

**STUDENT RECORDS**

**Definitions**

*Student records* are any items of information gathered within or outside the district that are directly related to an identifiable student and maintained by the district or required to be maintained by an employee in the performance of his/her duties. Any information maintained for the purpose of second-party review is considered a student record. A student record may be recorded in handwriting, print, computer media, video or audio tape, film, microfilm, microfiche, or by other means. Student records include the student's health record. (34 CFR 99.3; Education Code 49061, 49062; 5 CCR 430)

*Student records* do not include: (34 CFR 99.3; Education Code 49061, 49062)

1. Directory information

*(cf. 5125.1 - Release of Directory Information)*

2. Informal notes compiled by a school officer or employee which remain in the sole possession of the maker, are used only as a personal memory aid, and are not accessible or revealed to any other person except a substitute
3. Records of the law enforcement unit of the district, subject to the provisions of 34 CFR 99.8

*(cf. 3515 - Campus Security)*

*(cf. 3515.3 - District Police/Security Department)*

*Mandatory permanent student records* are those records which are maintained in perpetuity and which schools have been directed to compile by state law, regulation, or administrative directive. (5 CCR 430)

*Mandatory interim student records* are those records which the schools are directed to compile and maintain for stipulated periods of time and are then destroyed in accordance with state law, regulation, or administrative directive. (5 CCR 430)

*Permitted student records* are those records having clear importance only to the current educational process of the student. (5 CCR 430)

*Access* means a personal inspection and review of a record, an accurate copy of a record or receipt of an accurate copy of a record, an oral description or communication of a record, and a request to release a copy of any record. (Education Code 49061)

*Disclosure* means to permit access to or the release, transfer, or other communication of personally identifiable information contained in education records, to any party, by any means including oral, written, or electronic means. (34 CFR 99.3)

**STUDENT RECORDS** (continued)

*Personally identifiable information* includes, but is not limited to, the student's name, the name of the student's parent/guardian or other family member, the address of the student or student's family, a personal identifier such as the student's social security number or student number, and a list of personal characteristics or other information that would make the student's identity easily traceable. (34 CFR 99.3)

*Adult student* is a person who is or was enrolled in school and who is at least 18 years of age. (5 CCR 430)

*Parent/guardian* means a natural parent, an adopted parent, legal guardian, surrogate parent, or foster parent. (Education Code 49061, 56050, 56055)

*School officials and employees* are officials or employees whose duties and responsibilities to the district, whether routine or as a result of special circumstances, require that they have access to student records.

*Custodian of records* is the employee responsible for the security of student records maintained by the district and for devising procedures for assuring that access to such records is limited to authorized persons. (5 CCR 433)

*A legitimate educational interest* is one held by school officials or employees whose duties and responsibilities to the district, whether routine or as a result of special circumstances, require that they have access to student records.

*County placing agency* means the county social service department or county probation department. (Education Code 49061)

**Persons Granted Access to Student Records without Prior Written Consent**

Persons, agencies, or organizations specifically granted access rights to student records pursuant to law shall have access without prior written parental consent or judicial order. (Education Code 49076)

The following persons or agencies shall have absolute access to any and all student records in accordance with law:

1. Parents/guardians of students younger than age 18 (Education Code 49069)

Access to student records and information shall not be denied to a parent because he/she is not the child's custodial parent. (Family Code 3025)

**STUDENT RECORDS** (continued)

2. An adult student age 18 or older or a student under the age of 18 who attends a postsecondary institution, in which case the student alone shall exercise rights related to his/her student records and grant consent for the release of records (34 CFR 99.3, 99.5)
3. Any person, agency, or organization authorized in compliance with a court order or lawfully issued subpoena (Education Code 49077)

In addition, the following persons or agencies shall have access to those particular records that are relevant to the *legitimate educational interest* of the requester: (Education Code 49076)

1. Parents/guardians of a dependent student age 18 or older
2. Students age 16 or older or who have completed the 10th grade
3. School officials and employees
4. Members of a school attendance review board and any volunteer aide age 18 or older who has been investigated, selected, and trained by such a board to provide follow-up services to a referred student

