

STUDENT RECORDS

PRIVACY, DISCLOSURE, AND RETENTION



**Office of Education
Southeastern California Conference
2012**

Student Records

Privacy, Disclosure, and Retention

Parents and students put their trust in the Office of Education and its schools to ensure students' personal information is properly safeguarded and is used only for legitimate purposes and only when absolutely necessary. This trust is deeply valued and every effort is put forth to protect the privacy of students and their records.

The SECC Office of Education recognizes the importance of keeping accurate, comprehensive student records. Procedures for maintaining the confidentiality shall be consistent with Pacific Union Conference Education Code as well as aligned with state and federal laws which are guidelines to our schools (as FERPA does not directly apply to our schools which receive no federal or state funding).

This document establishes guidelines for the identification, description and security of student records, as well as timely access for authorized persons. These guidelines shall ensure parental rights to review, inspect and copy student records and protect the student and the student's family from invasion of privacy.

DEFINITIONS:

Student records: any items of information gathered within or outside the school that are directly related to an identifiable student and maintained by the school 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 or by other means. Student records include the student's health record. (34 CFR 99.3; CA Education Code 49061, 49062; 5 CCR 430)

Mandatory Permanent Student Records: those records which are maintained in perpetuity and which schools have been directed to compile by regulation or authorized administrative directive. (5 CCR 430)

Mandatory Interim Student Records: Records which the schools are directed to compile and maintain for stipulated periods of time and are then destroyed as per regulation or authorized administrative directive. (5 CCR 430)

Permitted Pupil Records: Records that have clear importance only to the current educational process of the student. (5 CCR 430)

Access: 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. (CA Education Code 49061)

Disclosure: 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)

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)

Parent/Guardian: A natural parent, an adopted parent, legal guardian, surrogate parent, or foster parent. (CA Education Code 49061, 56050, 56055)

School officials and employees: Officials or employees (excluding student workers) whose duties and responsibilities to the school or Office of Education, whether routine or as a result of special circumstances, require that they have access to student records.

Custodian of records: The employee responsible for the security of student records maintained by the Office of Education and at each school as well as devising procedures for assuring that access to such records is limited to authorized persons. (5 CCR 433)

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

PERSONS GRANTED ACCESS TO STUDENT RECORDS WITHOUT PRIOR WRITTEN CONSENT

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

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

- Parents/guardians of students younger than age 18 (CA 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)
- An adult student age 18 or older or a student under the age of 18 who attend 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)
- Any person, agency or organization authorized in compliance with a court order or lawfully issued subpoena (CA 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: (CA Education Code 49076)

- Parents/guardians of a dependent student age 18 or older
- Students age 16 or older or who have completed the 10th grade
- School officials and employees (excluding student workers)
- Officials and employees of other 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.
- Any probation officer or district attorney for the purposes of conducting a criminal investigation or an investigation in regard to declaring a person a ward of the court of involving a violation of a condition of probation.
- 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.

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 school with respect to such students. (CA Education Code 49069.3)

When authorized by law to assist law enforcement in investigations of suspected kidnapping, the Superintendent or Principal or their designees shall provide information about the identity and location of the student as it relates to the transfer of that student's records to a public school district or 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 CA Education Code 49076.5.

The Superintendent, Principal or their designees may release information from a student's record to the following: (34 CFR 99.36; CA Education Code 49076)

- Appropriate persons in an emergency if the health and safety of the student or other persons are at stake.
- Accrediting associations

- 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.
- Agencies or organizations in connection with the student's application for or receipt of financial aid. However, information permitting the personal identification of a student of his/her parents/guardians for these purposes may be disclosed only as may be necessary to determine the eligibility of the student for financial, 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.

The Superintendent, Principal or their designees 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, Principal or their designees shall notify the parent/guardian of his/her right to refuse to share the information as well as the other information specified in law. The following information may be released: (Health and Safety Code 120440)

- Name of the student and the student's parent/guardian
- Student's gender
- Student's date and place of birth
- Types and dates of immunizations received
- Manufacturer and lot number of the immunizations received
- Adverse reaction to the immunization
- 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. (CA 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 school, in writing, that such an agreement has been made. (CA Education Code 49061)

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. (CA 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 locate. (CA Education Code 49061)

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 school or Office of Education 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 school or Office of Education 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. (CA Education Code 49069)

Qualified certificated personnel shall be available to interpret records when requested. (CA 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, the school principal or the Superintendent or their designees shall prevent the alteration, damage, or loss of records during inspection.

