

AMENDED IN ASSEMBLY APRIL 4, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 143

Introduced by Assembly Member Fuentes

January 13, 2011

An act to amend ~~Sections 49075 and~~ *Section* 49076 of the Education Code, relating to pupil records.

LEGISLATIVE COUNSEL'S DIGEST

AB 143, as amended, Fuentes. Pupil records: privacy rights.

Existing law prohibits a school district from permitting access to pupil records to a person without written parental consent or under judicial order, except to specified persons under certain circumstances, including to a 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.

This bill would additionally allow school districts to permit a minor's counsel to access pupil records for the same purposes stated above.

Existing law ~~authorizes a school district to permit access to pupil records to a person for whom a parent of the pupil has executed written consent specifying the records to be released and identifying the party or class to whom the records may be released and requires the recipient~~ *requires the recipient of pupil records* to be notified of the prohibition against transmitting the information to others without the written consent of the parent.

This bill would require officials and authorities receiving pupil records pursuant to specified law to certify in writing to the school district that the information shall not be disclosed to another party, except as

provided under *specified federal law and state law*, without the prior written consent of the parent of the pupil or the person identified as the holder of the pupil’s educational rights.

The bill would also make various technical, nonsubstantive changes to these provisions.

Vote: majority. Appropriation: no. Fiscal committee: no.
 State-mandated local program: no.

The people of the State of California do enact as follows:

1 ~~SECTION 1. Section 49075 of the Education Code is amended~~
 2 ~~to read:~~

3 ~~49075. (a) A school district may permit access to pupil records~~
 4 ~~to a person for whom a parent of the pupil has executed written~~
 5 ~~consent specifying the records to be released and identifying the~~
 6 ~~party or class of parties to whom the records may be released. The~~
 7 ~~recipient shall be notified that the transmission of the information~~
 8 ~~to others without the written consent of the parent is prohibited.~~
 9 ~~The consent notice shall be permanently kept with the record file.~~

10 ~~(b) The officials and authorities to whom pupil records are~~
 11 ~~disclosed pursuant to subdivision (f) of Section 48902 and~~
 12 ~~paragraph (9) of subdivision (a) of Section 49076 shall certify in~~
 13 ~~writing to the disclosing school district that the information shall~~
 14 ~~not be disclosed to another party, except as provided under state~~
 15 ~~law, without the prior written consent of the parent of the pupil,~~
 16 ~~or the person identified as the holder of the pupil’s educational~~
 17 ~~rights.~~

18 ~~(c) Notwithstanding subdivision (a), school lunch applications~~
 19 ~~and information shared pursuant to Section 49557.2 shall be~~
 20 ~~retained by any school district in the manner most useful to the~~
 21 ~~administration of the school lunch program.~~

22 ~~SEC. 2.~~

23 ~~SECTION 1. Section 49076 of the Education Code is amended~~
 24 ~~to read:~~

25 ~~49076. (a) A school district is not authorized to permit access~~
 26 ~~to pupil records to a person without written parental consent or~~
 27 ~~under judicial order except that:~~

28 ~~(a)~~

1 (I) Access to those particular records relevant to the legitimate
2 educational interests of the requester shall be permitted to the
3 following:

4 ~~(1)~~

5 (A) School officials and employees of the district, members of
6 a school attendance review board appointed pursuant to Section
7 48321, and any volunteer aide, 18 years of age or older, who has
8 been investigated, selected, and trained by a school attendance
9 review board for the purpose of providing followup services to
10 pupils referred to the school attendance review board, provided
11 that the person has a legitimate educational interest to inspect a
12 record.

13 ~~(2)~~

14 (B) Officials and employees of other public schools or school
15 systems, including local, county, or state correctional facilities
16 where educational programs leading to high school graduation are
17 provided or where the pupil intends to or is directed to enroll,
18 subject to the rights of parents as provided in Section 49068.

19 ~~(3)~~

20 (C) Authorized representatives of the Comptroller General of
21 the United States, the Secretary of Education, and administrative
22 head of an education agency, state education officials, or their
23 respective designees, or the United States Office of Civil Rights,
24 where the information is necessary to audit or evaluate a state or
25 federally supported education program or pursuant to a federal or
26 state law, provided that except when collection of personally
27 identifiable information is specifically authorized by federal law,
28 data collected by those officials shall be protected in a manner that
29 will not permit the personal identification of pupils or their parents
30 by other than those officials, and personally identifiable data shall
31 be destroyed when no longer needed for the audit, evaluation, and
32 enforcement of federal legal requirements.

33 ~~(4)~~

34 (D) Other state and local officials to the extent that information
35 is specifically required to be reported pursuant to state law adopted
36 prior to November 19, 1974.

37 ~~(5)~~

38 (E) Parents of a pupil 18 years of age or older who is a
39 dependent as defined in Section 152 of Title 26 of the United States
40 Code.

1 ~~(6)~~

2 (F) A pupil 16 years of age or older or having completed the
3 10th grade who requests access.

4 ~~(7)~~

5 (G) A district attorney who is participating in or conducting a
6 truancy mediation program pursuant to Section 48263.5, or Section
7 601.3 of the Welfare and Institutions Code, or participating in the
8 presentation of evidence in a truancy petition pursuant to Section
9 681 of the Welfare and Institutions Code.