(*cf.* 5113.1 - *Truancy*)

5. Officials and employees of other public schools or school systems where the student intends or is directed to enroll, including local, county, or state correctional facilities where educational programs leading to high school graduation are provided
6. Federal, state, and local officials, as needed for program audits or compliance with law
7. Any district attorney who is participating in or conducting a truancy mediation program or participating in the presentation of evidence in a truancy petition
8. A prosecuting agency for consideration against a parent/guardian for failure to comply with compulsory education laws
9. Any probation officer or district attorney for the purposes of conducting a criminal investigation or an investigation in regards to declaring a person a ward of the court or involving a violation of a condition of probation
10. Any judge or probation officer for the purpose of conducting a truancy mediation program for a student, or for purposes of presenting evidence in a truancy petition pursuant to Welfare and Institutions Code 681

**STUDENT RECORDS** (continued)

11. Any county placing agency for the purpose of fulfilling educational case management responsibilities required by the juvenile court or by law pursuant to Welfare and Institutions Code 16010 and to assist with the school transfer or enrollment of a student

*(cf. 6173.1 - Education for Foster Youth)*

Foster family agencies with jurisdiction over currently enrolled or former students may access those students' records of grades and transcripts and any individualized education program (IEP) developed and maintained by the district with respect to such students. (Education Code 49069.3)

*(cf. 6159 - Individualized Education Program)*

When authorized by law to assist law enforcement in investigations of suspected kidnapping, the Superintendent or designee shall provide information about the identity and location of the student as it relates to the transfer of that student's records to another public school district or California private school. The information shall be released only to designated peace officers, federal criminal investigators, and federal law enforcement officers whose names have been submitted in writing by their law enforcement agency in accordance with the procedures specified in Education Code 49076.5. (Education Code 49076.5)

The Superintendent or designee may release information from a student's records to the following: (34 CFR 99.36; Education Code 49076)

1. Appropriate persons in an emergency if the health and safety of the student or other persons are at stake
2. Accrediting associations
3. Under the conditions specified in Education Code 49076, organizations conducting studies on behalf of educational institutions or agencies for the purpose of developing, validating, or administering predictive tests, administering student aid programs, or improving instruction
4. Officials and employees of private schools or school systems where the student is enrolled or intends to enroll
5. Agencies or organizations in connection with the student's application for or receipt of financial aid

**STUDENT RECORDS** (continued)

However, information permitting the personal identification of a student or his/her parents/guardians for these purposes may be disclosed only as may be necessary to determine the eligibility of the student for financial aid, to determine the amount of financial aid, to determine the conditions which will be imposed regarding the financial aid, or to enforce the terms or conditions of the financial aid.

6. County elections officials for the purpose of identifying students eligible to register to vote and offering such students an opportunity to register

*(cf. 1400 - Relations between Other Governmental Agencies and the Schools)*

The Superintendent or designee may release a student's immunization record information to local health departments operating countywide or regional immunization information and reminder systems and the California Department of Public Health. Prior to releasing such information, the Superintendent or designee shall notify the parent/guardian of his/her right to refuse to share the information as well the other information specified in law. The following information may be released: (Health and Safety Code 120440)

1. Name of the student and the student's parent/guardian
2. Student's gender
3. Student's date and place of birth
4. Types and dates of immunizations received
5. Manufacturer and lot number of the immunization received
6. Adverse reaction to the immunization
7. Other nonmedical information necessary to establish the student's unique identity and record

**Persons Granted Access to Student Records with Prior Written Consent**

Persons, agencies, or organizations not afforded access rights by law may be granted access only through written permission of the parent/guardian or adult student, or by judicial order. (Education Code 49075)

Only a parent/guardian having legal custody of the student may consent to the release of records to others. Either parent may grant consent if both parents notify the district, in writing, that such an agreement has been made. (Education Code 49061)

## **STUDENT RECORDS** (continued)

*(cf. 5021 - Noncustodial Parents)*

Any person or agency granted access is prohibited from releasing information to another person or agency without written permission from the parent/guardian or adult student. (Education Code 49076)

### **Access to Records by Authorized Persons**

Student records shall be maintained in a central file at the school attended by the student or, when records are maintained in different locations, a notation shall be placed in the central file indicating where other records may be found. Parents/guardians shall be notified of the location of student records if not centrally located. (Education Code 49069; 5 CCR 433)

To inspect, review, or obtain copies of student records, authorized persons shall submit a request to the custodian of records.

