Student Privacy in the Classroom

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by

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This fastback is sponsored by the Ohio State University Chapter of Phi Delta Kappa, which made a generous contribution toward publication costs.

The chapter sponsors this fastback to honor Dr. Edward R. Johnson, the chapter's most senior member. An active Kappan since his initiation on 21 August 1923, he served as the chapter's 17th president in 1931-32 and now has emeritus status. The chapter proudly recognizes Dr. Johnson for his loyalty to and longevity with the Ohio State University Chapter.
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The literary passage alluded to the deflowering of a maiden. Neither grippingly graphic nor unseemly sensual, the few lines raised no eyebrows in that college class in 1950. But the professor did. Turning toward the campus queen, he fixed his beady eyes (all of us males in the class thought he had beady eyes) on her and asked, "Have you had a similar experience, Miss W?"

Miss W blushed, lowered her head, and tried vainly to mumble a scathing response. An embarrassed silence pervaded the classroom for a minute; then a threatening rumble rolled from the throats of her enraged classmates. The professor quickly asked a different question dealing with a completely unrelated episode in the story. He had lost the class with his impertinent question, and every student made sure that the instructor knew it.

That professor had crossed the line that divides legitimate classroom questioning and invasion of privacy. No student would have been upset had he asked Miss W pertinent questions about the heroine and her experiences in the story. But by calling for personal revelation, he had invaded Miss W's privacy and had infuriated the other students in the class with his insensitivity.

No other memory remains of that class. No memorized lines of poetry, no insights into significant literary works, no enlightening exposition of texts by the instructor. The crossing of an invisible line had turned a relatively interesting class into one recalled today only for its transgression.
A semester later, a different professor told a class of prospective teachers that no teacher "has the right to ask painfully personal questions that would cause students to reveal secrets about themselves, their families, or their friends." Recalling the pain of Miss W, several of us looked at one another knowingly when he said that.

Remembering what that second professor had said, I smiled during my first year of teaching as I read several papers titled "My Most Embarrassing Moment." I had not assigned the topic; several students had chosen it from a list of suggested topics in their grammar/composition textbook. And they had learned, perhaps from other classes, how to avoid revealing secrets. Their themes, as nearly as I could tell, were skillfully crafted fabrications.

During my fifth year of teaching, a troubled student suggested that I give his classmates the opportunity to write about their problems. He told me that several students wanted to write about a forthcoming event that was causing them grave concern. He added that other students had different problems that they "wanted to get off their chests." He persuaded me to let his classmates write anonymously. Some signed their names and asked me to direct them to people who could help; others preferred anonymity but informed me of a forthcoming initiation into an adult, secret club. A week later a front-page story in the local newspaper verified what the students had told me about the secret sex club, which was accused of criminal activities. Several of my students were arrested. Others suffered through totally different nightmares that I knew about through their writing. Those papers, which I destroyed shortly after I received them, have haunted me ever since.

Did I cross the line that separates legitimate writing assignment from invasion of privacy? When I allowed students to write about their problems, even though one student suggested it and I instructed them not to sign their papers, did I willfully invade their privacy? Did I make incursions into their private lives every time I asked my students what they thought about a character in a story or how they felt as they read
or heard specific lines in a poem? Were my assignments too personal when I called for descriptions of objects that students liked or disliked? Did I transgress every time I asked a question or assigned a theme that called for students to examine their backgrounds before they answered or wrote?

Today some of the school protesters would shout "yes" in response to all of those questions. Some of the most vocal critics of education object to any questions and assignments that cause students to state their beliefs, their thoughts, their likes and dislikes, or their feelings. Those critics do not want students to call on their personal experiences for any oral or written response to any question or assignment. They object to students' keeping journals and to their participating in class discussions that call for personal observations or revelations.

During my first three years as a teacher, I discovered what others had known for years: Powerful writing frequently comes from a writer's narration of personal experiences. I also learned that writing can serve as an excellent tool for self-examination and for the discovery of solutions to personal problems. It can be used as therapy, as a cry for help, as a means of discovering how to bring order to a chaotic life.

Today, an ever-increasing number of teachers in all subjects give their students opportunities to write about a wide range of topics and a variety of experiences. Students across the nation record in their journals their impressions, their experiences, their ideas, their likes and dislikes, their dreams, and their responses to classroom activities and lessons. That kind of writing has prompted some critics of education to charge teachers with invasions of student and family privacy.

Some critics are scrutinizing textbooks and student assignments, searching for what they deem objectionable, including invasions of privacy. Nothing escapes their attention. They scour basal readers and textbooks in social studies, science, English (grammar, composition, and literature), home economics, family development, and
mathematics. Their special targets are sex education, drug education, values clarification, global education, preventive guidance and counseling programs, and critical thinking skills programs.

During the 17 years that I have studied the schoolbook protest movement, I have become increasingly sensitive to charges of invasion of student and family privacy. It surfaced early in my study when I received copies of form letters that parents had given school administrators in at least a dozen states (see "Protesting Through Form Letters," page 16). It reappeared in the bills of particulars that textbook critics, Norma and Mel Gabler, presented to the Texas Education Agency when they objected to passages, questions, and ideas in textbooks submitted for adoption in that state (see "The Gablers Consider Invasions of Privacy," page 19). It was reinforced with the passage of the Hatch Amendment (see page 25) and with the publication of Phyllis Schlafly's *Child Abuse in the Classroom* (see page 28).

Some teachers and administrators believe that the flurry of activity that followed the implementation of the Hatch Amendment by the Department of Education has long passed; therefore, they think that they can relax and forget about form letters and other means of protest. But objections continue. Variations of the form letters published in this fastback (see pages 16-17) were presented to school officials in the spring of 1989 to protest critical thinking skills programs, drug education, and programs designed to enhance self-esteem. Charges of invasion of privacy will not go away; they will still be around at the turn of the century.

