavior for youth, WeldWAITS is equipping those



1 teens with refusal skills to make healthier choices.
2 Local public health agencies across the entire state use
3 these data in the way that we do in Weld County, to help
4 their schools and communities understand youth behaviors.

5 My third and final point concerns the
6 potential impact of changing the consent procedures. Our
7 ability to understand adolescent health behaviors will be
8 negatively affected, because participation rates will go
9 down. Rates go down and results quickly lose their
10 usefulness. Furthermore, requiring active consent will
11 introduce more bias because studies have shown that the
12 majority of children who do not participate in mandatory
13 active consent environments are more often less educated.

14 MADAM CHAIR: Thank you.

15 MS. KRONAUGE: Thank you very much.

16 MADAM CHAIR: Appreciate it.

17 Karen Axe, followed by Karina Delaney and
18 Seth Noel.

19 MS. AXE: Good afternoon, Chairman Neal and
20 members of the Board. My name is Karen Axe, and I am the
21 proud parent of a transgender child, Shannon, who is at
22 school in Horizons in Boulder, Colorado.

23 MADAM CHAIR: A little closer to the mic.

24 MS. AXE: She is in school in Boulder, at
25 Horizons.



1 I'm also the founder of Trans Youth
2 Education and Support of Colorado, which is a part of
3 PFLAG. We've assisted over 200 families in Colorado with
4 transgender and gender-expansive youth since our
5 inception several years ago. As a parent of a
6 transgender child, every day when I drop off my child at
7 school I'm reminded of the horrifying results from the
8 2013 Healthy Kids Colorado Survey that shows that
9 students like Shannon are at least two times more likely
10 to be bullied and six times more likely to attempt
11 suicide than her peers.

12 These statistics are far too real for me.
13 Eight years ago our family made a difficult decision to
14 allow our second-grader to transition from male to
15 female, to save her life. Now that she's thriving and
16 happy and successful in school, we know that that was the
17 right decision for her. The greatest challenge we faced
18 was a school district that was unprepared to keep her
19 safe at school. As a result, my child was socially
20 isolated, bullied, and failing at school. She threatened
21 suicide at age nine.

22 We were forced to move to a school district
23 that had necessary services for Shannon, with the
24 opportunity to learn and mature like any other kid. As a
25 parent, especially a parent of a child who experiences



1 more bullying than others, I know the importance of the
2 Healthy Kids Colorado Survey and how my school uses that
3 data to make the school climate safer, not just for
4 Shannon but for all kids. Without this data, students
5 like Shannon fall through the gaps.

6 This survey is vital to our families. We
7 want to be sure the next generation of parents are able
8 to make more informed decisions for their children.

9 This is the first time I've ever given
10 public testimony. It's because I've been living in fear
11 for far too long. Parents like me enthusiastically
12 support our children participating in this survey.

13 The Healthy Kids Colorado Survey provides
14 the opportunity for schools to learn how best to serve
15 students so they will not have to endure the bullying and
16 suicide risks that Shannon did, before we moved her to a
17 safe school. That safety translates to higher
18 confidence, higher grades, and higher ambitions. After I
19 drop my child off each morning, I find comfort knowing
20 that Shannon's school is doing everything they can to
21 support my child. I know this is a direct result of our
22 school using Healthy Kids Colorado data to address the
23 issue of bullying in her school and to keep her safe.

24 Members of the Board, I ask you to think
25 about Shannon when casting your vote. Thank you.



1 MADAM CHAIR: Thank you. Lee Kattari. Lee.
2 No Lee?

3 MR. KATTARI: Thank you, Madam Chair, and
4 Board members. My name is Leo Kattari, and I'm the
5 health policy manager for One Colorado, the state's
6 leading advocacy group for lesbian, gay, bisexual, and
7 transgender Coloradans and their families, and I'm here
8 to speak to the importance of maintaining the current
9 collection process for the Healthy Kids Colorado Survey.
10 And I would also like to let the Board members know that
11 it is my understanding there is another legal opinion
12 available through CDPHE about this topic.

13 As an organization that works to ensure all
14 young Coloradans have access to schools where they can
15 learn and thrive, we rely on the Healthy Kids Colorado
16 Survey to help us identify and support schools and
17 districts that need assistance in providing safe and
18 inclusive environments for all students.

19 We assist schools in updating school and
20 district policies around bullying and discrimination to
21 align with state law. We also help LGBT students become
22 leaders in their communities, through participation in
23 student government. And we also work with teachers and
24 school staff and students as well to addressing bullying
25 at all levels. This all contributes to a more positive



1 school climate and translates to students who can thrive
2 academically, participate in extracurricular activities
3 safely, and possibly contribute to their local
4 communities.

5 According to the 2013 Healthy Kids Colorado
6 Survey, lesbian, gay, and bisexual youth are twice as
7 likely to be bullied, three times more likely to smoke
8 cigarettes, and six times more likely to attempt suicide.
9 No other state-administered survey collects this kind of
10 data on LGBT youth, and no other survey can demonstrate
11 these staggering statistics about the experiences of LGBT
12 students in Colorado. And this is not because of their
13 sexual orientation or gender identity but this is because
14 of the daily experiences of stigma and bias that young
15 LGBT students experience on a daily basis, in school, at
16 home, and in their local community.

17 Changing how this survey is administered
18 will do a disservice to Colorado youth, but especially to
19 those who are most marginalized, like LGBT youth, young
20 people of color, and young people with disabilities. I
21 ask you to demonstrate your commitment to ensuring all
22 young people in Colorado have the opportunity to live
23 their lives open and honestly and with the health and
24 happiness we all deserve as Coloradans.