Authorized persons, organizations, or agencies from outside the school whose access requires consent from the parent/guardian or adult student shall submit their request, together with any required authorization, to the Superintendent or designee or the custodian of records. (5 CCR 435)

When prior written consent is required by law, the parent/guardian shall provide a signed and dated written consent before the district discloses the student record. Such consent may be given through electronic means in those cases where it can be authenticated. The consent shall specify the records that may be disclosed, state the purpose of the disclosure, and identify the party or class of parties to whom the disclosure may be made. Upon request by the parent/guardian, the district shall provide him/her a copy of the records disclosed. (34 CFR 99.30)

Within five business days following the date of request, a parent/guardian or other authorized person shall be granted access to inspect, review, and obtain copies of student records during regular school hours. (Education Code 49069)

Qualified certificated personnel shall be available to interpret records when requested. (Education Code 49069)

The custodian of records shall be responsible for the security of student records and shall assure that access is limited to authorized persons. (5 CCR 433)

The custodian of records or the Superintendent or designee shall prevent the alteration, damage, or loss of records during inspection. (5 CCR 435)

**STUDENT RECORDS** (continued)

Prior to disclosing a record pursuant to a court order or subpoena, the Superintendent or designee shall, unless otherwise instructed by the court, give the parent/guardian or adult student at least three days' notice of the name of the requesting agency and the specific record requested if lawfully possible within the requirements of the judicial order. (34 CFR 99.31; 5 CCR 435)

When the district discloses personally identifiable information to officials of another school, school system, or postsecondary institution where the student seeks or intends to enroll, the Superintendent or designee shall make a reasonable attempt to notify the parent/guardian or adult student at his/her last known address, provide a copy of the record that was disclosed, and give him/her an opportunity for a hearing to challenge the record. (34 CFR 99.34)

Upon releasing student information to a judge or probation officer for the purpose of conducting a truancy mediation program or presenting evidence in a truancy petition, the Superintendent or designee shall inform, or provide written notification to, the student's parent/guardian within 24 hours. (Education Code 49076)

If the district is planning to release a student's immunization information to the county health department or California Department of Public Health, the Superintendent or designee shall inform the student's parents/guardians of the following: (Health and Safety Code 120440)

1. The type of information that will be shared
2. The name and address of the agency with which the district will share the information
3. That any shared information shall be treated as confidential and shall be used to share only with each other and, upon request, with health care providers, child care facilities, family child care homes, service providers for the Women, Infants and Children (WIC) food program, county welfare departments, foster care agencies, and health care plans
4. That the information may be used only to provide immunization service; to provide or facilitate third-party payer payments for immunizations; and/or to compile and disseminate statistical information on immunization status on groups of people, without identifying the student
5. That the parent/guardian has the right to examine any immunization-related information shared in this manner and to correct any errors
6. That the parent/guardian may refuse to allow this information to be shared

## **STUDENT RECORDS** (continued)

### **Access Log**

A log shall be maintained for each student's record which lists all persons, agencies, or organizations requesting or receiving information from the records and the *legitimate educational interest* of the requester. (Education Code 49064)

In every instance of inspection by persons who do not have assigned educational responsibility, the custodian of records shall make an entry in the log indicating the record inspected, the name of the person granted access, the reason access was granted, and the time and circumstances of inspection. (5 CCR 435)

The log does not need to record access by: (Education Code 49064)

1. Parents/guardians or adult students
2. Students 16 years of age or older or who have completed the 10th grade
3. Parties obtaining district-approved directory information