Prior to disclosing a record pursuant to a court order or subpoena, the Superintendent, Principal or their 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 99.34)

When the school or Office of Education discloses personally identifiable information to officials of another school, school system or postsecondary institution where the student seeks or intends to enroll, the Superintendent, school or their designees 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)

If the school is requested to release a student's immunization information to the county health department or California Department of Public Health, the students' parents/guardians shall be informed of the following: (Health and Safety Code 120440)

- The type of information that will be shared
- The name and address of the agency with which the school will share the information
- 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, county welfare departments, foster care agencies, and health care plans
- 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
- That the parent/guardian has the right to examine any immunization-related information shared in this manner and to correct any errors
- That the parent/guardian may refuse to allow this information to be shared.

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. (CA 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: (CA Education Code 49064)

- Parents/guardians or adult students
- Students 16 years of age or older or who have completed the 10th grade
- Parties obtaining school-approved directory information
- Parties who provide written parental consent, in which case the consent notice shall be filed with the record
- 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 age 16 years or older or who has completed the 10th grade, and custodian of records.

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)

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. (CA Education Code 49061)

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.

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

- Legal name of student
- Date and place of birth and method of verifying birth date
- Sex of student
- Name and address of parent/guardian of minor student
 - Address of minor student if different from the above
 - Annual verification of parent/guardian's name and address and student's residence
- Entrance and departure date of each school year and for any summer session or other extra session
- Daily attendance record (PUC Ed Code A26-108)
- Subjects taken during each year, half-year, summer session, or quarter, and marks or credits given
- Verification of or exemption from required immunizations
- Date of high school graduation or equivalent

Mandatory interim student records, unless forwarded to another school, 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 school. These records include: (CA Education Code 48918, 51747; 5 CCR 432, 437, 16027)

- Expulsion order and the causes therefore
- A log identifying persons or agencies who request or receive information from the student record
- Health information, including verification or waiver of the health screening for school entry
- Progress slips/notices
- Parental restriction/stipulations regarding access to directory information
- Parent/guardian or adult student rejoinders to challenged records and to disciplinary action
- Parent/guardian authorization or denial of student participation in specific programs
- Results of standardized tests administered within the past three years

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

- Objective counselor/teacher ratings
- Standardized test results older than three years
- Routine disciplinary data
- Verified reports of relevant behavioral patterns
- All disciplinary notices
- 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 the school from any other school, the Principal 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. (CA Education Code 49068; 5 CCR 438)

When a student transfers into the school from another, the Principal or designee shall request that the student's previous school provide any records, either maintained by that school 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)

When a student transfers from the school to another school, the Principal or designee shall forward a copy of the student's **mandatory permanent record** as requested by the other school. The original record or a copy shall be retained permanently:

- All elementary and junior high permanent records are to be transferred to the Office of Education at the close of each school where they will be retained permanently.
- Secondary school permanent records are to be kept by the respective school.
- Discontinued school permanent records are to be transferred to the Office of Education.

The student's entire **mandatory interim record** may be forwarded. **Permitted student records** may be forwarded to any other school, either public or private. (5 CCR 438)

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

ALL STUDENT RECORDS SHALL BE UPDATED BEFORE THEY ARE TRANSFERRED. Verify that each cumulative file being forwarded contains the following: (PUC Education Code A26-112B)

- Legal name of student
- Date and place of birth and method of verifying birth date
- Sex of student
- Current name and address of student and parent/guardian
- Entrance and departure date of each school year and for any summer session or other extra session
- Subjects taken during each year, half-year, summer session or quarter, and grades or credits given (copies of student progress reports)
- Standardized test profiles (where applicable)

- Record of recommendation for retention, acceleration, special education
- Verification of or exemption from required immunizations (Send Blue Immunization card; keep copy “in perpetuity” on school site)
- Full name of teacher for each year in attendance
- Name and full address of school
- Total days present and total days absent for each year in attendance
- Date of high school graduation or equivalent (secondary graduates)

(Cumulative folders are to be checked during each school year by the school administrator or by the Office of Education personnel, and every folder is to be accurate and up-to-date before the teacher receives check-out clearance at the end of each school year.)

