

Administrative Regulation

STUDENTS

Student Records

Definitions

"*Parent*" means a natural parent, adoptive parent, or legal guardian. If parents are divorced or legally separated, only the parent having legal custody of the student may challenge the content of a record, offer a written response to a record, or consent to release records to others. Either parent may grant consent if both parents notify the district, in writing, that such an agreement has been made.

Once a student reaches the age of 18 or attends a postsecondary school, he/she alone shall exercise these rights and grant consent for the release of records.

"*Student record*" means any item of information, other than directory information, directly related to an identifiable student and maintained by the district or required to be maintained by a school employee in the performance of her/his duties whether recorded in handwriting, print, tapes, film, microfilm or by other means. The student record shall include the student's health record and information relative to a student gathered within or without the school system. The student record shall not include informal notes about a student which a school employee keeps for private use and are not revealed to any other person except a substitute.

"*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)

"*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)

"*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. A "legitimate educational interest" is one held by officials and employees whose duties and responsibilities to the district require that they have access to student records. The custodian of records shall determine whether the person seeking access meets the required criteria.

"*Mandatory Permanent Student Records*," which shall be kept indefinitely, include:

1. Legal name of student.
2. Date and place of birth.
3. Method of verification of birthdate.
4. Gender of student.

5. 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.
6. Entering and leaving date of each school year and for any summer session or other extra session.
7. Subjects taken during each year, half-year, summer session, or quarter, and marks or grades given.
8. Verification of or exemption from required immunizations.
9. Date of eighth grade graduation.

"Mandatory Interim Student Records," which may be destroyed after a stipulated length of time, include:

1. A log identifying persons or agencies who request or receive information from the student record. Log shall be accessible only to the legal parent/guardian, eligible student, dependent adult student, adult student or custodian of records.
2. Health information, including Child Health and Disability Prevention Program verification or waiver.
3. Information on participation in special education programs, including required tests, case studies, authorizations, and evidence of eligibility for admission or discharge.
4. Progress slips/notices required by Education Code 49066 and 49067.
5. Parental restrictions/stipulations regarding access to directory information.
6. Parent/guardian rejoinders to challenged records and to disciplinary action.
7. Parental authorization or denial of student participation in specific programs.
8. Results of standardized tests given within the past three years.
9. Expulsion orders and causes therefor.
10. Language training records.

"Permitted Records," kept only as currently useful, may include:

1. Objective counselor/teacher ratings.
2. Routine disciplinary notices and data.
3. Verified reports of relevant behavior patterns.
4. Standardized test results older than three years.
5. Supplementary attendance records.

Persons with Access to Student Records

"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.

Retention and Destruction of Student Records

1. 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.
2. Mandatory Permanent Student Records shall be kept indefinitely (5 CCR 432, 437).
3. Unless forwarded to another district, Mandatory Interim Student Records may be destroyed three years after determining that their usefulness has ceased or that the student has left the district. Education Code 48918; 5 CCR 432, 437, 16027
4. Permitted Student Records may be destroyed when their usefulness ceases. They may be destroyed six months after the student completes or withdraws from the educational program. 5 CCR 432, 437
5. Records shall be destroyed in a way that guarantees they will not be viewed by the public.

Access to Student Records

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

Access to student records and information shall not be denied to a parent/guardian because he/she is not the child's custodial parent/guardian.

When both parents have been awarded joint custody of a pupil by a duly authorized court, the following procedure will be followed:

The school principal must be provided a copy of the current joint custody court documents or other official documentation which verifies joint custody and other court mandates. The information regarding the joint custody order shall be recorded on the pupil's emergency card and shall become a part of the pupil's cumulative record. The parent with whom the pupil resides during the regular school week shall be the primary recipient of pupil records, reports, and school/home communications. The other parent may request (in writing) the specific information about her/his child. The principal will send the written request to the Director of Educational Services for review and consideration for approval.

Joint custody cases in which a pupil changes residence periodically during the school year in order to live with the other parent will be time/date documented in the pupil's records. When such change of residence is to another school district, the non-resident parent must obtain an inter-district attendance agreement. Continued attendance in Berryessa Union School District is contingent upon approval of the inter-district request by both school districts.