This fastback examines some of the invasion of privacy charges. It focuses only on alleged violations by teachers and counselors with respect to classroom questions, discussions, activities, and assignments. It is not concerned with locker searches and the protection of student records. Rather, its focus is on questions, assignments, and teaching materials that may or may not cross the line that separates legitimate classroom activity from an invasion of privacy.
The Nature of Privacy: Definitions and Functions

Even though the right to privacy is guaranteed by the U.S. Constitution, its evolution through the courts is far from complete. Ivan Gluckman (1987), legal counsel for the National Association of Secondary School Principals, notes that the "right of privacy is not well defined." To understand the concept, it is helpful to look for definitions that seem to be accepted by legal scholars. The one I found most frequently quoted is by Alan Westin, Professor of Public Law and Government at Columbia University, in Privacy and Freedom (1967, p. 7):

Privacy is the claim of individuals, groups, or institutions to determine for themselves when, how, and to what extent information about them is communicated to others. Viewed in terms of the relation of the individual to social participation, privacy is the voluntary and temporary withdrawal of a person from the general society through physical or psychological means, either in a state of solitude or small-group intimacy or, when among larger groups, in a condition of anonymity or reserve. The individual's desire for privacy is never absolute, since participation in society is an equally powerful desire. Thus each individual is continually engaged in a personal adjustment process in which he balances the desire for privacy with the desire for disclosure and communication of himself to others, in light of the environmental conditions and social norms set by the society in which he lives. The individual does so in the face of pressures from the curiosity of others and from the processes of surveillance that every society sets in order to enforce its social norms.
In his definition, Westin identifies four states of privacy: solitude, intimacy, anonymity, and reserve. Solitude is the state of privacy in which "the individual is separated from the group and freed from the observation of other persons." In the state of intimacy, "the individual is acting as part of a small unit that claims and is allowed to exercise corporate seclusion so that it may achieve a close, relaxed, and frank relationship between two or more individuals. Typical units of intimacy are husband and wife, the family, a friendship circle, or a work clique." Anonymity "occurs when the individual is in public places or performing public acts but still seeks, and finds, freedom from identification and surveillance." The fourth state, reserve, is "the creation of a psychological barrier against unwanted intrusion; this occurs when the individual's need to limit communication about himself is protected by the willing discretion of those surrounding him" (1967, pp. 31-32).

Westin goes on to note that the four states of privacy are "useful in discussing the basic functions privacy performs for individuals in democratic societies." The first function, personal autonomy, stems from the fundamental belief of a democratic society in "the uniqueness of the individual, in his basic dignity and worth as a creature of God and a human being, and in the need to maintain social processes that safeguard his sacred individuality." Social theorists have represented the individual's needs for an "ultimate core of reality" by describing a series of zones or regions of privacy that lead to a "core self." The inner circle "shelters the individual's 'ultimate secrets' — those hopes, fears, and prayers that are beyond sharing with anyone unless the individual comes under such stress that he must pour out these ultimate secrets to secure emotional relief." The zones circle outward to include the intimate secrets one shares with "close relations, confessors, or strangers who pass by and cannot injure." The series of circles continues outward to include friendship groups and extends to the last outer circle of "casual conversation and physical expression that are open to all observers" (pp. 32-34).
In Privacy in Public Society: Human Rights in Conflict (1987, p. 59), Richard F. Hixson, Professor of Law at Rutgers University, summarizes the other three functions that Westin described in detail in his book.

The second function, emotional release, stems from the need the individual has to seek relief from physical and emotional stress. According to social theorists, "life demands a variety of roles, and no person can successfully play these different parts without some relief. In this, privacy shields the individual from having always to comply with social norms. . . . Privacy, in short, allows us to be ourselves at low risk."

The third function, self-evaluation, "is also enhanced through privacy. In the state of solitude, a person is able to evaluate information that bombards him or her daily in order to act as appropriately and consistently as possible. Privacy provides the time to anticipate problems, recast doubts, and originate solutions. . . . Persons must learn to live with themselves before they can live with others."

The fourth function, limited and protected communication, "provides the individual with the opportunities he needs for sharing confidences and intimacies with those he trusts. . . . Common law recognizes the need to protect certain confidential relationships that can flourish in the state of intimacy. Psychological distance . . . is as important as spatial distance." This fourth function is of particular relevance to teachers, counselors, and administrators.

Writing about school counselors and privacy, Steven R. Smith, Professor of Law at the University of Louisville, identified three types of privacy: autonomy, information, and security (1986, p. 121-22). "Autonomy privacy refers to the ability to make critical personal decisions without significant government interference." This right of privacy is "applicable to such important personal decisions as child bearing, child rearing and family life." Information privacy is "the ability to control and limit information about personal aspects of one's life." Security privacy refers to person, papers, and property. Secu-
rity is "often associated with the Fourth Amendment prohibition on unreasonable searches and seizures."

Essentially, privacy is the right to be left alone, the right not to be talked about. This constitutional right can come into conflict with a school counselor's right and duty to speak to parents, teachers, administrators, and others outside the school setting in certain situations. The key phrase here is in certain situations. As Ronald W. Eades, Professor of Law at the University of Louisville, points out: "Although there is this right and even duty to speak, society also recognizes a right to privacy. . . . Thus, a school counselor or psychologist can be liable in an action for invasion of privacy or defamation" (1986, p. 117).

A teacher also must speak to parents, teachers, administrators, and others outside the school setting in certain situations. However, what the teacher says may be considered to be an invasion of privacy if, for example, she discloses something very private that a student wrote in a journal entry and that other people do not need to know. Thus, both teachers and counselors must exercise caution in the execution of their duties. If they make reports and statements "only as required or permitted by the job, the statements should be privileged." Teachers and counselors "should use reasonable care to insure that everything said is true and accurate and that the statement would be 'privileged' " (Eades 1986, p. 120). (Privileged here means those utterances and communications that are not subject to legal action because of the circumstances; that is, an oral or written and completely accurate statement made about a student by a teacher or counselor that is fully in the line of duty is privileged.)

