

STUDENT RECORDS; CONFIDENTIALITY; RECORD AND GRADE CHALLENGES

Definitions

“Parent” means a natural parent, adoptive parent, or legal guardian. If parents are divorced or legally separated, only a 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 County Office, in writing, that such an agreement has been made. (Education Code 49061)

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. (Education Code 49061)

“Student record” means any item of information, other than directory information, directly related to an identifiable student and maintained by the County Office or required to be maintained by a school employee in the performance of his/her duties whether recorded in handwriting, print, tapes, film, microfilm or by other means. The student record shall include the student’s health record. (Education Code 49061)

“Student record” shall not include informal notes about a student that a school employee keeps for private use and are not revealed to any other person except a substitute. (Education Code 49061)

“Student record” means information on a student gathered within or without the school system. Any information maintained for the purpose of second-party review is considered a student record. (Code of Regulations, Title 5, Section 430(d))

“Adult student” means a person who is or was enrolled in school and who is at least 18 years of age. (Code of Regulations, Title 5, Section 430(b))

“Eligible student” means a person 16 years or older or who has completed grade ten. (Code of Regulations, Title 5, Section 430(c))

“School officials and employees” are the County Superintendent of Schools, County Board of Education members, County Office of Education certificated employees and administrators.

“Legitimate educational interest” is one held by officials and employees whose duties and responsibilities to the County Office of Education 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: (Code of Regulations, Title 5, Section 432)

1. Legal name of student.
2. Date and place of birth.
3. Method of verification of birth date.
4. Sex of student.
5. Name and address of parent of minor student.
 - a. Address of minor student if different from the above.
 - b. Annual verification of parent’s name and address and student’s residence.
6. Entering and leaving date of each school year.
7. Subjects taken during each year, half-year, summer session or quarter, and marks or grades given.

STUDENT RECORDS; CONFIDENTIALITY; RECORD AND GRADE CHALLENGES (continued)

8. Verification of required immunizations or waiver.
9. Date of high school graduation or equivalent. (Code of Regulations, Title 5, Section 432(b-1))

“Mandatory Interim Student Records,” which may be destroyed after a stipulated length of time, include: (Code of Regulations, Title 5, Section 432)

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 or guardian, eligible student, dependent adult student, adult student or custodian of records.
2. Health information, including Child Health Development Disabilities 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. Language training records.
5. Progress slips/notices required by Education Code 49066 and 49067.
6. Parental stipulations regarding access to directory information.
7. Parent/guardian or adult student rejoinders to challenged records and to disciplinary action.
8. Parental authorization or denial of student participation in specific programs.
9. Results of standardized tests given within the past three (3) years. (Code of Regulations, Title 5, Section 432(b-2))

“Permitted Records,” kept only as currently useful, may include: (Code of Regulations, Title 5, Section 432)

1. Objective counselor/teacher ratings.
2. Disciplinary notices and data.
3. Verified reports of relevant behavior patterns.
4. Standardized test results older than three years.
5. Supplementary attendance records. (Code of Regulations, Title 5, Section 432(b-3))

“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)

Where requirements of the Federal Family Educational Rights and Privacy Act (20 U.S.C. 1232g) conflict with the California Education Code, the County Office of Education shall comply with the superceding provision.

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 or adult student. (Code of Regulations, Title 5, Section 437(a))
2. Mandatory Permanent Student Records shall be kept in perpetuity. (Code of Regulations, Title 5, Section 437(b))

STUDENT RECORDS; CONFIDENTIALITY; RECORD AND GRADE CHALLENGES (continued)

3. Unless forwarded to a district, Mandatory Interim Student Records may be destroyed three years after determining that their usefulness has ceased or that the student has left the County Office of Education. (Code of Regulations, Title 5, Section 437(c))
4. Permitted Student Records may be destroyed when their usefulness ceases. They may be destroyed six (6) months after the student completes or withdraws from the educational program. (Code of Regulations, Title 5, Section 437(d))
5. Records shall be destroyed in a way that guarantees they will not be viewed by the public. (Code of Regulations, Title 5, Section 437)

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. (Code of Regulations, Title 5, Section 433(a))

Access to student records and information shall not be denied to a parent because he/she is not the child's custodial parent. (Civil Code 4600.5(1))

Those granted access are prohibited from releasing information to another person or agency without written permission from the parent/guardian or adult student (age 18 or older).