25 So please, I ask you, when you're thinking



1 about your vote, to think about these young people and
2 make no changes to the Healthy Kids Colorado Survey.
3 Thank you very much.

4 MADAM CHAIR: Thank. Karina Delaney.

5 MS. DELANEY: Madam Chair, members of the
6 Board, my name is Karina Delaney and I'm the Whole Child
7 Initiatives coordinator with the Adams 12 School
8 District, and I'm lucky enough, like many others in the
9 room, to work in a district where we collect and use
10 health data to guide our work in order to meet the
11 growing needs of our students.

12 You see, in the last 13 years our
13 (indiscernible) five years. So we know that our students
14 are encountering health barriers and that the student
15 health data helps guide us in identifying and reducing
16 these barriers in order to increase student success.

17 The Adams 12 five-star schools recognize
18 that a child's physical, emotional, social, and mental
19 health directly affects his or her capacity to learn. We
20 know that students need to have strong, healthy
21 foundations in order to engage in the quality instruction
22 that our teachers provide every day. Unfortunately, what
23 we are finding, more and more, is that our students are
24 coming to school with weak and sometimes broken
25 foundations, and this is creating a huge barrier to our



1 students succeeding.

2 The way we look at it is that some of our
3 students come to school with a solid health foundation, a
4 springboard, if you will, that they use to jump into
5 classroom instruction, programming, and appropriate
6 social interactions with peers and adults. Other
7 students encounter health barriers, many before they even
8 come to school, and these students have cracks and holes
9 in their foundation, and many times trip over these
10 cracks and fall in these holes, creating a barrier to
11 them becoming -- sorry -- to them engaging in classroom
12 instruction, programming, and appropriate social
13 interactions with their peers and adults.

14 In Adams 12 we use the Healthy Kids Colorado
15 Survey data to fill in these cracks and holes in order to
16 create a solid, healthy foundation for all of the
17 students in Adams 12. Adams 12 has developed a district
18 Health Advisory Committee comprised of parents, community
19 members, and district personnel, to look at district- and
20 county-level data in order to help us attain competitive
21 health and wellness grants, as well as decide how to
22 align resources and energy with our district's top health
23 priorities. We can only continue this work with good,
24 reliable data. We need to protect the Healthy Kids
25 Colorado Survey and the current administration model to



1 preserve the integrity of the data and ensure we continue
2 to get information that is useful to the important work
3 we are doing to help set our students up for success.

4 MADAM CHAIR: Thank you. Seth Noel,
5 followed by Lorri and Dr. Sarah Nickels. Yes, Seth, go
6 ahead.

7 MR. NOEL: Madam Chair, Board, thank you so
8 much for having me. I am a member of Colorado Youth
9 Matters Youth Council, CREATE, whose role is to advocate
10 for youth sexual health across Colorado. I'm 20 years
11 old and I currently attend Colorado State University in
12 Fort Collins, and my hometown is Colorado Springs,
13 Colorado, where I attended Air Academy High School and I
14 also attended Rampart High School, which is the school
15 from which I graduated. I switched high schools because
16 of oppressive experiences at my first high school, and if
17 I hadn't switched schools I would not be standing here in
18 front of you today.

19 This issue is important to me because it's
20 important to keep the survey as open and accessible as
21 possible or students like me will fall through the
22 cracks, and I'll go into more on that later.

23 I did not personally complete the survey in
24 Colorado Springs but many of my peers across Colorado
25 did, and we all understand that the survey is voluntary



1 and that no one was forced to complete the questionnaire.
2 Were my parents asked to consent to me taking the survey,
3 I most likely would not have had the opportunity to take
4 it, and I think this experience would ring through for
5 other LGBT students across Colorado.

6 The Council uses this data from the Healthy
7 Kids Colorado Survey to understand health behaviors of
8 Colorado youth, especially risk behaviors such as
9 suicide, drug abuse, risky sexual behaviors, bullying,
10 and others. We're really interested in learning how all
11 of these behaviors are or might be connected. We know
12 that young people live lives that are more complex than
13 any one behavior or identity they might do or have, and
14 we work to recognize this intersectionality.

15 The data helps inform meaningful
16 programming. It tells us what youth are doing that's
17 more risky. For example, 64 percent of youth reported
18 using a condom the last time they had sex, which
19 decreased from 71 percent in 2011. We also learned that
20 GLB-identified students were more likely to attempt
21 suicide and less likely to have someone to go to for help
22 than their hetero-identified peers, and that statistic is
23 exactly true, from my experience as a youth. These are
24 issues that we're working hard to address through
25 programming as Youth Action Day, school-based organizing,



1 and youth and adult partnerships, along with others.

2 Before college, I experienced no resources
3 concerning my sexual health and my overall health and
4 wellbeing as a GLBT student, except for national ones
5 such as the Trevor Project. Even by having access to
6 taking this survey, I would have felt more included, and
7 that someone in Colorado actually cared about my future,
8 my survival, and my ability to prosper in a time where I
9 did not see a future, I did not see survival, and I did
10 not see an ability to prosper.

11 Thank you so much for your time.

12 MADAM CHAIR: Thank you. Lorri.

13 MS. ODOM: Good afternoon, Madam Chair,
14 Board members, and distinguished guests. My name is
15 Lorri Odom. I am retired physician, a parent, and
16 grandparent, and today I'm speaking on behalf of the
17 Colorado PTA. This is an organization which has
18 approximately 24,000 members in the state of Colorado and
19 is the state's original and largest parent engagement
20 group, advocating that all students be given the
21 opportunity to achieve their full potentials.