Professor Eades cites two types of invasions of privacy of particular relevance to counselors and school psychologists. (One can assume the two types also apply to teachers and administrators when they are communicating about students.) "First, even in the absence of specific statutes, public disclosure of private facts that the public has no right to know may lead to liability. Second, statements which
put a person in a false light in the public eye may also lead to a lawsuit. Unlike defamation, it is not necessary in an action for the invasion of the right of privacy that the statement hurt the reputation of anyone" (1986, p. 119).

As teachers, counselors, and administrators consider the matter of student and family privacy, they may want to ask themselves questions like these: Does the public (the student's classmates and other teachers) have a right to know this information about the student and/or the student's family? Will this information cast the student and/or the family in a light that may cause harm? What will be done with this information? Who will have access to it? What might other persons do with it? Is it my responsibility to keep the information from others in order to protect the privacy of the student and his/her family?
Protesting Through Form Letters

Parents who do not like certain courses, textbooks, or library books occasionally use form letters to register their protests. One such letter, with only slight variations, crossed the desks of administrators and teachers in more than a dozen states in the mid-1970s. I received copies of the following letter from educators in Tulsa, Oklahoma (1975); Culver, Indiana (1976); Deer River, Minnesota (1977); and Austin, Texas (1977):

This letter is to inform you that certain rights and privileges with regard to the instruction of our child__________are permanently and specifically reserved by us, the parent(s). The familial relationship involving personal relationships, attitudes, responsibilities, and religious and social training are the sole prerogatives of the parents.

Therefore, you are hereby notified that our child__________will not be enrolled, instructed, or made to participate in any course or class, workshop, study group, etc. which includes: instruction in any training or education in sex and/or sexual attitudes, personal and family emotional development, introspective examination of social and cultural aspects of family life, group therapy or group criticism of family life, "sensitivity training," "magic circles," Human Development programs, social awareness, self-awareness or self-understanding, situation ethics, value judgment, values clarification, moral value alteration, Behavior Modification, Reality Therapy, ethnic studies, "Humanities," the philosophies of the Humanist religion, the Occult, or any combination or degree thereof, without the consent of the undersigned by express written and signed permission.
A different form letter that was first circulated in 1974 contained these paragraphs:

We concerned and interested citizens, parents, and taxpayers, request the _________ School District

• To see that pupils are only tested for intelligence quotient proficiency in basic skills and academic subject matter. Any testing pertaining to pupil attitude, parent attitudes, or personal information pertaining to the pupil and his family, or that concerns their habits or values including personal inventories, value appraisals, psychological inventories, or diagnostic tests shall be given only after receiving written parental permission. Any such tests should be available to parents or guardian if their child is to be tested.

• To see that no psychological methods or psychiatric methods are practiced in our public schools. This includes role playing, sensitivity training or any other method dealing with probing the psyche of the pupils. Sensitivity training is defined as group meetings, large or small, to discuss publicly a pupil’s intimate and personal matters, opinions, values, or beliefs, or act out emotions and feelings toward one another in the group using techniques such as self confession or mutual criticism.

Variations of these two letters were received by school administrators throughout the nation from 1974 through the end of the decade. The thread that runs through these two letters is the perceived threat of invasions of student and/or family privacy.

One principal told me he had received such a form letter from the attorney of parents in his school. The principal did not question the parents’ right to be concerned about their children’s education but was upset because the programs and counseling techniques they objected to simply were not used in his school. “The parents got a form letter from some organization, got excited about what they thought was being done in school, and hired an attorney. Had they bothered to talk with me first, I could have explained what we do and do not do. Their children were not involved in any of the types of activities to which they objected.”
The use of form letters persists. As a protest technique they can be challenged on the following grounds:

1. They are so broad, as in the case of the first letter above, that children could participate in little of the school's programs if the wishes of the parents were followed.

2. They are frequently so general that administrators and teachers cannot determine exactly what is objectionable. For example: What are the objections to those parts of the curriculum considered to be the humanities? Should the child be excused from all courses that could be labeled humanities? Another example: How can one teach anything without using some psychological methods?

3. Parents who use form letters distributed by a national, state, or local organization often fail to determine if the programs and practices objected to are actually present in the local schools.

4. Many of the objections in the form letters pertain to what parents (or the organization preparing the form letter) perceive to be invasions of privacy. If the parents were to check with teachers, they may discover that items on questionnaires they find objectionable are intended to help students examine their own behaviors and beliefs. Frequently, the questionnaires are either not handed in or are kept anonymous.

Receiving a protest letter from a parent (or an attorney) can be intimidating to a school administrator; but before reacting, check with colleagues in other schools or nearby districts to see if they have received the same or similar letters. If it is obviously a form letter, confer with colleagues on how to respond to the charges.
The Gablers Consider Invasions of Privacy

Mel and Norma Gabler have been reviewing textbooks since 1961. This couple from Longview, Texas, have turned their home into a cottage industry, employing as many as eight assistants who help them search through textbooks for “objectionable” material. As the founders of Educational Research Analysts, they have set for themselves the task of scrutinizing all books submitted for adoption in Texas. They prepare “bills of particulars” in which they list a variety of objections to the books they have meticulously examined line by line. Nothing they deem inappropriate escapes their attention.

According to a statement that Mel Gabler made during an interview on Donahue in 1980, the Gablers’ reviews are used in all 50 states and in 25 foreign countries. On that same program he stated that they review textbooks line by line, searching for material that does not coincide with their political and religious points of view. They also seem to object to anything that does not coincide perfectly with their particular view of reality or with their perception of any subject matter. Their biases aside, their textbook reviews have been used by those of like thinking to protest textbooks worldwide.

In their own newsletter (November 1988 issue) they wrote, “Few, if any, organizations or individuals have had as much impact for good upon as many students as had Educational Research Analysts. For 27 years, we have worked hard and God has given gains which humanly speaking would literally have been impossible.”
The Gablers alone do not scrutinize all textbooks submitted for adoption in Texas. Volunteer reviewers and paid assistants also review books. To help these volunteers maintain a degree of uniformity in their reviews, the Gablers prepared a three-page outline in which they identified 10 categories to guide the reviewers in their search for "questionable" material. One of the categories is invasion of privacy.