(cf. 5125.1 - Release of Directory Information)

4. Parties who provide written parental consent, in which case the consent notice shall be filed with the record pursuant to Education Code 49075
5. School officials or employees who have a *legitimate educational interest*

The log shall be accessible only to the parent/guardian, adult student, dependent adult student, student aged 16 years or older or who has completed the 10th grade, custodian of records, and certain state/federal officials. (Education Code 49064; 5 CCR 432)

### **Duplication of Student Records**

To provide copies of any student record, the district shall charge a reasonable fee not to exceed the actual cost of furnishing the copies. No charge shall be made for providing up to two transcripts or up to two verifications of various records for any former student. No charge shall be made to locate or retrieve any student record. (Education Code 49065)

### **Changes to Student Records**

No additions except routine updating shall be made to a student's record after high school graduation or permanent departure without prior consent of the parent/guardian or adult student. (5 CCR 437)

**STUDENT RECORDS** (continued)

Only a parent/guardian having legal custody of the student or an adult student may challenge the content of a record or offer a written response to a record. (Education Code 49061)

*(cf. 5125.3 - Challenging Student Records)*

**Retention and Destruction of Student Records**

All anecdotal information and assessment reports maintained as student records shall be dated and signed by the individual who originated the data. (5 CCR 431)

The following *mandatory permanent student records* shall be kept indefinitely: (5 CCR 432, 437)

1. Legal name of student
2. Date and place of birth and method of verifying birth date

*(cf. 5111 - Admission)*

3. Sex of student
4. Name and address of parent/guardian of minor student
  - a. Address of minor student if different from the above
  - b. Annual verification of parent/guardian's name and address and student's residence

*(cf. 5111.1 - District Residency)*

*(cf. 5111.12 - Residency Based on Parent/Guardian Employment)*

*(cf. 5111.13 - Residency for Homeless Children)*

5. Entrance and departure date of each school year and for any summer session or other extra session
6. Subjects taken during each year, half-year, summer session, or quarter, and marks or credits given

*(cf. 5121 - Grades/Evaluation of Student Achievement)*

7. Verification of or exemption from required immunizations

*(cf. 5141.31 - Immunizations)*

**STUDENT RECORDS** (continued)

8. Date of high school graduation or equivalent

*Mandatory interim student records*, unless forwarded to another district, shall be maintained, subject to destruction during the third school year following a determination that their usefulness has ceased or the student has left the district. These records include: (Education Code 48918, 51747; 5 CCR 432, 437, 16027)

1. Expulsion orders and the causes therefore

*(cf. 5144.1 - Suspension and Expulsion/Due Process)*

*(cf. 5144.2 - Suspension and Expulsion/Due Process (Students with Disabilities))*

2. A log identifying persons or agencies that request or receive information from the student record
3. Health information, including verification or waiver of the health screening for school entry

*(cf. 5141.32 - Health Screening for School Entry)*

4. Information on participation in special education programs, including required tests, case studies, authorizations, and evidence of eligibility for admission or discharge

*(cf. 6159 - Individualized Education Program)*

*(cf. 6164.4 - Identification and Evaluation of Individuals for Special Education)*

5. Language training records

*(cf. 6174 - Education for English Language Learners)*

6. Progress slips/notices required by Education Code 49066 and 49067

7. Parental restrictions/stipulations regarding access to directory information

8. Parent/guardian or adult student rejoinders to challenged records and to disciplinary action

9. Parent/guardian authorization or denial of student participation in specific programs

10. Results of standardized tests administered within the past three years

*(cf. 6162.51 - Standardized Testing and Reporting Program)*

*(cf. 6162.52 - High School Exit Examination)*

**STUDENT RECORDS** (continued)

11. Written findings resulting from an evaluation conducted to determine whether it is in a student's best interest to remain in independent study

*(cf. 6158 - Independent Study)*

*Permitted student records* may be destroyed six months after the student completes or withdraws from the educational program, including: (5 CCR 432, 437)