22 Our organization is strongly supportive of
23 obtaining ongoing accurate and truly representative
24 social, emotional, behavioral, and health information
25 about our adolescent students. We submit to you that the



1 anonymous Healthy Kids Colorado Survey, with a passive or
2 opt-out consent process, is the best way to obtain that
3 information.

4 Our youth face ever-increasing challenges to
5 fulfilling their potentials -- significant mental health
6 issues, feeling hopeless, being victims of bullying,
7 attempting suicide -- Colorado has one of the highest
8 adolescent suicide rate in the nation -- poor nutrition,
9 lack of adequate physical exercise which contributes to
10 poor school performance and one of the fastest-rising
11 rates of obesity in the nature -- teen pregnancies,
12 unsafe sexual behaviors, and increasing teen and preteen
13 use of mind-altering prescription and non-prescription
14 drugs, some of which are made more available than ever by
15 the growing numbers of marijuana-infused edibles and
16 devices that vaporize nicotine and marijuana, giving
17 exposure to much higher doses of these drugs than any
18 time in the past, and allowing students to discreetly use
19 these products while at school, sometimes while in class.

20 Although Colorado PTA believes than an opt-
21 out consent option for the survey yields the most
22 representative and reliable data, our organization thinks
23 that districts and schools should be able to determine
24 for themselves how they engage their parents in a survey
25 that they decide to administer. Requiring all schools to



1 use an opt-in consent places significant financial and
2 staff burden on the schools and would prevent some
3 schools from participating in the survey. Research does
4 show that an active consent process results in a less-
5 representative sample, and many hard-to-reach subgroups,
6 including groups at high risk of substance use and other
7 problem behaviors are underrepresented in opt-in consent
8 surveys.

9 Accurate and representative data provided by
10 the survey is an invaluable resource for cost-effective
11 and programmatic decisions and allocation of precious
12 resources. Additionally, the survey data enables funders
13 to efficiently and effectively prioritize projects for
14 funding that meet the most important needs of the
15 students.

16 In many ways, our youth are crying out to be
17 heard and providing this platform for them to voluntarily
18 and anonymously report the increasing obstacles and
19 challenges facing can, itself, be empowering.

20 Thank you very much.

21 MADAM CHAIR: Thank you. And last but not
22 least, Dr. Sarah Nickels.

23 DR. NICKELS: Good afternoon, Madam Chair
24 and Board members. My name is Sarah Nickels and I
25 provide strategic oversight for the Healthy Kids Colorado



1 Survey at the Colorado Department of Public Health and
2 Environment.

3 Today you heard from student leaders,
4 parents and parent groups, physicians, school
5 administrators, school wellness experts, public health
6 officials, nonprofit organizations, and others from
7 across the state. Each has emphasized the value of
8 representative Healthy Kids Colorado Survey data and each
9 has expressed their strong public support for allowing
10 schools and districts to decide what parental consent
11 process will work best in their communities.

12 Additionally, partners across the state
13 shared examples of how they use the data and why
14 requiring parents to opt-in their students to the survey
15 would jeopardize our ability to get representative data.
16 The examples that I just referenced, and have been shared
17 from people across the state, are in the blue folders on
18 your desk.

19 Speaking from my role as the survey lead at
20 CDPHE, I'm very familiar with the day-to-day details of
21 the survey, and as such I wanted to provide some
22 additional information about some of the specific details
23 that may be of question to you.

24 First, as you've heard from others today, I
25 want to emphasize the Health Kids Colorado Survey is



1 completely voluntary and anonymous. This is clearly
2 communicated through our official documents to
3 superintendents, principals, teachers, parents, and
4 students. At every level there is an opportunity to
5 decline participation. No matter whether active or
6 passive parental consent is used, schools provide written
7 information about the purpose and content of the survey
8 to parents in advance, and parents have the option to
9 decline their child's participation in the survey.
10 Parents are also given a link to our website where they
11 can get access to all of the survey instruments, some
12 frequently asked question documents specifically for
13 parents, and can talk directly with people involved with
14 the survey if they so wish.

15 At the point of survey administration, the
16 process is designed to ensure that student participation
17 is also voluntary and anonymous. The school's survey
18 coordinator and classroom teachers sign a confidentiality
19 statement agreeing they understand that participation is
20 voluntary and a student's choice to participate and their
21 responses to the survey are completely confidential.

22 On the day the survey is administered,
23 students are asked not to put their name on the survey,
24 it collects no identifying information, and teachers read
25 a script to students in the classroom that describes what



1 the purpose of the survey is, emphasizes that
2 participation is voluntary and will not affect their
3 grade in class, and informs them that if they choose to
4 participate they can skip any question they don't wish to
5 answer. Teachers are also asked not to walk around the
6 classroom, just as another step to protect the anonymity
7 of student answers.

8 At the end of the class, students place
9 their surveys, whether they filled them out or they're
10 blank, in an envelope, and the teacher seals the envelope
11 in front of the students in the classroom. That envelope
12 is then sent to our data aggregators, who analyze the
13 data, and once the data are analyzed all reports include
14 aggregate results only. Individual results are never
15 released.

16 Thank you.

17 MADAM CHAIR: Thank you very much. That
18 concludes our public presentation, and I have to say I
19 don't recall having sat through a session where, number
20 one, it was all one voice, and such impassioned,
21 reasonable, sensible arguments. It was really a pleasant
22 experience. Thank you. Thank you all for your
23 participation and for your polite reception of one
24 another. I appreciate that.