The Gablers have little difficulty finding, in textbooks and teachers' manuals, questions and activities that they consider to be invasions of privacy. Not infrequently do they object to any questions that ask students how they feel or what they think about anything. Apparently, the Gablers consider such questions to be inappropriate; and like other schoolbook protesters, they obviously believe that the affective domain should have no place in public education. They also object to open-ended questions and to questions "with no firm answer" since they have expressed their belief that such questions are unfair to students.

The following is a sampling of the objections the Gablers have included in their bills of particulars for a variety of textbooks:

The text: "Segregation because of race has been ruled illegal by the United States Supreme Court. What other kinds of segregation can you think of? Should all kinds of segregation be prevented?"
**Objection:** Invasion of privacy. This question deals with student values and is inappropriate for the classroom.

The text: "Write a personal profile of yourself. Describe your goals and how you plan to reach them. Suppose you are not able to reach your most important goal. What other goals do you have in mind?"
**Objection:** Invasion of privacy.

The text: "Have students complete Activity 4.2 in the activity book. This activity not only helps them work on their categorizing skills,
but can serve as an introduction to thinking about minority groups in our society. You might then discuss what they feel is the responsibility of our society toward minority groups (e.g., requiring by law that all curbs be slanted so that people in wheelchairs can have access; etc.)."

*Objection:* Invasion of privacy. The text is attempting to delve into the personal values of the students.


The text: “Divide your class into groups of four or five. Obtain a spin wheel for each group. Spin wheels are usually used in children’s board games for taking turns. On each spin wheel, place eight pieces of masking tape, equidistant around the wheel. On each piece, write a different emotion. Each spin wheel should contain the same eight emotions.

One pupil in each group should take a turn spinning the marker on the wheel. When it points to an emotion, the pupil should do the following: 1) Relate to the group the first time he or she can remember experiencing that emotion. 2) Describe how the emotion made him or her feel. 3) Describe how it was expressed.

Each pupil in the group should have a turn. When each pupil has had a turn, repeat the activity. However, each pupil should now tell the group the last time he or she experienced the emotion, what it felt like, and how it was expressed.”

*Objection:* This activity is an invasion of privacy. There may be very strong emotional incidents that children are trying to forget. This activity could cause mental anguish to some students. This is also in violation of the Hatch Amendment.


The text: “1. For one week, keep an ‘Emotions Diary.’ Write the emotions you felt each day. Also write what brought on each emotion. Then write how long each emotion lasted and how you coped with it.

2. Cut five circles out of paper. In each circle, draw a face that shows an emotion. Each face should show a different emotion. Wear the face that shows your emotion. Change the face when your emotion changes.”
Objection: This is an invasion of student privacy.

*Magic Times*, Macmillan Reading Series, Grade 2, Level 11-12, 1980. The text: (from a series of suggested activities and questions for a unit titled "Feelings").

"Do you sometimes feel the way they [the characters in the story] feel? Then ask the children to set their own purposes for reading by asking them questions similar to the following: What kind of feelings does the boy have? What makes him have these feelings? Do you ever have the same feelings?"

"The boy in the story said he was happy because he liked himself. What are some things you know how to do that make you like yourself? If you were feeling lonely or unhappy or disappointed, what are some ways you might help yourself feel better?"

Objection: This section concentrates too heavily upon "feelings" both in the story and by the students. This invades the privacy of children and is objectionable to many parents. This will require time which would be much better utilized to teach reading skills.

*Rhymes and Reasons*, Macmillan Reading Series, Teacher's Edition, Grade 4, Level 22-24, 1980. Teacher's Edition, 468, col. 1, bottom, par. 1, lines 1-7. The text: "Ask the students if they have ever had to spend a long time alone. What did they do? How did they feel? Did they look for someone to keep them company? How did they feel when they finally did have someone else to be with? Do they ever get tired of being with other people? What do they do then?"

Objection: Invasion of privacy.

Is that your usual method for solving problems?
Is it possible that another method might do you more good?"

*Objection:* Invasion of privacy. The text asks the student to psychoanalyse himself and to dwell on introspection.

The text: "*What about Me?* On a separate sheet of paper write one way that your life has been influenced by:

- Your environment.
- A particular experience that happened to you."

*Objection:* Invasion of privacy.

*Caring, Deciding, and Growing,* (Homemaking, Grades 6-8), Ginn and Company, 1983.

The text: "Make a list of characteristics which you consider to be your strengths. Also make a list of your characteristics which you consider to be your weaknesses. What are some ways in which you could concentrate more on your strengths? How could you work to strengthen your weaknesses? What are some of the characteristics which you do not like but cannot change? How might a change in attitude about these characteristics affect your self-acceptance?"

*Objection:* If this list is to be turned in or shared with the class, it is an invasion of privacy.

It is doubtful whether teachers, textbook authors, and publishers would consider the Gabler's objections to be actual invasions of privacy. As I studied their objections, I concluded that they object to questions that call for students' opinions or declarations of values. They object to expressions of feelings, of thoughts, of beliefs. But most such expressions would not be classified as invasions of privacy.

If students are asked to reveal secrets about themselves or their families that could cause harm, then such revelations could be considered invasions of privacy. But questions that call for expressions of non-secret, non-threatening feelings, thoughts, or beliefs would not be so classified.
It might be useful for readers to examine again the passages the Gablers deem objectionable and decide for themselves whether they do, indeed, invade the privacy of students and/or their families.
The Hatch Amendment: Protection of Student Privacy

Few educators paid attention to the Hatch Amendment (named for its sponsor, Senator Orin Hatch of Utah) when it was added to the federal General Education Provisions Act in 1978. In fact, many teachers and administrators told me they had never heard of the amendment until 1984. And several of those who were aware of it shortly after its passage considered it superfluous. One administrator said, "No principal I know would deny parents permission to examine instructional materials used in experimental programs. Nor would any school system willfully administer a psychological test whose primary purpose is to reveal personal information about students and their families."