Only a parent 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 by Consent

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

Parental consent is not required when information is shared with other persons within educational institutions, agencies or organizations obtaining access, so long as those persons have a legitimate educational interest in the information. (Education Code 49076)

Log

For each student's record, the school custodian of records shall keep a log identifying all persons, agencies or organizations requesting or receiving information from the record. In every instance of inspection by persons who do not have assigned educational responsibility, the school 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 include: (Education Code 49064)

1. Parents/guardians or adult students.
2. Students 16 years of age or older 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.
5. School officials or employees who have legitimate educational interest

The log may be inspected by a parent/guardian, the school custodian of records, and certain state/federal officials. Education Code 49064; 5 CCR 432

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

1. Natural parents, adoptive parents, or legal guardians of students younger than age 18, during school hours within five days of the request. Qualified certificated staff will be available to interpret the records. 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. Those so authorized in compliance with a court order or lawfully issued subpoena. If lawfully possible, the district shall first give the parent/guardian three days' notice, telling who is requesting what records. Education Code 49077

The following persons or agencies shall have access to those particular records which are relevant to

the legitimate educational interests of the requester: Education Code 49076

1. Natural or adoptive parents or legal guardians of a dependent student age 18 or older.
2. Students 16 or older or who have completed the tenth grade.
3. School officials and employees and School Attendance and Review Board (SARB) members.
4. Officials or employees of other public school 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.
5. Federal, state and local officials, as needed for program audits or compliance with law.
6. County child welfare services workers responsible for the case plan of a minor who is being placed in foster care.
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.

Permitted Access

The district may release information from student records to the following: (Education Code 49076)

1. Appropriate persons in an emergency if the health and safety of a student or other persons are at stake.
2. Agencies or organizations in connection with student's application for financial aid.
3. Accrediting associations.
4. 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.
5. Officials and employees of private schools or school systems where the student is enrolled or intends to enroll.

6. 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 district or private school within the state. 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. Education Code 49076.5

Safeguards

1. Each site shall keep a comprehensive, up-to-date, current listing of the names and positions of those employees who may have access to pupil records.
2. Student records shall be maintained in a central file at the school attended by the student or, when records are maintained in different location, a notation shall be placed in the central file indicating where other records may be found.
3. The list must be posted in a conspicuous place.
4. The list shall include names and positions of teachers, administrators, and others who are legally authorized to have access to pupil records.
5. -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
6. To inspect, review or obtain copies of student records, authorized persons shall submit a request to the custodian of records.
7. Authorized persons from outside the school whose access requires consent from the parent/guardian shall submit their request, together with any required authorization, to the Superintendent or designee or the custodian of records. 5 CCR 435
8. Within five (5) days following the date of request, an authorized person shall be granted access to inspect, review and obtain copies of student records during regular school hours. Education Code 49069; 5 CCR 431
9. The custodian of records or the Superintendent or designee shall prevent the alteration, damage or loss of records during inspection. 5 CCR 435
10. All persons collecting or using personally identifiable (pupil records) information must receive training or instruction regarding confidentiality of personally identifiable information and other policies and procedures of 45 CFR, Part 121a (EHA) and 45 CFR, Part 99.
11. 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

12. 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

Release of Immunization Records

If the district is planning to release a student's immunization information to the county health department or state Department of Health Services, 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, WIC service providers, county welfare departments, 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; 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.

The Superintendent or designee may release a student's immunization record information to local health departments operating countywide immunization information and reminder systems and the State Department of Health Services. The following information may be released: the name of the student and the student's parent/guardian; types and dates of immunization received by the student; manufacturer and lot number of the immunization received; adverse reaction to the immunization; other non-medical information necessary to establish the student's unique identity record; current address and telephone number of the student and his/her parent/guardian; the student's gender; and the student's place of birth. (Health and Safety Code 120440)

Notification of Parents/Guardians

Upon initial enrollment and at the beginning of each year thereafter, the district shall notify parents/guardians in writing that they may inspect and review student records during regular school

hours with the help of certificated staff when requested. Insofar as practicable, these notices shall be written in the student's home language and shall effectively notify parents/guardians or eligible

students who are disabled. The notice shall include information about: (Education Code 49063; 34 CFR 99.7, 99.34)

1. The types of student records are kept by the district and the information contained therein.
2. Where the records are kept.
3. The titles of the officials responsible for maintaining the records.
4. The location of the log identifying those who request information from the records.
5. District criteria for defining "school officials and employees" and for determining "legitimate educational interest."
6. District policies for reviewing and expunging student records.
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 reproducing copies of records.
9. The categories of information defined as directory information pursuant to Education Code 49073.
10. Any other rights and requirements set forth in Education Code 49060-49078, and the right of the parents/guardians to file a complaint with the United States Department of Health, Education, and Welfare concerning an alleged failure by the district to comply with (20 U.S.C.A. 1232g.
11. The location of all official student records if not centrally located.
12. The right to inspect and review student records, and the procedures for doing so.
13. 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.
14. 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.
15. The notification shall also include 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.
16. The availability of qualified certificated personnel to interpret records.