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

If the school 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 school along with the student’s records.

NOTIFICATION OF PARENTS/GUARDIANS

Upon any student’s initial enrollment, and at the beginning of each year thereafter, the Principal or designee shall notify parents/guardians and eligible students, in writing, of their rights related to student records. The notice shall include: (34 CFR 99.7, 99.34; CA Education Code 49063)

- The types of student records kept by the school and the information contained therein
- The title(s) of the person responsible for maintaining each type of record
- The location of the log identifying those who request information from the records
- Office of Education criteria for defining *school officials and employees* and for determining *legitimate educational interest*
- Office of Education policies for reviewing and expunging student records
- The right to inspect and review student records and the procedures for doing so
- 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
- The cost, if any, charged for duplicating copies of records
- The categories of information defined as directory information
- 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
- The availability of the curriculum prospectus developed containing the titles, descriptions, and instructional aims of every course offered by the school
- A statement that the district forwards education records to other agencies, schools, or institutions that have requested the records and in which the student seeks or intends to enroll.

RELEASE OF DIRECTORY INFORMATION

Directory information means information contained in an education record of a student that would not generally be considered harmful or an invasion of privacy if disclosed. Such student information includes: (34 CFR 99.3; CA Education Code 49061)

- Name
- Address
- Telephone number
- Photograph
- Date and place of birth
- Major field of study
- Participation in officially recognized activities and sports
- Weight and height of athletic team members
- Dates of attendance
- Degrees and awards received
- Most recent previous school attended

Notification to Parents/Guardians

At the beginning of each school year, all parents/guardians shall be notified as to the categories of directory information the school plans to release and the recipients of the information. The notification shall also inform parents/guardians of their right to refuse to let the school designate any or all types of information as directory information and the period of time within which a parent/guardian must notify the district in writing that he/she does not want a certain category of information designated as directory information. (CA Education Code 49063, 49073; 34 CFR 99.37)

The Principal or designee shall notify parents/guardians that they may request the school not release the name, address, and telephone number or any directory information of their child without prior written consent. (20 USC 7908, 20 USC 1232g; CA Education Code 49073)

The Office of Education recognizes the importance of maintaining the confidentiality of directory information and therefore authorizes the release of such information only in accordance with law, school board policy and administrative regulation.

The Principal or designee may limit or deny the release of specific categories of student directory information to any public or private nonprofit organization based on his/her determination of the best interest of students. (CA Education Code 49073)

The school may disclose appropriately designate “directory information” without written consent, unless the parent/guardian has advised the school in writing to the contrary. The primary purpose of directory information is to allow the school to include this type of information from a student’s education records in certain school publications. Examples include:

- A school program, showing a student’s role in a the program or production
- The annual yearbook
- Honor roll or other recognition lists
- Graduation programs
- Sports activity sheets showing weight and height of team members.

Directory information, which is information that is generally not considered harmful or an invasion of privacy if released, can also be disclosed to outside organizations without a parent/guardian’s prior written consent. Outside organizations include, but are not limited to, companies that manufacture school clothing or publish yearbooks.

CHALLENGING STUDENT RECORDS

The custodial parent/guardian of any student may submit to the Principal or designee a written request to correct or remove from his/her child's records any information concerning the child which he/she alleges to be any of the following: (CA Education Code 49070)

- Inaccurate
- An unsubstantiated personal conclusion or inference
- A conclusion or inference outside of the observer's area of competence
- Not based on the personal observation of a named person with the time and place of the observation noted
- Misleading
- In violation of the privacy or other rights of the student.