The Hatch Amendment lay dormant for six years. But since 12 November 1984, when the regulations for the amendment went into effect, it has become a matter of grave concern to school systems throughout the nation. It has been subjected to broad interpretations and has been — and will be — used by protesting organizations and individuals to attempt to remove from the schools anything they do not like. It has been distorted so much that it seems prudent to include the original wording of amendment here. The Hatch Amendment is Section (b) of Public Law 95-561 (1 November 1978), which reads as follows:

(a) All instructional material, including teachers' manuals, films, tapes, or other supplementary instructional material which will be used
in connection with any research or experimentation program or project shall be available for inspection by the parents or guardians of the children engaged in such program or project. For the purpose of this section "research or experimentation program or project" means any program or project in any applicable program designed to explore or develop new or unproven teaching methods or techniques.

(b) No student shall be required, as part of any applicable program, to submit to psychiatric examination, testing, or treatment, or psychological examination, testing, or treatment, in which the primary purpose is to reveal information concerning:

1) political affiliations;
2) mental and psychological problems potentially embarrassing to the student or his family;
3) sex behavior and attitudes;
4) illegal, anti-social, self-incriminating and demeaning behavior;
5) critical appraisals of other individuals with whom respondents have close family relationships;
6) legally recognized privileged and analogous relationships, such as those of lawyers, physicians, and ministers; or
7) income (other than that required by law to determine eligibility for participation in a program or for receiving financial assistance under such program),

without the prior consent of the student (if the student is an adult or emancipated minor), or in the case of unemancipated minor, without the prior written consent of the parent.

In 1980, the then U.S. Office of Education (now Department of Education) published regulations for the Hatch Amendment, but they simply restated the amendment and did not include procedures for reporting violations. In 1981, while serving as an executive assistant in the Office of Educational Research and Improvement, Charlotte Iserbyt, formerly of Guardians of Education for Maine, called for the need for new regulations for the amendment. The regulations were drafted and sent to then Secretary of Education Terrel Bell, but he did not take action on them (People for the American Way, n.d.).
In 1981, Phyllis Schlafly told her followers through her *Phyllis Schlafly Report* to use the Hatch Amendment "to reassert their authority, find out what is being taught in the name of 'education,' and stop any assault on traditional and family values." In 1982, Iserbyt resigned from the Department of Education and suggested to various organizations that they pressure Secretary Bell to issue regulations on the amendment (People for the American Way, n.d.).

My introduction to the Hatch Amendment occurred after I had given a speech about the schoolbook protest movement during the winter of 1981. A young teacher from northern Ohio told me that, during the two-week period before he heard me speak, several of his students refused to answer any of his questions until they had cleared them by telephone with their mothers. The students declared that they did not have to answer any questions their parents did not approve because of the Hatch Amendment. Then he said that the principal stopped the parade to the telephone by threatening the students with suspension if they continued to disrupt classes.

That was not an isolated incident. Teachers in two other states reported similar student activity, but it was curtailed when the students and their parents were informed that the Hatch Amendment applied only to federally sponsored, experimental programs — not to discussions in regular classes.

To his credit, Senator Hatch attempted to clarify the intent of the amendment. "My amendment . . . was designed to let parents decide whether or not to permit their school children to be subjected to research and demonstration projects, a component of which is psychological or psychiatric testing, or treatment. It was the purpose of my amendment to guarantee the right of parents to have their children excused from federally funded activities under carefully specified circumstances. The activities we are talking about are non-scholastic in nature" (*Congressional Record — Senate*, 19 February 1985, S 1389).

Nevertheless, several prominent critics of public education have attempted to broaden the scope of the Hatch Amendment by virtually
ignoring the intent of its framer. In August 1984, Crossway Books rushed into print Phyllis Schlafly’s *Child Abuse in the Classroom* (1984) only five months after the Department of Education conducted hearings on proposed regulations for the amendment at seven sites around the country. According to Schlafly, court reporters recorded more than 1,300 pages of testimony of “parents, public school teachers, and interested citizens” who “related how classroom courses have confused school children about life, about standards of behavior, about moral choices, about religious loyalties, and about relationships with parents and with peers” (Schlafly 1984, p. 11).

The 447 pages of *Child Abuse in the Classroom* are filled with denouncements of sex and drug education, counseling and guidance programs, role playing, values clarification, situation ethics, global education, and humanistic education. Charges of invasion of student and family privacy abound. Samples of alleged invasions of privacy from six testimonies are included in this section; additional samples from the Hatch Amendment hearings are mixed in with other charges in the last section of this fastback titled “You Be the Judge.”

Joanne Lisac of Milwaukie, Oregon, testified against the K-12 “guidance and counseling curriculum used in the North Clackamas School District.” She declared that the “invasions of privacy in this curriculum are endless.” The following are only three examples from her testimony:

Are you going to practice religion just like your parents?
Who has the last word in your family?
What is your parents’ income?

She also maintained that this question was included in a group discussion for third grade: “How many of you ever wanted to beat up your parents?” (Schlafly 1984, p. 57).