Reproduction of Student Records

To provide copies of any student record, the district shall charge a reasonable fee not to exceed the actual cost of reproducing, handling and mailing.

No charge shall be made for furnishing 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.

Transfer of Student Records

1. When a student transfers to another school district or to a private school, the district shall forward a copy of his/her mandatory permanent records as requested by the other district or private school. The original or a copy shall be retained permanently by the Berryessa Union School District.
2. Mandatory interim records also shall be sent upon request to other California public school districts. Mandatory interim records may also be sent to out-of-state or private schools requesting them.
3. Permitted records may be sent to any other public school district or private school.
4. All student records shall be updated before they are transferred.
5. 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)
6. When informed that a district student in foster care is transferring to another local educational agency, the Superintendent or designee shall cooperate to ensure that the student's health and education records are transferred to the receiving district. The district shall transfer the records within five working days of receiving notification regarding the student's new educational placement. (Education Code 49069.5)
7. Parent notification:
 - a. If the student transfers into the district from any other school district or a private school, this district shall inform the parent/guardian of his/her right to receive a copy of the permanent record received from the former school. The parent/guardian shall also be informed of his/her right to have a hearing in which to challenge the contents of that record.
 - b. If the student transfers out of state, the custodian of student records shall notify the parents/guardians at their last known address of their right to review, challenge, and receive a copy of the student record, if desired.(HEW Regulation 99.34)
8. Student records shall not be withheld from the requesting district because of any charges or fees owed by the student or parent/guardian. 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.

Release of Directory Information

At the beginning of each school year, all parents/guardians shall be notified as to what categories of directory information the school or district plan to release, and to whom.

Directory information shall not be released regarding any student whose parent/guardian notifies the district in writing that such information may not be disclosed.

Based on its determination of the best interest of the student, the district may limit or deny the release of specific directory information to any public or private nonprofit organization.

Under no circumstances shall directory information be disclosed to a private profit-making entity other than employers, prospective employers, and representatives of the news media.

Withholding Grades, Diplomas or Transcripts

When school property has been willfully damaged or not returned upon demand, the principal or designee shall inform the parent/guardian in writing of the responsible student's alleged misconduct and the reparation that may be due.

This notice shall include a statement that the district may withhold grades, diploma or transcripts from the student and parent/guardian until reparation is made.

If reparation is not made, the district shall afford the student his/her due process rights in conformance with Education Code, expulsion procedures and may withhold the student's grades, diploma or transcripts.

If the student and parent/guardian are unable to pay for the damages or return the property, the principal or designee shall provide a program of voluntary work for the student to do. When this voluntary work is completed, the student's grades, diploma or transcripts shall be released.

When a student from whom the district is withholding grades, diploma or transcripts transfers to another district, this information shall be sent to the new district with the student's records and a request that these items continue to be withheld until the new district receives notification that the debt has been cleared.

The Superintendent or designee shall notify the parent/guardian in writing that this district's decision to withhold grades, diploma or transcript will be enforced by the new district.

The district shall withhold grades, diploma or transcripts from any student transferring into the district whose misconduct caused a previous district to withhold them. When informed by the previous district that its decision has been rescinded, the district shall release these documents.

Challenging Student Records

1. Covered Complaints

This administrative guideline covers complaints regarding specific information recorded in student records.

2. The Complaint

2.1 Any district student's parent or guardian may file a complaint requesting that the district correct or remove any information concerning the student that is recorded in written district records. The complaint shall be made on the grounds that the information is:

- a. Inaccurate;
- b. An unsubstantiated conclusion or inference;
- c. A conclusion or inference outside of the observer's area of competence;
- d. Not based on the named observer's personal observation at the time and place noted;
- e. Misleading; or
- f. In violation of privacy or other student rights.

2.2 The complaint must be submitted to the Superintendent's Office in writing, on a district complaint form. Complaint forms are available from the Superintendent's Office:

1376 Piedmont Road
San Jose, California 95132
(408) 923-1810

2.3 The complaint shall specify the information challenged, the grounds on which it is challenged, the reasons the grounds apply, and the remedy sought (e.g., correction or removal).