When a student grade is challenged, the teacher who gave the grade shall be given an opportunity to state orally, in writing, or both, the reasons for which the grade was given. Insofar as practicable, he/she shall be included in all discussions related to any grade change. In the absence of clerical or mechanical error, fraud, bad faith or incompetency, the student's grade as determined by the teacher shall be final. (CA Education Code 49066)

Within 30 days of receiving a request to correct or remove information from a record, the Principal or designee shall meet with the parent/guardian and with the employee (if still employed) who recorded the information in question. The Principal shall then sustain or deny the allegations. (CA Education Code 49070)

If the parent/guardian's allegations are sustained, the Principal shall order the correction or removal and destruction of the information. (CA Education Code 49070)

If the Principal denies the allegations, the parent/guardian may write within 30 days to appeal the decision to the School Board. Within 30 days of receiving the written appeal, the School Board shall meet in closed session with the parent/guardian and the employee who recorded the information in question. The School Board shall then decide whether or not to sustain or deny the allegations. If it sustains any or all of the allegations, the Principal shall immediately correct or remove and destroy the information from the student's records. (CA Education Code 49070)

The decision of the School Board shall be final. If the decision of the Principal or School Board is unfavorable to the parent/guardian, the parent/guardian shall have the right to submit a written statement of objections. This statement shall become a part of the student's record. (CA Education Code 49070)

The right to challenge a record becomes the sole right of the student when the student becomes 18 or attends a postsecondary institution. (CA Education Code 49061)

Classification of Student Records

Mandatory Permanent <i>(Grades 9-12 School Transcripts)</i>	Mandatory Interim <i>Cumulative Files</i>	Permitted <i>(Grades 9-12 School Transcripts)</i>
<p>A. Legal name of student B. Date and place of birth and method of verifying birth date C. Sex of student D. Name and address of parent/guardian of minor student 1) Address of minor student if different from the above 2) Annual verification of parent/guardian's name and address and student's residence E. Entrance and departure date of each school year and for any summer session or other extra session F. Subjects taken during each year, half-year, summer session, or quarter, and marks or credits given G. Verification of or exemption from required immunizations H. Date of high school graduation or equivalent</p> <p style="text-align: center;">Keep at school site permanently. Copies may be transferred as allowed by regulation.</p> <p style="text-align: center;"><i>(K-8: School Registers or Electronic Equivalent)</i></p> <p>A. Legal name of student B. Date and place of birth (include method of verifying birth date) C. Sex of student D. Name and address of parent/guardian of minor student 1) Address of minor student if different from the above 2) Annual verification of parent/guardian's name and address and student's residence E. Entrance and departure date of each school year and for any summer session or other extra session F. Daily attendance (PUC Ed Code A26-108) G. Subjects taken during each year, half-year, summer session, or quarter, and marks or credits given H. Verification of or exemption from required immunizations</p> <p style="text-align: center;">Transferred to the SECC Office of Education at the close of each school year.</p> <p style="font-size: small;"><i>Updated 02/09/2012</i></p>	<p>A. Access log identifying who requests or receives information from student record B. Legal name of student C. Date and place of birth and method of verifying birth date D. Sex of student E. Current name and address of student and parent/guardian F. Entrance and departure date of each school year and for any summer session or other extra session G. Subjects taken during each year, half-year, summer session or quarter, and grades or credits given (copies of student progress reports K-8) H. Standardized test profiles (where applicable) I. Record of recommendation for retention, acceleration, special education J. Verification of or exemption from required immunizations (send Blue Immunization card; keep copy "in perpetuity" on school site) K. Full name of teacher for each year in attendance (K-8) L. Name and full address of school M. Total days present and total days absent for each year in attendance N. Date of high school graduation or equivalent (secondary graduates) O. Health records (kept in separate file but transferred with cumulative file when requested) P. May also contain: 1) Special education programs • Tests • Forms • Case Studies • Authorization and actions 2) Language training records 3) Directory information prohibitions 4) Other parental authorizations or prohibitions 5) Standardized tests administered within the past 3 years</p> <p>Unless forwarded to another school:</p> <ul style="list-style-type: none"> • Elementary cumulative records may be destroyed after the date the student would normally graduate from 12th grade. • The cumulative record for a student in grades 9-12 is to be kept for 5 years beyond the year when the student did or should have graduated from grade 12. 	<p>A. Objective counselor/teacher ratings B. Standardized test results older than 3 years C. Routine disciplinary date D. Verified reports of relevant behavioral patterns E. All discipline notices F. Supplementary attendance records</p> <p style="text-align: center;">May be destroyed 6 months after the student completes or withdraws from the education program.</p> <p style="text-align: center; font-weight: bold; font-size: 1.2em;"><u>Please Note:</u> Records must be destroyed in a way that assures they will not be available to possible public inspection in the process of destruction.</p>