25 MS. MAZANEC: Madam Chair.



1 MADAM CHAIR: Pam.

2 MS. MAZANEC: Given that we only have one
3 voice here --

4 MADAM CHAIR: One voice?

5 MS. MAZANEC: -- one voice, one side of the
6 argument, I would like to --

7 MADAM CHAIR: Oh, so you want to make a
8 statement?

9 MS. MAZANEC: -- I would like to read --

10 MADAM CHAIR: Sure. Go ahead.

11 MS. MAZANEC: -- at least one letter from a
12 parent that said, "Dear Members of the State Board of
13 Education, I am writing regarding a story I read in
14 ChalkFeed about the Healthy Kids Colorado Survey. After
15 seeing the story I was directed to the survey links. As
16 a parent, I was unaware of this survey and now that I am
17 I have enormous concerns.

18 "As a bit of background, I am a very
19 involved mom and have studied changes in education over
20 the past 100 years or so. There has been a steady
21 progression of educator encroaching further and further
22 into parents' rights and responsibilities. Along with
23 that encroachment, parents have steadily given up control
24 over many aspects of parenting. Fault lies both with the
25 state and with parents.



1 "This survey is a perfect example. I am
2 stunned by the questions they asked, from detailed
3 questions about sexual activity to when they last ate a
4 vegetable. What are they doing with this information and
5 why on earth would parents want their kids taking the
6 survey? Do we think, for one minute, that they care more
7 for our children than we do? And if they are not eating
8 enough vegetables, so what?" Sorry, not "so what -- then
9 what?" Everybody agrees on the so what.

10 "From the article on ChalkFeed it appears
11 the question is whether parents should have to opt out of
12 the survey or whether they should be able to opt in. I
13 am going to take it one giant step beyond. I don't think
14 it should be opt-out or opt-in. I do not think this
15 survey should ever make its way to our children through
16 the public school system, period.

17 "We parents need to take our job back. We
18 need to say no to the state and take responsibility for
19 caring for our children. We know and love them better
20 than anyone else. I think there is sometimes a chicken-
21 and-egg problem. The state feels they need to jump in
22 and take care of kids who are not being cared for at
23 home, but why are they not being cared for at home?
24 Could it be perhaps because parents know the state will
25 do it for them? Sadly, I see many examples of lazy



1 parenting, so maybe it's time for the state to give the
2 message to lazy parents that they need to do their job.

3 "As a parent, I have the right and the
4 responsibility to raise my children with my values,
5 whatever they might be. I have the right and the
6 responsibility to hold my children accountable for bad
7 behavior. I do not believe that the answers to any of
8 these survey questions, anonymous or not, are any
9 business of the State of Colorado.

10 "I implore you to just say no. Stop this
11 survey from being distributed through our schools. Thank
12 you for your time and consideration and thank you for
13 your service."

14 MADAM CHAIR: Deb.

15 MS. SCHEFFEL: Thank you. Yes, and I would
16 just say that I have heard from numerous parents as this
17 survey surfaced, which really only surfaced because
18 parents brought it to my attention. I regret that I
19 didn't know about it before it was released in detail, as
20 far the content. But parents I've talked to, and there
21 have been many -- I just talked to a group the other
22 night -- either don't know about this survey, or if they
23 do know about it and have looked at the questions, they
24 don't want this data out there on their students. They
25 don't trust the privacy of the data. They feel the data



1 serves the needs of the adults, not the children. They
2 feel the data -- and which is true, I believe -- are tied
3 to grant money, and parents have no oversight of grants
4 that are tied to these data and the perspectives they
5 represent, as they seek to address at-risk behavior.

6 And so I think that there are major problems
7 with this survey, in terms of its content, in terms of
8 the way it's depicted to parents, the casual language
9 that precedes the survey itself, and while we can say
10 that it's not mandatory and that parents can opt their
11 kids out, most of them don't know enough about it to opt
12 them out, and most kids are not in a position to stand up
13 and say "I'm not going to do the survey." And if you'll
14 look at the casual language that introduces it, it's very
15 unlikely that a parent or a student would opt out.

16 I would say that the data is not serving the
17 needs of the kids. It's serving the needs of the adults.
18 And then we see, why would parents trust adults in these
19 situations when it's the adults that foster the
20 conditions for money pouring into the state to support
21 the legalizing of retail marijuana sales, and now adults
22 are somehow going to fix the problem. I mean, the
23 parents want to depend on their value system, on working
24 with their kids around at-risk behaviors. There are at-
25 risk behaviors at schools that are not being addressed.



1 People who work at those schools need only to open their
2 eyes and address problems.

3 We don't need a huge database, with all
4 these intrusive questions, which I believe fly in the
5 face of the Protection of Pupil Rights Amendment that is
6 federal law, affording rights to parents and minor
7 students regarding surveys that ask questions of a
8 personal nature, asking kids to incriminate themselves,
9 their parents, and their friends on behaviors that are
10 incriminating. I mean, I can read the questions. Have
11 you seen this happening in your home? Have you seen your
12 friends doing these things? Have you done these things?
13 I mean, it's seeking for the kids to incriminate
14 themselves in misdemeanor and felony activity, and I
15 believe that the Protection of Pupil Rights Amendment
16 protects kids from that, and I'm not sure why it's not
17 being observed.

18 But to say that it's voluntary is, I think,
19 at best, a misleading statement, because most kids will
20 take it and most parents don't know enough to opt their
21 kids out. Thank you.