Archie Brooks stated that questions like the following were asked of students in the Preventive Guidance Counseling Program in all grade schools in the North Lincoln County (Oregon) school district:
Do you believe in a God who answers prayers?
Do you pray about your problems?
Have you ever had problems so bad you wished you could die so
you would not have to face them?
Would you like to have different parents? (Schlafly 1984, pp.
19-30)

Joan Lauterbach of Mexico, Missouri, reported that students in the
eighth-grade health classes prepared attitude and behavior surveys for
one another. Boys prepared survey questions for girls and girls did
the same for boys. According to Lauterbach, the students were given
sample questions, including:

   How important is making-out with a girl? Smoking pot?
   Do you like girls who have sexual experiences?
   Do you have sexual relations?
   Do you worry about getting pregnant?
   Do you think that 8th-grade girls could care for and raise a baby?
   (Schlafly 1984, p. 205)

In Phoenix, Arizona, Theresa Todd gave testimony against a sex
education program published by the Department of Health, Educa-
tion and Welfare. She declared that parents were outraged by ques-
tions like these (the words in parentheses were part of the questions):

   How often do you normally masturbate (play with yourself
   sexually)?
   How often do you normally engage in light petting (playing with
   a girl's breasts)?
   How often do you normally engage in heavy petting (playing with
   a girl's vagina and the area around it)?" (Schlafly 1984, p. 223)

Jacqueline Lawrence of Montgomery County, Maryland, expressed
her concern about the use of diaries in the Hilda Taba social studies
program. She said that information from the diaries is used "to fur-
ther determine personality traits and to provide a vivid and precise
record of the attitudes, emotions, conflicts, anxieties and fears of the student." She added that the diaries "are kept on file throughout the grades" and that there are "as many as 15 kinds of diaries recommended for use in the classrooms including a budget diary to see if the child gets a fair share of the income, a religion diary, a hostility and anger diary, a low points diary, and a time diary" (Schlaflly 1984, p. 429).

At the hearing in Concord, New Hampshire, Mary Blaisdell focused on the health program in the Concord School District. In her testimony, she read activities and questions from the "activity packet." Here are just a few that she mentioned:

Complete at least a five-day daily dietary intake chart, and keep a health and "feelings" journal.
Discuss feelings which family members may have upon the arrival of a new baby.
Discuss misuse of some substances by parents, for example alcohol, valium, etc. (Schlaflly 1984, pp. 322-23)

In some of the workshops I conduct on First Amendment rights of students and teachers, I list several of the questions and activities mentioned above. Most teachers and administrators find it hard to believe that such questions are asked in schools. Several have pointed out that not all schools in this nation are alike; therefore, it would be a mistake for parents to believe that similar questions and exercises can be found in every school.

In the foreword to Child Abuse in the Classroom, Schlaflly quotes former U.S. Senator S.I. Hayakawa, who told the Senate in 1978 that the schools have become vehicles for a "heresy that rejects the idea of education as the acquisition of knowledge and skills" and instead "regards the fundamental task in education as therapy." He regarded the inquiry into students' attitudes, beliefs, and psychic and emotional problems as a "serious invasion of privacy." Schlaflly believes that the heresy is the result of the schools' replacing cognitive education with affective education (Schlaflly 1984, p. 12).
Elsewhere in the foreword, Schlafly declares that the Hatch Amendment hearings "speak with the thunderous voice of hundreds of parents who are angry at how their children have been emotionally, morally, and intellectually abused by psychological and behavioral experiments during classroom hours when the parents thought their children were being taught basic knowledge and skills" (Schlafly 1984, pp. 12-13).

An appendix to Child Abuse in the Classroom contains a form letter prepared by the Maryland Coalition of Concerned Parents on Privacy Rights in Public Schools. According to Education Week, the Maryland Coalition, the Eagle Forum, and "a number of other conservative groups" had distributed 250,000 copies of the letter to parents across the nation by 20 February 1985. Schlafly told Education Week that she suggested to parents that they mail "the form-letter protest" to their children's schools "because the schools are not obeying the law. The letter has the purpose of showing parents what their rights are and jogging the schools to obey the law. They're trying to stonewall and intimidate the parents and harrass and retaliate against the children... The letter puts the school on notice." Parents throughout the nation did just that; they used the form letter in attempts not only to prevent their children from participating in certain courses and activities but also to remove such activities from the schools.

The letter contains 22 separate listings of "objectionable" materials and activities, including the following: autobiography assignments (log books, diaries, and personal journals); values clarification; use of moral dilemmas; discussion of religious or moral standards; role-playing; open-ended discussions of situations involving moral issues; survival games (life/death decision exercises); death education (including abortion, euthanasia, suicide, use of violence, and discussion of death and dying); curricula pertaining to alcohol and drugs; instruction in nuclear war, nuclear policy, and nuclear classroom games; anti-nationalistic, one-world government, or globalism curricula; discussions of attitudes toward parents and parenting; and education in human sexuality.
Also on the "objectional" list are: organic evolution, including the
two that man has developed from previous or lower types of living
things; discussions of witchcraft, occultism, the supernatural, and
Eastern mysticism; critical appraisals of other individuals with whom
the child has family relationships; non-academic personality tests;
questionnaires on personal and family life and attitudes; contrived inci-
dents for self-revelation; sensitivity training, group encounter ses-
sions, talk-ins, magic circle techniques, self-evaluation, and
auto-criticism; and sociograms, sociodrama, and psychodrama.

Speaking from the Senate floor on 19 February 1985, Senator Hatch
expressed his concerns about the "overreaction" of both educational
organizations and parent groups to the regulations implementing the
act. He said:

[S]ome parent groups have interpreted both the statute and the regu-
lations so broadly that they would have them apply to all curriculum
materials, library books, teacher guides, etc., paid for with State or
local money. They would have all tests used by teachers in such non-
federally funded courses as physical education, health, sociology, liter-
are, etc., reviewed by parents before they could be administered to
students. Because there are no Federal funds in such courses, the Hatch
Amendment is not applicable to them. A number of states do, how-
ever, have statutes or State board regulations which do safeguard these
parental rights.

Some other parent groups contend that because school districts re-
cieve some Federal funds on a formula basis such as impact aid, Chapter
I, etc., when a teacher-made test is given that may ask such pupils
to make a value judgment on a topic, this would invoke the Hatch
Amendment. This was never the intent of the Hatch Amendment. (Con-
gressional Record - Senate, 19 February 1985, S 1389)

Malcolm Lawrence, president of the Maryland Coalition that dis-
bruted the form letter, called Senator Hatch's remarks about parent
groups "misleading." He was quoted in Education Week as having
said: "We know that the Hatch regulations are for federally funded
programs administered by the Education Department. We think par-
ents' groups have the basic right to do what we [outline] in the letter with or without the Hatch Amendment. These are rights we've had all along. The fact that something a parent objects to is not federally funded doesn't make a difference to us. We were just using the Hatch regulations as the latest example of a law that comes down on the side of parents."