1. Objective counselor/teacher ratings
2. Standardized test results older than three years
3. Routine disciplinary data

*(cf. 5144 - Discipline)*

4. Verified reports of relevant behavioral patterns
5. All disciplinary notices
6. Supplementary attendance records

Records shall be destroyed in a way that assures they will not be available to possible public inspection in the process of destruction. (5 CCR 437)

**Transfer of Student Records**

If a student transfers into this district from any other school district or a private school, the Superintendent or designee shall inform the parent/guardian of his/her rights regarding student records, including the right to review, challenge, and receive a copy of student records. (Education Code 49068; 5 CCR 438)

When a student transfers into this district from another, the Superintendent or designee shall request that the student's previous district provide any records, either maintained by that district in the ordinary course of business or received from a law enforcement agency, regarding acts committed by the transferring student that resulted in his/her suspension or expulsion. (Education Code 48201)

*(cf. 4158/4258/4358 - Employee Security)*

**STUDENT RECORDS** (continued)

When a student transfers from this district to another school district or to a private school, the Superintendent or designee shall forward a copy of the student's *mandatory permanent record* as requested by the other district or private school. The original record or a copy shall be retained permanently by this district. If the transfer is to another California public school, the student's entire *mandatory interim record* shall also be forwarded. If the transfer is out of state or to a private school, the *mandatory interim record* may be forwarded. *Permitted student records* may be forwarded to any other district or private school. (5 CCR 438)

Upon receiving a request from an admitting school for a student's records, the district shall also forward any expulsion order and the causes for the expulsion. (Education Code 48918)

Upon receiving a request from a county placing agency to transfer a student in foster care out of a district school, the Superintendent or designee shall transfer the student's records to the next educational placement within two business days. (Education Code 49069.5)

All student records shall be updated before they are transferred. (5 CCR 438)

Student records shall not be withheld from the requesting district because of any charges or fees owed by the student or parent/guardian. (5 CCR 438)

If the district is withholding grades, diploma, or transcripts from the student because of his/her damage or loss of school property, this information shall be sent to the requesting district along with the student's records.

(*cf.* 5125.2 - *Withholding Grades, Diploma or Transcripts*)

**Notification of Parents/Guardians**

Upon any student's initial enrollment, and at the beginning of each year thereafter, the Superintendent or designee shall notify parents/guardians and eligible students, in writing, of their rights related to student records. Insofar as practicable, the district shall provide these notices in the student's home language and shall effectively notify parents/guardians or eligible students who are disabled. (34 CFR 99.7; Education Code 49063)

(*cf.* 5145.6 - *Parental Notifications*)

The notice shall include: (34 CFR 99.7, 99.34; Education Code 49063)

1. The types of student records kept by the district and the information contained therein
2. The title(s) of the official(s) responsible for maintaining each type of record
3. The location of the log identifying those who request information from the records

**STUDENT RECORDS** (continued)

4. District criteria for defining *school officials and employees* and for determining *legitimate educational interest*
5. District policies for reviewing and expunging student records
6. The right to inspect and review student records and the procedures for doing so
7. The right to challenge and the procedures for challenging the content of a student record that the parent/guardian or student believes to be inaccurate, misleading, or otherwise in violation of the student's privacy rights

*(cf. 5125.3 - Challenging Student Records)*

8. The cost, if any, charged for duplicating copies of records
9. The categories of information defined as directory information pursuant to Education Code 49073
10. The right to consent to disclosures of *personally identifiable information* contained in the student's records except when disclosure without consent is authorized by law
11. The availability of the curriculum prospectus developed pursuant to Education Code 49091.14 containing the titles, descriptions, and instructional aims of every course offered by the school

*(cf. 5020 - Parent Rights and Responsibilities)*

12. Any other rights and requirements set forth in Education Code 49060-49078, and the right of parents/guardians to file a complaint with the United States Department of Education concerning an alleged failure by the district to comply with 20 USC 1232g
13. A statement that the district forwards education records to other agencies or institutions that have requested the records and in which the student seeks or intends to enroll