

CSBA Sample

Board Policy

Student Records

USE CSBA SAMPLE AS IS

BP 5125
Students

***Note: Student records are governed by both federal and state law (Family Educational Rights and Privacy Act (FERPA) pursuant to 20 USC 1232g, 34 CFR 99.1-99.8, Education Code 49069, and 5 CCR 430-433). ***

The Governing Board recognizes the importance of keeping accurate, comprehensive student records as required by law. The Superintendent or designee shall ensure that the district's administrative regulation and school site procedures for maintaining the confidentiality of student records are consistent with state and federal law.

***Note: Pursuant to 5 CCR 431, districts are mandated to establish policies and procedures to implement state law and regulations regarding student records, including policies and procedures which enumerate and describe the student records collected and maintained by the district, ensure security of the records, and guarantee access to authorized persons within five days of the request. Education Code 49069 mandates procedures related to parental review of student records. See the accompanying administrative regulation for additional language implementing these mandates. ***

***Note: The privacy of student online information is addressed in Business and Professions Code 22580-22582, as added by SB 568 (Ch. 336, Statutes of 2013), which prohibit an operator of a web site, online service or application, or mobile application from knowingly using, disclosing, compiling, or allowing a third party to use, disclose, or compile the personal information of a minor for the purpose of marketing or advertising specified types of products or services. In addition, effective January 1, 2016, Business and Professions Code 22584-22585, as added by SB 1177 (Ch. 839, Statutes of 2014), prohibit the operator of a web site, online service or application, or mobile application that provides services to K-12 students from selling or disclosing specified student information or knowingly using that student information to engage in targeted advertising to students or parents/guardians or to amass a profile about a K-12 student. Covered student information includes any personally identifiable information or materials created or provided by a student, parent/guardian, or district employee (e.g., name, contact information, educational record, discipline records, test results, health records, socioeconomic information). Pursuant to Business and Professions Code 22580 and 22584, the operator must delete a student's information upon the request of the minor, school, or district. ***

The Superintendent or designee shall establish administrative regulations governing the identification, retention, and security of student records. These regulations shall ensure the rights of authorized persons to have timely access to student records and shall protect students and their

families from invasion of privacy.

(cf. 3580 - District Records)
(cf. 4040 - Employee Use of Technology)
(cf. 5125.1 - Release of Directory Information)
(cf. 5125.3 - Challenging Student Records)

The Superintendent or designee shall designate a certificated employee to serve as custodian of records with responsibility for student records at the district level. At each school, the principal or a certificated employee shall be designated as custodian of records for students enrolled at that school. The custodian of records shall be responsible for implementing Board policy and administrative regulation regarding student records. (5 CCR 431)

Student Records from Social Media

***Note: The following section is optional. Pursuant to Education Code 49073.6, as added by AB 1442 (Ch. 799, Statutes of 2014), any district considering a program to gather information from students' social media activity, as defined, must first notify students and parents/guardians and provide an opportunity for public comment. The notification may be provided as part of the annual parental notification required pursuant to Education Code 48980. If such a program is then adopted, the district must comply with program requirements reflected in the section "Student Records from Social Media" in the accompanying administrative regulation. ***

***The district should consult legal counsel before gathering any other online information that does not meet the definition of social media in Education Code 49073.6. ***

(cf. 0450 - Comprehensive Safety Plan)
(cf. 5131.2 - Bullying)
(cf. 5145.6 - Parental Notifications)
(cf. 9322 - Agenda/Meeting Materials)
(cf. 9323 - Meeting Conduct)

Contract for Digital Storage, Management, and Retrieval of Student Records

***Note: Education Code 49073.1, as added by AB 1584 (Ch. 800, Statutes of 2014), authorizes districts to enter into a contract with a third party for the digital storage, management, and retrieval of student records and/or for software designed for this purpose. A district that chooses to enter into such a contract is mandated to adopt policy allowing such contracts and must ensure that the contract includes all the provisions specified in Education Code 49073.1. Also see BP 3312 - Contracts. ***

The Superintendent or designee may enter into a contract with a third party for the digital storage, management, and retrieval of student records and/or to authorize a third party provider of digital software to access, store, and use student records, provided that the contract meets the

Comment [B1]: The optional section was deleted – the district is not considering a program to gather information from student's social media – deleted in the accompanying AR also.