Lawrence also disagreed with Senator Hatch's contention that the law is not applicable to classroom materials. "It definitely does apply to classroom materials as we read the law. If he thinks it applies just to research, then he ought to rethink the purpose of the law."

Regardless of the Senator's statements about the intent of the amendment, the regulations go beyond his intent and have served as an impetus for schoolbook protesters to attempt to remove from public schools virtually anything they do not like. According to the American Civil Liberties Union of Eastern Missouri, Phyllis Schlafly and her Eagle Forum took an active role in writing the federal regulations (ACLU 1985, p. 1). In them, psychiatric or psychological examination or test is defined as "a method of obtaining information, including a group activity, that is not directly related to academic instruction and that is designed to elicit information about attitudes, habits, traits, opinions, beliefs or feelings." Psychiatric or psychological examination "means an activity involving the planned, systematic use of methods or techniques that are not directly related to academic instruction and that is designed to affect behavioral, emotional, or attitudinal characteristics of an individual or group" (Federal Register, 49, no. 174, 6 September 1984, Rules and Regulations, 35321).

The ACLU of Eastern Missouri has pointed out that the definitions in the regulations can lead to considerable confusion and trouble: "What characterizes an activity as 'not directly related to academic instruction'? Is this supposed to include any subject matter beyond mathematics, English and geography? What activities are 'designed to elicit information about attitudes . . . opinions . . . beliefs or feelings'? A teacher who prefaces a question with "What do you
think . . . ?" or "How do you feel about . . . ?" may find himself or herself under federal investigation" (ACLU 1985).

Reporting on an incident in Hillsboro, Missouri, the ACLU noted that a local group objected to books used in English classes, to Walt Disney’s film Never Cry Wolf, to teaching materials that "poison their children's minds with values to which they object," to counseling programs in elementary and middle schools, to composition assignments in English classes, and to the high school social studies curriculum (ACLU 1985). The Hillsboro school board rejected the complaints of the parent group (Parents Who Care v. Walker).

In its annual reports titled Attacks on the Freedom to Learn, People for the American Way notes that parents continue to use the Hatch Amendment to attempt to attain "veto power over a host of educational activities." Parents use the form-letter interpretation of the amendment to protest sex education, values clarification, student journals, counseling programs, role playing, open-ended discussions, and critical thinking skills programs.

Throughout 1988, a group of parents and teachers protested the use of Tactics for Thinking in two school districts in Gibson County, Indiana. (See Edward B. Jenkinson, "The New Age of Schoolbook Protest," Phi Delta Kappan, September 1988, pp. 66-69.) The group succeeded in having the critical thinking skills program removed from one of the districts. When the group failed in the second district, parents of eight students filed a complaint with the U.S. Department of Education, declaring that the program violated the Hatch Amendment. The president of the classroom teachers association said that the Department of Education had no jurisdiction in the case since there were no federal monies involved.

Shortly after the implementation of the Hatch Amendment regulations, administrators throughout the nation received form letters or oral declarations that they and their teachers were violating the law. But after professional education organizations made it clear that the amendment pertains only to programs supported with federal funds,
the allegations using the amendment as a reference diminished markedly. Nevertheless, parents who are unaware of the amendment's restrictions still attempt to invoke the Hatch Amendment when they want to protest virtually anything they don't like in the schools. Therefore, it is imperative for teachers and administrators to know the limitations of the amendments and not to panic when a parent invokes it.
You Be the Judge

My purpose in giving examples of classroom activities, assignments, and teachers' questions that have come under attack as invasions of privacy is to alert educators to the sensitivity of the issue and to the ways protesters have used the privacy issue to attack the public schools. It remains for educators to determine the line that divides legitimate classroom activities and questions from invasions of privacy. Judgments about whether this line has been crossed can be made only with full knowledge of the context in which the question or activity is used, with its intent or educational purpose, and with what will be done with the information gathered.

In this section I present a series of questions, activities, and assignments from different areas of the curriculum, which some would charge as being invasions of student and/or family privacy. You be the judge. As you consider each one, ask yourself these questions: What is the educational value of this question or activity? In what context would it be educationally defensible? What does it contribute with respect to achieving the goals of the curriculum area? What will be done with the information gathered? What consequences might there be from the revelation of information requested from students about themselves or their families?
Civics

1. Make a budget of your personal income and expected expenditures for the next week. Which expenditures are for basic needs? Which ones are for things you want but are not absolutely necessary? Which of the wants on your list are most important to you? In other words, what are your priorities?

2. Ask students to describe some compromises they have made. Then ask whether they think there are any matters that should never be compromised. If so, what might they be?

3. Have the class take a poll of their parents, relatives, or other adults they know concerning their political party affiliations. In each case, ask students to try to obtain a reason for the affiliation.

4. Ask students if the law of supply and demand affects their purchase of goods by having them give the following information on a sheet of paper:
   a) List five or more products on which you spend your money.
   b) List any products that you have stopped buying because of a rise in price.
   c) List any products that you have begun to buy as a substitute for another product because of a rise in price.
   d) List two or three products that you would stop buying if there were a rise in price.
   e) List any product that you would continue to buy regardless of price.

Tally the answers to each question and discuss how the buying (or not buying) of the students could affect the economy of the community.

Health

1. Ask a person who smokes to allow you to take his or her pulse rate.
2. Make a chart of your sleeping habits/conditions for a week. Down the left side of a piece of paper, list the following: 1) time went to bed, 2) time awakened, 3) number of hours slept, 4) emotional state upon awakening, 5) awakened by an alarm, 6) awakened by a person, 7) uncomfortable room temperature, 8) fresh air in room, 9) noisy, 10) too much light, 11) uncomfortable night clothes, 12) hungry upon awakening. At the end of the week, have pupils bring their charts to class. Discuss their feelings about their sleeping conditions. Also discuss the emotions they had upon being awakened and about the way they were awakened. Finally, discuss the amount of sleep the pupils were getting and the possible effect it had on their emotions.