22 MADAM CHAIR: Any other comments? Steve.

23 MR. DURHAM: I have a question. Is the
24 information available -- I think the last witness stated
25 that letters sent to the schools, letters sent to the



1 teacher, letters sent to the parents or some
2 communication. I haven't seen the format of that to be
3 able to assess whether I think that was adequate note.

4 And I just simply would observe that the
5 title of the survey is sufficiently misleading, that a
6 casual reading of what was asked, if it's in fact asked
7 as, "Do you mind if your child takes a Healthy Kids
8 Survey?" well, probably not. That's really not what this
9 is, and I think Dr. Scheffel characterized it pretty
10 well. It is self-incrimination and it is almost
11 informing on family members, and I think asks questions
12 that, clearly given the first question, "Are you 12 years
13 old or older?" are age-inappropriate.

14 So I would like to see those so-called
15 warning documents if I could, please.

16 MADAM CHAIR: So, Board, what is your
17 pleasure.

18 DR. FLORES: I'd like to just make a
19 comment. This is personal. I have a personal email, a
20 personal telephone number, and I would really like for
21 the public to know that it is personal. I have an email
22 here, with the Department, and I have been attacked a
23 couple of times. And so if you would please send letters
24 to the Department I would really appreciate it. And I
25 certainly wanted to read some of those letters. I really



1 do. I did read many letters from here in the Department,
2 but I would appreciate it if you sent it through the
3 Department of Education, to the Board of Education.
4 Thank you.

5 MADAM CHAIR: Board, what is your -- oh,
6 Jane.

7 MS. GOFF: Just very quickly. Thank you to
8 everyone who is here today. As a long-time educator and
9 aunt, great-aunt, and lots of friends, children of
10 friends of mine, over many, many years, I want to thank
11 you for paying attention in all regards and contributing
12 to the community efforts that you're all involved in, to
13 make people as well-aware of as possible in how they can
14 help.

15 I taught high school for a very long time,
16 and this particular survey was just -- it blew me -- came
17 into being, into existence, in my early years of high
18 school teaching. I don't remember that any -- any -- of
19 my students, which ranged from A to Z as far as economic
20 level, cultural experience, neighborhood, background,
21 friends, whatever -- I don't remember ever any one of
22 them expressing anything but appreciation for the chance
23 to say what was on their minds.

24 I sure didn't pick up -- I wasn't asking and
25 I wasn't looking, one way or the other -- I did not pick



1 up any kind of nervous worry about having their identity
2 become know, or causing problems within family or other
3 circles. I do remember several of them saying -- and I
4 had everywhere from freshman to seniors in high school.
5 All of them were very astute, young adults who knew that
6 this was something that was incredibly important to be
7 out there and to be known.

8 So as an educator and as a family member who
9 cares for a lot of young people and their future, I want
10 to thank you again, and hopefully we can continue this
11 productive, constructive work on behalf of the kids,
12 starting today and carrying forward. Thank you very
13 much.

14 MADAM CHAIR: Angelika.

15 MS. SCHROEDER: This has been a little bit
16 troubling. I want to thank everybody for coming and
17 speaking, all the letters. I have to say that in my
18 congressional district -- and I have heard from literally
19 one end of my very large district to the other -- the
20 letters have all reflected the comments that you have
21 made, and none have been otherwise.

22 We take an oath to abide by the constitution
23 -- federal Constitution, state constitution. We seek to
24 be legal. There's no confusing with the informal opinion
25 we've had that perhaps we're not doing it legally. I'm



1 not sure about that. But more importantly to me,
2 personally, I think we should take the oath that doctors
3 take, which is to do no harm. In the last three months I
4 think we've done probably some harm here, but at the very
5 least, when I think about it, it's been to confuse the
6 educators and the education community. What we're
7 talking about today is the potential to do harm to
8 children, and that really grieves me.

9 I want to talk just a little bit about what
10 little I know about kids, because I'm not in any way
11 associated with the medical profession. I've heard some
12 very compelling arguments about specific kids' problems,
13 very general. Our adolescents' bodies tend to grow
14 faster than their brains. They mature sometime during
15 their adolescence. Their brains are mature in about,
16 roughly, age 25, on average. So when that frontal
17 thingie, that lobe up there is immature, or whether it's
18 been damaged with traumatic brain injury, what is most
19 appealing, attractive, what's the one thing that
20 adolescents want is to take risks.

21 You know, we all ask ourselves, how did we
22 live to be in our mid 20s because of some of the stupid
23 things we did. We actually did things that,
24 physiologically, unfortunately, were pretty reasonable
25 and appropriate. But it was our parents and our



1 community that saved our lives and that saved us, that
2 kept us whole, that kept us safe. We didn't bear kids,
3 some of us. We didn't become addicted to drugs. And
4 this is the kind of work that you all are doing.

5 I agree with folks that parental
6 responsibility is the first responsibility, but you know
7 what? It is darn hard to do the job of a parent today
8 all by yourself, given that the kids aren't with us. If
9 we wanted to lock them up at home, that would be fine.
10 We could be full-time parents. But that's not what
11 happens. And so we really do need the schools and the
12 community to keep our kids safe.

13 So I strongly believe that we should
14 maintain the situation we have right now so that the
15 parents we hear from, who are really offended by this,
16 have the right to opt their kids out. I agree with Mr.
17 Durham that we need to be very careful in how we inform
18 parents, so they know what this is all about. Beyond
19 that, I do not think that we should have a change.