Deleted: The Superintendent or designee may gather and maintain information from the social media of any district student, provided that the district first notifies students and parents/guardians about the proposed program, offers an opportunity for public comment at a regularly scheduled Board meeting, and gathers only information that directly pertains to school safety or student safety. (Education Code 49073.6)

requirements of Education Code 49073.1 and other applicable state and federal laws.

Comment [DF2]: New language because of AB 1584.

(cf. 3312 - Contracts)

Legal Reference:

EDUCATION CODE

17604 Contracts

48201 Student records for transfer students who have been suspended/expelled

48853.5 Foster youth; placement, immunizations

48902 Notification of law enforcement of specified violations

48904-48904.3 Withholding grades, diplomas, or transcripts

48918 Rules governing expulsion procedures

48980 Parental notifications

48985 Notices in parent/guardian's primary language

49060-49079 Student records

49091.14 Parental review of curriculum

51747 Independent study

56041.5 Rights of students with disabilities

56050 Surrogate parents

56055 Foster parents

69432.9 Cal Grant program; notification of grade point average

BUSINESS AND PROFESSIONS CODE

22580-22582 Digital privacy

22584-22585 Student Online Personal Information Protection Act

CODE OF CIVIL PROCEDURE

1985.3 Subpoena duces tecum

FAMILY CODE

3025 Access to records by noncustodial parents

6552 Caregiver's authorization affidavit

GOVERNMENT CODE

6252-6260 Inspection of public records

HEALTH AND SAFETY CODE

120440 Immunizations; disclosure of information

PENAL CODE

245 Assault with deadly weapon

WELFARE AND INSTITUTIONS CODE

681 Truancy petitions

701 Juvenile court law

16010 Health and education records of a minor

CODE OF REGULATIONS, TITLE 5

430-438 Individual student records

16020-16027 Destruction of records of school districts

UNITED STATES CODE, TITLE 20

1232g Family Educational Rights and Privacy Act

1232h Protection of Pupil Rights Amendment
UNITED STATES CODE, TITLE 26
152 Definition of dependent child
UNITED STATES CODE, TITLE 42
11434a McKinney-Vento Homeless Assistance Act; definitions
CODE OF FEDERAL REGULATIONS, TITLE 16
Part 312 Children's Online Privacy Protection Rule
CODE OF FEDERAL REGULATIONS, TITLE 34
99.1-99.67 Family Educational Rights and Privacy
300.501 Opportunity to examine records for parents of student with disability
Management Resources:
FEDERAL REGISTER
Final Rule and Analysis of Comments and Changes, Family Educational Rights and Privacy,
December 9, 2008, Vol. 73, No. 237, pages 74806-74855
NATIONAL SCHOOL BOARDS ASSOCIATION PUBLICATIONS
Data in the Cloud: A Legal and Policy Guide for School Boards on Student Data Privacy in the
Cloud Computing Era, April 2014
U.S. DEPARTMENT OF EDUCATION PUBLICATIONS
Joint Guidance on the Application of the Family Educational Rights and Privacy Act (FERPA) and
the Health Insurance Portability and Accountability Act of 1996 (HIPAA) to Student Health
Records, 2008
Balancing Student Privacy and School Safety: A Guide to the Family Educational Rights and
Privacy Act for Elementary and Secondary Schools, October 2007
WEB SITES
California Department of Education: <http://www.cde.ca.gov>
National School Boards Association: <http://www.nsba.org>
U.S. Department of Education, Family Policy Compliance,
<http://www.ed.gov/policy/gen/guid/fpco>

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