3. Have each pupil observe three people over a two-week period. One should be a preschooler, another a junior high school pupil, and the third an adult. Have the pupils observe the following about these people: the emotions they exhibited, the way they showed their emotions including body and facial movements, and the reasons for their emotions. Have the pupils write down their observations.

At the end of the two-week period, have the pupils bring their observations to class and discuss them. You may wish to ask the following questions: How did each person cope with his or her emotions differently from the other two people? How were the emotions of the three people different and alike? How would you have shown the same emotions? How would you have cope with the emotions?

Preventive Guidance and Counseling in the Classroom

1) Answer the following questions on the survey:
   Do you have a close relationship with either your mother or father?
   Have you taught a Sunday School class or otherwise taken an active part in your church?
Do you believe in a God who answers prayers?
Do you believe that tithing — giving one-tenth of one's earnings to the church — is one's duty to God?
Do you pray about your problems?
Do you read the Bible or other religious writings regularly?
Do you love your parents?
Do you believe God created man in His own image?
If you ask God for forgiveness, are your sins forgiven?
Have you ever had problems so bad you wished you could die so you would not have to face them?
Would you rather live with someone else?
Would you like to have different parents?
What chores do you have at home on a regular basis?
If you could change one thing in your home or school, what would you change and why?
Why did your parents get married?
Do your parents ever lie to you?

Sex Education

1) Answer the following questions on the survey:
   Do you like girls who have had sexual experiences?
   Do you have sexual relations?
   Do you shave your legs?
   Do you have sexual relations with boys?
   Do you worry about getting pregnant?
   Do you think 8th-grade girls should have sexual relations with boys?
   Do you think that 8th-grade girls could care for and raise a baby?

2. Make a line down the center of the room. Have all students stand on the center line and tell them that you are going to read a series of statements. If they agree with the statement, they take one giant step to the right. If they disagree with the statement, they take
one giant step to the left. Students who choose to pass can stay on the line.

All sex education should take place at home.
There should be sex education in the schools.
Guys would prefer to marry virgins.
Girls would prefer to marry virgins.
If two people are engaged, it’s okay to have sex before marriage.
You should have sex only with someone you love.
Sex should be romantic.
Sex should be spontaneous, just happen when you feel like it.
Our society puts too much emphasis on sex.
Young people today have a healthier attitude about sex than their parents.
I would want my son to be a virgin when he got married.
I would want my daughter to be a virgin when she got married.
Men have more sexual partners than women do.
If you feel the climate in your school and in your class would allow, do the exercise a second time and ask the students to respond as they think their parents would, and perhaps a third time responding as they think their grandparents would. Discuss reasons for different responses.

Suggested Topics for Journals and Essays

1) Describe a fight between you and a brother or sister. Between you and one of your parents.
2) Write about a time you cheated and were caught.
3) Describe an event that made you realize you were growing up.
4) Write about a time you found out something about yourself.
5) Write about a time you were talked into something and regretted it.
6) Write about a time your parents embarrassed you.
7) Write about a time you embarrassed your parents.
8) I really don’t like it when my mother...
9) I really don't like it when my father. . . .
10) I sometimes wonder why my mother (father, sister or brother). . . .

Values Clarification Activities

1) Do you have your own bedroom?
2) Draw a picture of your house and family occupants; write what each one is saying.
3) What tools do your parents use at home? at work?
4) How much time do your parents spend watching TV?
5) Are you going to practice religion just like your parents?
6) Who has the last word in your family?
7) What is your parents' income?
8) Tell where you stand on the topic of masturbation.
9) Tell how you feel and what you actually do about alcohol or pot.
10) Reveal who in your family brings you the greatest sadness and why. Then share who brings you the greatest joy.
11) To whom would you tell that you have had premarital sexual relations.
12) Would you approve of a marriage between homosexuals being sanctioned by a priest, minister, or rabbi?
13) To whom would you tell your doubts about religion?
14) To whom would you tell your method of birth control?

Which of the above activities and questions constitute invasions of privacy? Keeping in mind the questions I raised at the beginning of this section, you be the judge.
Conclusion

Charges of invasion of student and family privacy persist. Some stem from disdain for any attention to the affective domain in the curriculum. Thus, selected parents and several organizations protest against any activities or questions that ask students what they think, feel, believe, like, or dislike about anything. Other objections flow from misunderstanding over the Hatch Amendment. And some result from the sincere belief by some parents that their children are being asked for information that is none of anyone's business.

The invasion of privacy charge cannot be dismissed lightly. Teachers, counselors, and administrators must consider carefully the classroom questions, activities, and assignments that call for the revelation of private information about students and/or their families. In this consideration, keep in mind these questions:

• What educational objectives are being served by the questions, assignments, or activities?
• How do they add to the students' knowledge or understanding of the curriculum area?
• Why must anyone know this particular information?
• How will the information be treated?
• Who will have access to the information?
• What harm might result to students or their families if someone else has access to this information.
It is common for teachers, counselors, and administrators to receive highly confidential information about students and their families. No questions need be asked. No probing is necessary. Often students themselves volunteer the information because they regard educators as their confidants. Educators also are in a position to learn about things they would rather not know about, which may lead to the reporting of child abuse or may lodge in the recesses of the mind to haunt them forever. When such information is given, it is imperative that educators treat it confidentially, except in the case of child abuse, which must be reported according to state law.

Teachers in several states have told me that they set limits for journal entries so that they do not violate students' rights to privacy and so that they do not openly invite statements that might lead to the reporting of possible child abuse. As one teacher noted, “I can quickly discover child abuse without inviting students to tell me about it. My job is not to ask questions that can only lead to the revelation of secrets. Rather, my job is to teach my subject matter and to keep my eyes and ears open. I do not have to invite trouble through probing, personal questions.”

The line between legitimate academic activity and the invasion of privacy is thin. Crossing it can lead to unnecessary grief for all involved.
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