20 I will say one thing, though, that in my
21 community, when I was on the school board, it was not
22 called the Healthy Kids. It was called the Student Risk
23 Behavior Survey. And I guess maybe that might be -- I
24 have no right to ask anyone to change it, but I think
25 that might really be appropriate.



1 But I want to thank you because you are the
2 people who care about my kids. Thank you.

3 MADAM CHAIR: Yeah.

4 UNIDENTIFIED VOICE: I'd just like to
5 observe that in all these comments today there have been
6 several comments about how parents, if opting in is
7 required, you won't get the opting in. And yet, on the
8 other hand, we are told that parents need this
9 information. It's a very strange message to me. Parents
10 need the information but we won't trust parents to give
11 permission for their own children.

12 And I'd also like to observe that I think
13 most of the interventions and the programs that we keep
14 hearing about so reliant upon this data, you don't need
15 the survey data in order to tell kids to practice healthy
16 behavior and avoid risky behavior. We've been doing that
17 for decades in public schools. We didn't fill out a
18 survey to do that.

19 So I just don't understand the -- I'm
20 troubled by the message. Yes, parents need this
21 information but we don't need to ask parents to buy in.
22 I'm disturbed.

23 MADAM CHAIR: What is your pleasure? We can
24 talk it to death.

25 UNIDENTIFIED VOICE: May I ask a question?



1 What is the Board's authority on this? Can we ask that
2 there's a change in opt-in/opt-out? Can the CDE withdraw
3 from participating in the survey, in which case it's
4 given by two other entities? Or what is our --

5 MADAM CHAIR: It's up to us. I'm sitting
6 here waiting for a motion.

7 UNIDENTIFIED VOICE: Well, I'd like to hear
8 --

9 MADAM CHAIR: That is what I thought we were
10 here to do is make a motion to uphold it or not to. So
11 I'm kind of waiting for somebody.

12 MR. DURHAM: Tony come up.

13 MADAM CHAIR: Tony is going to maybe address
14 it? Very good. Tony.

15 MR. DYL: Madam Chair, the particular legal
16 question with which you are confronted is the
17 interpretation of the statutory language. A school or
18 school district employee who requires participation --

19 MADAM CHAIR: Tony, speak up a little.

20 MR. DYL: Sorry. Can you hear me now?

21 MADAM CHAIR: Yes.

22 MR. DYL: Okay. A school or school district
23 employee who requires participation in a survey. My
24 understanding is that there's an interpretation out there
25 -- I don't believe we have seen it -- that this is, in



1 fact, a voluntary survey, and so the statutory
2 requirements of Section 22-1-123 do not apply, because it
3 is a voluntary survey and not a required survey. I don't
4 believe there is any conflict out there with interpreting
5 this, to say that if the statute does apply, this statute
6 requires an affirmative opt-in from parents before such a
7 survey could be conducted.

8 The question about whether or not this is a
9 required survey, under the facts, is, in my opinion,
10 ambiguous. An ambiguous fact surrounding something like
11 this is within the discretion of the agency or board
12 charged with enforcing that law about whether or not
13 under those facts it applies.

14 So, ultimately, I believe it is within your
15 discretion to determine whether or not, on the facts
16 presented, this is a survey that is being required by a
17 school district or school that has agreed to administer
18 it, or whether, under these facts or circumstances, it is
19 voluntary. Within that, I think you've heard a great
20 deal of testimony today regarding actions taken out
21 there, and it sounds like there's various differing ones.
22 I, too, am a little bit confused as to whether or not
23 this is something that is determined on a district-by-
24 district basis or if there are overall guidelines, and it
25 may be useful for this Board to see those in arriving at



1 its determination.

2 The other aspect of this, of course, is that
3 these are surveys that are being given in the context of
4 students who are required by law to attend public school,
5 to be in there for a certain number of hours, and they
6 are being administered by school personnel. And I think
7 there are also questions raised, frankly, about the opt-
8 out, and whether or not, in many cases, parents are even
9 seeing the forms or aware. Again, that's a factual
10 question. I'm not sure if we have sufficient facts as to
11 how parents are actually being informed, to make that
12 determination.

13 MADAM CHAIR: Tony, if you don't mind, let
14 me give a little background here, of what my
15 understanding is, and, Dr. Wolk, if I'm wrong.

16 The Health Department would determine that
17 this year -- and it comes out in the fall, every two
18 years, as I recall, it comes out -- so they would
19 determine if they were going to do the survey. They send
20 out the survey questions to the school districts. The
21 school district can make the decision to either
22 participate or not participate, so if the school district
23 makes a choice not to participate, that's fine.

24 If they participated, I get the impression
25 maybe sometimes they were a little lax in this next step,



1 and we want to be sure. They need to send out notice to
2 the parents two weeks in advance, and tell them about the
3 survey, and tell the parents if they want to opt out they
4 need to let the school district know, let the school know
5 that their children will not participate in the survey.
6 If they don't do that, you know, the rest of the children
7 will participate in the survey.

8 UNIDENTIFIED VOICE: If they want to.

9 MADAM CHAIR: Well, that's what I just said.
10 So that's just for the purpose of kind of clearing things
11 up for the audience. That's the way it has been handled.
12 Now what we're going to talk about further --

13 MR. DYL: Just to complete the loop, if I
14 would, because the question, I believe, was, you know,
15 what different options are available. I believe that the
16 Board could determine that this is a voluntary survey
17 and, therefore, that the provisions of Section 22-1-123
18 do not apply, which I believe would be an end to the
19 matter.