Certificated personnel will be available to interpret records where appropriate.

Access by Consent

Persons, agencies or organizations not afforded access rights may be granted access only through written permission of the adult student or the parent/guardian of custody. (Education Code 49075) Parents/legal guardian(s) or students 18 years of age or older or any minor student who is a parent must complete, sign and submit a *Student or Parent/Guardian Publicity Authorization and Release* form to the appropriate Mendocino County Office of Education (MCOE) school program. This form grants MCOE permission to reproduce through printed, audio, visual, or electronic means activities in which students have participated.

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

Log

For each student's record, the school/program custodian of records shall keep a log identifying all persons, agencies, or organizations requesting or receiving information from the record. The log does not have to be signed by:

1. Parents/guardians or adult students.
2. Students 16 years of age or older who have completed the tenth grade.
3. Parties obtaining approved directory information.
4. Parties who provide written parental consent. In this case, the consent notice shall be filed with the record.
5. School officials or employees who have legitimate educational interest.

The log may be inspected by a parent/guardian, the school/program custodian of records, and certain state/federal officials. (Education Code 49064)

STUDENT RECORDS; CONFIDENTIALITY; RECORD AND GRADE CHALLENGES (continued)

Mandatory Access

The following persons or agencies shall have access to student records:

1. Natural parents, adoptive parents, or legal guardians of students younger than age 18, during school hours within five days of the request. Upon request, qualified certificated staff will be available to interpret the records. (Education Code 49069)
2. Adult students (age 18 or older). (Education Code 49061)
3. Those so authorized in compliance with a court order. (Education Code 49077) If lawfully possible, the County Office shall first give the parent/guardian or adult student three days' notice, telling who is requesting what records. (Code of Regulations, Title 5, Section 435(c))

The following persons or agencies shall have access to those particular records which are relevant to the legitimate educational interests of the requester:

1. Natural or adoptive parents of a dependent student age 18 or older. (Education Code 49076)
2. Students 16 or older or who have completed the tenth grade. (Education Code 49076)
3. School officials and employees. (Education Code 49076)
4. School attendance and review board members and involved school officials and employees. (Education Code 49076)
5. Officials or employees of other public schools or school systems where educational programs leading to high school graduation are provided. (Education Code 49076)
6. Federal, state and local officials, as needed for program audits or compliance with law. (Education Code 49076)
7. County child welfare services workers responsible for the case plan of a minor who is being placed in foster care. (Welfare and Institutions Code 16010)

Permitted Access

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

1. Appropriate persons in an emergency if health and safety are at stake.
2. Agencies or organizations in connection with student's application for financial aid.
3. Accrediting associations.
4. Organizations conducting studies on behalf of educational institutions or agencies, as limited by Education Code 49076.
5. Officials and employees of private schools or school systems where the student is enrolled or intends to enroll, subject to the parent/guardian's rights in Education Code 49068. (Education Code 49076)
6. Agents of school officials.

Notification of Parents/Guardians

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

STUDENT RECORDS; CONFIDENTIALITY; RECORD AND GRADE CHALLENGES (continued)

staff when requested. Insofar as practicable, these notices shall be written in the student's home language. Parents/guardians shall also be told where they can be informed about: (Education Code 49063)

1. What types of student records are kept.
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. County Office criteria for defining "school officials and employees" and for determining "legitimate educational interest."
6. County Office policies for reviewing and expunging student records.
7. County Office procedures for challenging the content of student records.
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 County Office to comply with the provisions of Section 438 of the Federal Education Provisions Act (20 U.S.C.A. 1232g). (Education Code 49069)
11. The location of all official student records if not centrally located.
12. The availability of qualified certificated personnel to interpret records when requested. (Education Code 49069)

Reproduction of Student Records

To provide copies of any student record, the County Office may charge a reasonable fee not to exceed the actual cost of reproducing, handling and mailing (if necessary). The custodian of records shall set the fee and update the amount yearly if actual costs change.