3. Investigation

3.1 The Superintendent's Office will refer the complaint to the Director of Educational Services Division. The Director, or the Director's designee, shall within thirty (30) calendar days after the complaint was filed, meet with the complainant and with any certificated district employee(s) who recorded or provided the information. The Director may conduct any additional investigation he or she deems reasonably necessary in order to determine whether the information should be corrected, removed, or retained.

3.2 The Director shall issue a written report to the complainant and the Superintendent, recommending that the information be corrected, removed, or retained. The district shall mail or personally deliver the report to the complainant.

3.3 A complainant who does not agree with the report shall notify the Superintendent in writing, within seven (7) calendar days after the date the district mailed or personally delivered the report to the complainant.

3.3.1 Statement of Objections

A complainant who is dissatisfied with the Director's report may accept the report and submit a written statement of his or her objections, which shall become part of the student's school record, unless at some time in the future

the challenged information is corrected or removed.

4. Superintendent's Action

4.1 If the complainant and Superintendent accept the Director's report, then the Superintendent shall implement the report and the matter shall be considered resolved.

4.1.1 Student Grades

The Superintendent shall have no power to change student grades unless the Superintendent follows the procedures of Education Code Section 49066 and the teacher who determined the grade is included, to the extent practicable, in all discussions relating to changing the grade and is given an opportunity to state orally, in writing, or both the reasons he or she gave the grade.

4.2 If the Superintendent does not accept the report, then the Superintendent shall make his or her own recommendations and transmit them, in writing, to the complainant, either by mail or personal delivery.

4.3 If the complainant does not accept the Superintendent's recommendations, the complainant may ask the Board of Trustees to consider the complaint by submitting a written request to the Superintendent within thirty (30) calendar days after the date the district mailed or personally delivered the Superintendent's recommendations to the complainant. The request shall ask the Superintendent to place the matter on the Board agenda and shall include a copy of the complaint and a copy of the Superintendent's written recommendations.

4.3.1 Statement of Objections

In lieu of appealing to the Board of Trustees, a complainant who is dissatisfied with the Superintendent's recommendations may accept those recommendations and submit a written statement of his or her objections, which shall become part of the student's school record, unless at some time in the future the challenged information is corrected or removed.

5. Governing Board Action

5.1 The Superintendent will schedule the appeal for closed session at a regularly scheduled or special Board meeting to be held within thirty (30) calendar days after receiving the complainant's request. The Superintendent will provide the Board with copies of the complainant's hearing request and with any additional materials required to explain the Superintendent's recommendations. The Superintendent shall provide copies of these additional materials to the complainant and will invite the complainant to attend the closed session. The certificated district employee who recorded or provided the information shall

also attend, if still a district employee.

5.2 The Board will consider the matter in closed session, under Education Code section 49070, meeting with both the complainant, if the complainant elects to attend, and the district employee. The Board will determine during the closed session whether to sustain or deny the complainant's allegations.

5.3 The Board may order the Superintendent to correct, remove, or retain the challenged information.

5.3.1 Student Grades

The Board shall not order the Superintendent to change student grades unless the Superintendent follows the procedures of Education Code Section 49066 and the teacher who determined the grade is included, to the extent practicable, in all discussions relating to changing the grade and is given an opportunity to state orally, in writing, or both the reasons he or she gave the grade.

5.4 The Board's decision shall be final.

5.5 Statement of Objections

If the complainant is dissatisfied with the Board's decision, the complainant may submit a written statement of his or her objections, which shall become part of the student's school record, unless at some time in the future the challenged information is corrected or removed.

6. Confidentiality and Destruction of Records

The district shall maintain all district records relating to complaints processed under this administrative guideline, including records of the meeting of the Board of Trustees, in confidence for one (1) calendar year following the district's final decision. After one (1) year, the district shall destroy the records, except:

- a. any statement of objections that the complainant submitted under Sections 3.3.1, 4.3.1, or 5.5; and
- b. any records relating to any legal proceeding the complainant initiated, which shall be retained until those proceedings are concluded.

- 49061 Definitions
- 49063 Notification of parents of their rights
- 49066 Grades; change of grade; physical education grade
- 49070 Challenging content of records
- 49071 Hearing panel

United States Code, Title 20

- 1232g Family Educational and Privacy Rights Act of 1974

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