20 You could, alternatively, within your
21 discretion, determine that under the circumstances this
22 is a required survey, and, therefore, that all the
23 provisions of Section 22-1-123, including the requirement
24 of obtaining positive consent or an opt-in from parents
25 does apply, in which case, you know, it would be up to



1 you on whether or not to issue guidance to the field on
2 that. That would be advisory.

3 One other option that would be available to
4 you is that the Department of Education is one of three
5 agencies that is currently participating in
6 administration of the survey, and I think that would be
7 up to your review and discretion as well.

8 MADAM CHAIR: Thank you. Yes, Pam.

9 MS. MAZANEC: One of my questions is, if the
10 Board would decide that the Department of Education
11 should not participate in the distribution of this
12 survey, could the other departments go ahead and present
13 this survey to public school children without our
14 participation or without our blessing?

15 MR. DYLAN: I believe they could. I believe
16 it would then -- again, participation by districts is
17 voluntary. This is nothing the Department of Education
18 or the State Board can mandate. So they would be in the
19 position of, again, of attempting to get participation
20 from individuals.

21 UNIDENTIFIED VOICE: Tony, would you be kind
22 enough to clarify what you said? I think I heard the
23 words but I didn't know what they meant. When you said
24 that the Board can determine that it is voluntary,
25 determine on the basis of facts or that we determine,



1 that we decide that this is to be a voluntary survey.
2 Therefore, districts may opt out, parents may opt out,
3 kids may opt out. Is that what you're saying, that it's
4 our decision, or that there's some set of facts that we
5 need to seek before we make any kind of a decision?

6 MR. DYLAN: It's a little bit of both --

7 UNIDENTIFIED VOICE: Oh, great.

8 MR. DYLAN: -- at this point in time.

9 Starting with the overall framework here, we have a
10 statute out there that says that for surveys that where a
11 school or school district employee requires participation
12 in the survey there are a variety of parental protections
13 that apply. You could determine whether or not this
14 survey is required, and this falls within the scope of
15 this law, or you could determine whether or not this
16 survey is voluntary and, therefore, does not fall within
17 the scope of this law.

18 UNIDENTIFIED VOICE: Based on --

19 MR. DYLAN: You would be doing this in your --

20 UNIDENTIFIED VOICE: -- fact?

21 MR. DYLAN: Based on fact, I believe.

22 UNIDENTIFIED VOICE: So that fact would go
23 back to the Department that creates the survey.

24 MR. DYLAN: I'm sorry. I don't understand.

25 UNIDENTIFIED VOICE: You're going to hurt



1 your head, sir. No, it's okay. I've got it.

2 So I'm trying to think about a motion. Do
3 we need more time to figure out what the facts are?

4 MADAM CHAIR: I don't think so. We've
5 probably got more facts than I need.

6 MR. DYL: That is ultimately up to you, as a
7 Board, to decide whether you have sufficient facts
8 available before you now to make that determination, or
9 if you believe that additional -- submission of
10 additional information would be necessary for you to
11 arrive at a decision.

12 UNIDENTIFIED VOICE: Madam Chair.

13 MADAM CHAIR: Yes, ma'am.

14 UNIDENTIFIED VOICE: We certainly didn't
15 have enough facts today to determine how parents are
16 perceiving whether or not this survey is voluntary or
17 not, based on testimony today. I mean, if our decision
18 whether or not we recommend or require opt-in versus opt-
19 out is based on testimony, we certainly need a more
20 formal process, to hear from parents and students that
21 take this survey.

22 My question is, if we were to require opt-
23 in, what would the other agencies do? Would they have to
24 also issue some kind of a directive to opt-in? I mean,
25 how do we articular with these other two agencies,



1 legally? I have no idea?

2 MADAM CHAIR: Well, my inclination was, what
3 I thought we would do but obviously I never know, was
4 that we would listen to the testimony and then we would
5 have a motion to do one or the other.

6 UNIDENTIFIED VOICE: Madam Chair, I don't
7 think we had nearly enough --

8 MADAM CHAIR: No, well, now let me finish,
9 please.

10 UNIDENTIFIED VOICE: Yes.

11 MADAM CHAIR: Obviously, we don't have
12 enough information to make that decision. It would be my
13 suggestion that we gather more information, take the
14 thing up -- I mean, the survey is not going to be out
15 until fall. It's not like we've got to do it today. So
16 that's what my inclination would be.

17 This has become, to me -- to me, frankly,
18 it's pretty black and white, but obviously not to
19 everybody else. So I suggest we wait until next month
20 and gather what information we want, and make the
21 decision on next month.

22 UNIDENTIFIED VOICE: So moved.

23 UNIDENTIFIED VOICE: May I ask --

24 UNIDENTIFIED VOICE: And then what Pam --

25 UNIDENTIFIED VOICE: What happens with the



1 other agencies? In other words, what force does our
2 decision have?

3 MADAM CHAIR: Can you answer that?

4 UNIDENTIFIED VOICE: How can we articulate
5 with the two other agencies?

6 UNIDENTIFIED VOICE: That's fact that --
7 that's the question. I mean, I think if we move and
8 second to table this I think we also should bring forward
9 the questions that we have and the concerns we have. How
10 do we assure that parents know that they have the choice,
11 that they know what's going to be on the survey, that
12 they have plenty of time to look at it, et cetera.