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. (Education Code 49065)

Withholding of Records

When County Office property has been willfully damaged or not returned upon demand, the County Office shall first notify the student's parent/ guardian in writing. If reparation is not made, the County Office may undertake procedures to withhold the student's grades, diploma and transcripts from the student until reparation is made. Such procedures shall parallel those established for student expulsion and afford the student his/her due process rights. A program of voluntary work shall be available when the student or parent/guardian is unable to pay for the damage. (Education Code 48904)

Transfer of Student Records

1. When a student transfers to another school agency or to a private school, the County Office shall forward a copy of his/her mandatory permanent records as requested by the other-school agency or private school. The original or a copy shall be retained permanently by the County Office.

STUDENT RECORDS; CONFIDENTIALITY; RECORD AND GRADE CHALLENGES (continued)

2. Mandatory interim records also shall be sent upon request to other California public school agency. 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 agency or private school.
4. All student records shall be updated before they are transferred. (Code of Regulations, Title 5, Section 438(a & b))
5. Parent/guardian notification:
 - a. If the student transfers into the County Office from any other school agency or a private school, the County Office 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. (Code of Regulations, Title 5, Section 438(a & b))
 - 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. (Health, Education and Welfare Regulation 99.34)
6. Student records shall not be withheld from the requesting school agency because of any charges or fees owed by the student or parent/ guardian. (Code of Regulations, Title 5, Section 438(c)). If the County Office has been withholding a transcript from the student for such reasons, that information shall be forwarded to the new school along with the student's record. The County Office shall also notify the parent/guardian in writing that its decision to withhold grades and transcript will be enforced by the new school. (Education Code 48904.3)
7. The County Office shall withhold grades, diploma and transcripts from any student transferring into the County Office whose misconduct caused a previous school agency to withhold them. When informed by the previous school agency that lawful compensation has been made, the County Office shall release these documents. (Education Code 48904.3)

Challenging Content of Student Records

Following inspection and review, the parent/guardian may challenge the content of any student record. (Education Code 49070) The right to challenge becomes the sole right of the student when the student becomes 18 or attends a postsecondary institution. (Education Code 49061)

The parent/guardian may file with the County Superintendent a written request to correct or remove from his/her child's records any information concerning the child which is alleged to be:

1. Inaccurate.
2. An unsubstantiated personal conclusion or inference.
3. A conclusion or inference outside of the observer's area of competence.
4. Not based on the personal observation of a named person with the time and place of the observation noted. (Education Code 49070)

Within thirty (30) days of receipt of the request, the County Superintendent or designee shall meet with the parent/guardian and with the employee (if still employed) who recorded the information in question. The County Superintendent shall then sustain or deny the allegations. If the allegations are sustained, the County Superintendent shall order the correction or removal and destruction of the information. (Education Code 49070)

STUDENT RECORDS; CONFIDENTIALITY; RECORD AND GRADE CHALLENGES (continued)

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

If the final decision of the County Board is favorable to the parent/ guardian, or if the parent/guardian accepts an unfavorable decision by the County Superintendent, 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 until such time as the information in question is removed. (Education Code 49070)

Both the County Superintendent and the County Board have the option of appointing a hearing panel to assist in the decision making. The hearing panel may be used at the discretion of the County Superintendent or the County Board provided that the parent/guardian consents to releasing record information to panel members. (Education Code 49070, 49071)

MENDOCINO COUNTY BOARD OF EDUCATION

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