

Students

STUDENT RECORDS; CONFIDENTIALITY

Definitions

Student means any individual who is or has been in attendance at the District and regarding whom the District maintains student records. (34 CFR 99.3)

Attendance includes, but is not limited to, attendance in person or by paper correspondence, videoconference, satellite, Internet, or other electronic information and telecommunication technologies for students who are not physically present in the classroom, and the period during which a person is working under a work-study program. (34 CFR 99.3)

Student records are any items of information (in handwriting, print, tape, film, computer, or other medium) gathered within or outside the District that are directly related to an identifiable student and maintained by the District, required to be maintained by an employee in the performance of his/her duties, or maintained by a party acting for the District. Any information maintained for the purpose of second-party review is considered a student record. 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; 5 CCR 430)

1. 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 – Recovery for Property Loss or Damage)

4. Records created or received by the District after an individual is no longer a student in attendance and that are not directly related to the individual's attendance as a student.

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5. Grades on peer-graded papers before they are collected and recorded by a teacher.

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, except the party that provided or created the record, by any means including oral, written, or electronic. (34 CFR 99.3)

Personally identifiable information includes, but is not limited to: (34 CFR 99.3)

1. The student's name.
2. The name of the student's parent/guardian or other family members.
3. The address of the student or student's family.
4. A personal identifier, such as the student's social security number, student number, or biometric record (e.g., fingerprints, retina and iris patterns, voiceprints, DNA sequence, facial characteristics, and handwriting).

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5. Other indirect identifiers, such as the student's date of birth, place of birth, and mother's maiden name.
6. Other information that alone or in combination is linked or linkable to a specific student that would allow a reasonable person in the school community, who does not have personal knowledge of the relevant circumstances, to identify the student with reasonable certainty.
7. Information requested by a person who the District reasonably believes knows the identity of the student to whom the student record relates.

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. School officials and employees include contractors, consultants, volunteers, or other parties to whom the District has outsourced District functions and who perform services for which the District would otherwise use employees.

A legitimate educational interest is one held by 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)

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

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

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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)

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 99.5)
3. Any person, agency, or organization authorized in compliance with a court order or lawfully issued subpoena. (Education Code 49077)

Unless otherwise instructed by the court, the Superintendent/designee shall, prior to disclosing a record pursuant to a court order or subpoena, 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)

In addition, the following persons or agencies shall have access to those particular records that are relevant to their legitimate educational interest: (34 CFR 99.31; Education Code 49076)

1. Parents/guardians of a dependent student age 18 or older.
2. Students aged 16 or older or who have completed the tenth grade.
3. School officials and District employees, consistent with criteria defined by the District.
4. Members of a school attendance review board (SARB) and any volunteer aide age 18 or older who has been investigated, selected, and trained by SARB to provide follow-up services to a referred student.

(cf. 5113.1 – Perfect Attendance)

5. Officials and employees of other public schools, school systems, or postsecondary institutions 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, or where the student

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is already enrolled, as long as the disclosure is for purposes related to the student's enrollment or transfer.

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 or a prosecuting agency for consideration against a parent/guardian for failure to comply with compulsory education laws.
8. 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.
9. 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.

Upon releasing student information to a judge or probation officer in such cases, the Superintendent/designee shall inform, or provide written notification to, the student's parent/guardian within 24 hours. (Education Code 49076)

10. 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)

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When authorized by law to assist law enforcement in investigations of suspected kidnapping, the Superintendent/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 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/designee may release information from student records to the following: (34 CFR 99.31, 99.36; Education Code 49076)

1. Appropriate persons, including parents/guardians, in an emergency, if the health and safety of a student or other persons are at stake.
2. Accrediting associations.
3. Under the conditions specified in Education Code 49076 and 34 CFR 99.31, 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, provided that:
 - a. The study is conducted in a manner that does not permit personal identification of parents/guardians and students by individuals other than representatives of the organization who have legitimate interests in the information.
 - b. The information is destroyed when no longer needed for the purposes for which the study is conducted.
 - c. The District enters into a written agreement with the organization that includes the information in 34 CFR 99.31.
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 a student's application for or receipt of financial aid.

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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, determine the amount of financial aid, determine the conditions which will be imposed regarding the financial aid, or to enforce the terms or conditions of the financial aid.

The District expects all students to model a high level of citizenship and responsibility. During the college application process, the District will not proactively inform colleges and universities about any disciplinary actions against students, or provide any other confidential pupil records, unless the District receives prior written consent from the parent, guardian, or student if over 18. However, colleges frequently ask applicants whether or not they have been found responsible for a disciplinary violation from ninth grade forward, whether related to academic misconduct or behavioral misconduct, which has resulted in probation, suspension, removal, dismissal, or expulsion from school. The District encourages students to answer these questions honestly and openly. If these questions are answered in the affirmative, counselors can assist families in developing a personal statement that will help contextualize the situation. On the occasions where a college or university requests the District to disclose disciplinary actions, the District shall not disclose such information without written parent permission.

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

The Superintendent/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 Health Services.

Prior to releasing such information, the Superintendent/designee shall notify the parent/guardian of his/her rights in accordance with law. (Health and Safety Code 120440)

Persons Granted Access to Student Records With Prior Written Consent

Persons, agencies, or organizations not afforded access rights by law may be

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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)

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)

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 shall develop reasonable methods, including physical, technological, and administrative controls, to ensure that school officials and employees obtain access to only those student records in which they have legitimate educational interests. (34 CFR 99.31)

To inspect, review, or obtain copies of student records, authorized persons shall submit a request to the custodian of records. For those individuals for whom the law requires that access be granted based on a legitimate educational interest, the request shall specify such interest involved. Prior to granting the request, the custodian of records shall authenticate the individual's identity.

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 District's consent form shall specify the records that may be

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

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 tenth grade.
3. Parties obtaining District-approved 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.

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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 tenth grade, custodian of records, and certain state/federal officials. (Education Code 49064; 5 CCR 432)

De-Identification of Records

The Superintendent/designee may release information from a student record without prior consent of the parent/guardian or adult student after the removal of all personally identifiable information, provided that he/she has made a reasonable determination that the student's identity is not personally identifiable, whether through single or multiple releases, and taking into account other reasonably available information. (34 CFR 99.31)

The Superintendent/designee may release de-identified student data from education records for the purpose of educational research in accordance with the conditions specified in 34 CFR 99.31.

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 providing 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)

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)

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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 dates 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)

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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 of Individuals for Special Education)

5. Language training records.

(cf. 6174 – Education for English Language Learners)

6. Progress slips/notices required by Education Code section 49066 and 49067.
7. Parental restrictions/stipulations regarding access to directory information.
8. Parent/guardian or adult student rejoinders to challenged records and disciplinary action.

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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)

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

(cf. 6158 – Independent Study Program)

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 and/or 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/designee shall inform the parent/guardian of his/her

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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, the Superintendent/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. 5119 – Students Expelled From Other Districts)

When a student transfers from this District, the Superintendent/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 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 a county placing agency to transfer a student in foster care out of a District school, the Superintendent/designee shall transfer the student's records to the next educational placement within two business days. (Education Code 49069.5)

(cf. 6173.1 – Education for Foster Youth)

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. (Education Code 48904.3)

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Notification of Parents/Guardians

Upon students' initial enrollment, and at the beginning of each year thereafter, the Superintendent/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)

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.
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.
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.

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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 – Students, Parent/Guardian 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 or is already enrolled as long as the disclosure is for purposes related to the student's enrollment.

Regulation

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CHULA VISTA ELEMENTARY SCHOOL DISTRICT
Chula Vista, California