13 So if somebody will second my motion.

14 MADAM CHAIR: Is there a second?

15 DR. FLORES: I second.

16 UNIDENTIFIED VOICE: Thank you. So then if
17 it's okay with you --

18 MADAM CHAIR: It's been moved and seconded
19 that we wait until next month, and gather further
20 information, we will let the Commissioner and staff know
21 what kind of information we really want by next month,
22 and then we'll make that decision next month.

23 (Overlapping)

24 UNIDENTIFIED VOICE: What process will we
25 use, though, to articulate the information we want?



1 MADAM CHAIR: What?

2 UNIDENTIFIED VOICE: You know, do we just
3 write Robert and tell him what we want, what information
4 we want?

5 UNIDENTIFIED VOICE: We could say so right
6 now, if there's someone who would be kind enough to write
7 it down.

8 UNIDENTIFIED VOICE: I think Steve has some
9 specific questions.

10 MR. DURHAM: Well, thank you. Yeah,
11 specifically, I'd like to see all of the documentation
12 that leads to what I would characterize as informed
13 consent, keeping in mind my bias that you better change
14 the title if it's going to be informed consent. The
15 title is misleading and I think that's been well
16 demonstrated. So I'd like to at least see the letters
17 that go to everyone and instructions that are read and
18 exactly what access parents have, not only to the letter
19 explaining it but to the questions themselves.

20 MADAM CHAIR: Okay. Any other -- yes, Deb.

21 MS. SCHEFFEL: And I'd like to hear from
22 parents, not parent groups but individual parents,
23 because I'd like to know whether this survey is perceived
24 by them as actually voluntary or in-name-only voluntary.
25 Because the parents I spoke with had no knowledge of it,



1 would not have given consent, and felt that even though,
2 semantically, it's voluntary, they don't experience it as
3 voluntary, nor do the students. So we have to look
4 carefully at the experience of how the survey is released
5 and issued and how the students perceive it and the
6 parents perceive it, not just what's on paper.

7 UNIDENTIFIED VOICE: But also, then, how do
8 we change -- if, in fact, they feel that it's not
9 voluntary, what do they need to see or hear that makes
10 sure they understand that this is, indeed --

11 MS. SCHEFFEL: Right.

12 UNIDENTIFIED VOICE: -- because that would
13 have been an error, an unintentional error, maybe?

14 MS. SCHEFFEL: And to consider opt-in, as
15 well as how it's depicted, both to the parents and to the
16 students.

17 UNIDENTIFIED VOICE: I'd like to --

18 MADAM CHAIR: Would somebody like to call
19 the question?

20 UNIDENTIFIED VOICE: Can I --

21 MADAM CHAIR: Or speak. Call the question
22 or speak?

23 UNIDENTIFIED VOICE: I have -- I just have -
24 -

25 UNIDENTIFIED VOICE: Jane has.



1 MADAM CHAIR: I just called on Jane. I
2 don't need your assistance. Jane.

3 MS. GOFF: Can I do it now?

4 MADAM CHAIR: Yes.

5 MS. GOFF: I just have something to add to
6 the list of things we might look for, if it's available.
7 I think the other two things I've heard are priorities.
8 Has there been discussed, in the past, what would be the
9 process for distribution? What's the fate of this survey
10 if the schools are suddenly not a part of that
11 distribution system? I'd also like to know if there's
12 anything in statute related to this -- is there anything
13 in law that created the survey, that speaks to grant
14 funding, that outlines the duties of the entities
15 involved, anything at all that's in statutory language,
16 or rules, somewhere.

17 Which leads into the idea of the grant. How
18 does this work through the grants? Do we have that in
19 CDE rules, State Board rule, or not?

20 I want those kinds of facts. I think a lot
21 of what happens with this is going to depend on the
22 process.

23 UNIDENTIFIED VOICE: (Indiscernible)

24 MS. GOFF: Using and/or interrupting.

25 That's all.



1 MADAM CHAIR: Anyone else? Do you want to
2 call the question?

3 MS. MARKEL: Steve Durham.

4 MR. DURHAM: Aye.

5 DR. FLORES: Aye to what? What exactly are
6 we -- how is it phrased?

7 MADAM CHAIR: What?

8 DR. FLORES: How is the question phrased?

9 MS. MARKEL: Tabling action on this item
10 until next month --

11 DR. FLORES: Thank you.

12 MS. MARKEL: (Indiscernible)

13 DR. FLORES: Okay.

14 MADAM CHAIR: Steve said yes, and where --

15 MS. MARKEL: Dr. Flores.

16 DR. FLORES: Yes.

17 MS. MARKEL: Jane Goff.

18 MS. GOFF: Yes.

19 MS. MARKEL: Pam Mazanec.

20 MS. MAZANEC: Yes.

21 MS. MARKEL: Marcia Neal.

22 MADAM CHAIR: Yes.

23 MS. MARKEL: Dr. Scheffel.

24 MS. SCHEFFEL: Yes.

25 MS. MARKEL: Dr. Schroeder.



1 MS. SCHROEDER: Aye.

2 MADAM CHAIR: Thank you all very much for
3 your very patient participation.

4 UNIDENTIFIED VOICE: And your passion.

5 (Meeting adjourned)

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C E R T I F I C A T E

I, Kimberly C. McCright, Certified Vendor and Notary, do hereby certify that the above-mentioned matter occurred as hereinbefore set out.

I FURTHER CERTIFY THAT the proceedings of such were reported by me or under my supervision, later reduced to typewritten form under my supervision and control and that the foregoing pages are a full, true and correct transcription of the original notes.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this 25th day of January, 2019.

/s/ Kimberly C. McCright

Kimberly C. McCright

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