10 ~~(8)~~

11 (H) A prosecuting agency for consideration against a parent or
12 guardian for failure to comply with the Compulsory Education
13 Law (Chapter 2 (commencing with Section 48200) of Part 27) or
14 with Compulsory Continuation Education (Chapter 3 (commencing
15 with Section 48400) of Part 27).

16 ~~(9)~~

17 (I) A probation officer, district attorney, or minor’s counsel for
18 the purposes of conducting a criminal investigation or an
19 investigation in regards to declaring a person a ward of the court
20 or involving a violation of a condition of probation.

21 ~~(10)~~

22 (J) A judge or probation officer for the purpose of conducting
23 a truancy mediation program for a pupil, or for purposes of
24 presenting evidence in a truancy petition pursuant to Section 681
25 of the Welfare and Institutions Code. The judge or probation officer
26 shall certify in writing to the school district that the information
27 will be used only for truancy purposes. A school district releasing
28 pupil information to a judge or probation officer pursuant to this
29 ~~paragraph~~ *subparagraph* shall inform, or provide written
30 notification to, the parent or guardian of the pupil within 24 hours
31 of the release of the information.

32 ~~(11)~~

33 (K) A county placing agency for the purpose of fulfilling the
34 requirements of the health and education summary required
35 pursuant to Section 16010 of the Welfare and Institutions Code or
36 for the purpose of fulfilling educational case management
37 responsibilities required by the juvenile court or by law and to
38 assist with the school transfer or enrollment of a pupil. School
39 districts, county offices of education, and county placing agencies
40 may develop cooperative agreements to facilitate confidential

1 access to and exchange of the pupil information by electronic mail,
2 facsimile, electronic format, or other secure means.

3 ~~(b)~~

4 (2) School districts may release information from pupil records
5 to the following:

6 ~~(1)~~

7 (A) Appropriate persons in connection with an emergency if the
8 knowledge of the information is necessary to protect the health or
9 safety of a pupil or other persons.

10 ~~(2)~~

11 (B) Agencies or organizations in connection with the application
12 of a pupil for, or receipt of, financial aid. However, information
13 permitting the personal identification of a pupil or his or her parents
14 may be disclosed only as may be necessary for purposes as to
15 determine the eligibility of the pupil for financial aid, to determine
16 the amount of the financial aid, to determine the conditions which
17 will be imposed regarding the financial aid, or to enforce the terms
18 or conditions of the financial aid.

19 ~~(3)~~

20 (C) The county elections official, for the purpose of identifying
21 pupils eligible to register to vote, and for conducting programs to
22 offer pupils an opportunity to register to vote. The information
23 shall not be used for any other purpose or given or transferred to
24 any other person or agency.

25 ~~(4)~~

26 (D) Accrediting associations in order to carry out their
27 accrediting functions.

28 ~~(5)~~

29 (E) Organizations conducting studies for, or on behalf of,
30 educational agencies or institutions for the purpose of developing,
31 validating, or administering predictive tests, administering student
32 aid programs, and improving instruction, if the studies are
33 conducted in a manner that will not permit the personal
34 identification of pupils or their parents by persons other than
35 representatives of the organizations and the information will be
36 destroyed when no longer needed for the purpose for which it is
37 obtained.

38 ~~(6)~~

39 (F) Officials and employees of private schools or school systems
40 where the pupil is enrolled or intends to enroll, subject to the rights

1 of parents as provided in Section 49068. This information shall be
2 in addition to the pupil's permanent record transferred pursuant
3 to Section 49068.

4 ~~(e)~~

5 (3) A person, persons, agency, or organization permitted access
6 to pupil records pursuant to this section shall not permit access to
7 any information obtained from those records by another person,
8 persons, agency, or organization, except for allowable exceptions
9 contained within the *federal* Family Educational Rights and Privacy
10 Act of 2001 (20 U.S.C. Sec. 1232g) and state law, without the
11 written consent of the pupil's parent. This ~~subdivision~~ *paragraph*
12 does not require prior parental consent when information obtained
13 pursuant to this section is shared with other persons within the
14 educational institution, agency, or organization obtaining access,
15 so long as those persons have a legitimate interest in the
16 information.

17 ~~(f)~~

18 (4) Notwithstanding any other provision of law, a school district,
19 including a county office of education or superintendent of schools,
20 may participate in an interagency data information system that
21 permits access to a computerized database system within and
22 between governmental agencies or districts as to information or
23 records that are nonprivileged, and where release is authorized as
24 to the requesting agency under state or federal law or regulation,
25 if each of the following requirements are met:

26 ~~(1)~~

27 (A) Each agency and school district shall develop security
28 procedures or devices by which unauthorized personnel cannot
29 access data contained in the system.

30 ~~(2)~~

31 (B) Each agency and school district shall develop procedures
32 or devices to secure privileged or confidential data from
33 unauthorized disclosure.

34 ~~(3)~~

35 (C) Each school district shall comply with the access log
36 requirements of Section 49064.

37 ~~(4)~~

38 (D) The right of access granted shall not include the right to
39 add, delete, or alter data without the written permission of the
40 agency holding the data.

1 ~~(5)~~

2 (E) An agency or school district shall not make public or
3 otherwise release information on an individual contained in the
4 database where the information is protected from disclosure or
5 release as to the requesting agency by state or federal law or
6 regulation.

7 (b) *The officials and authorities to whom pupil records are*
8 *disclosed pursuant to subdivision (f) of Section 48902 and*
9 *subparagraph (1) of paragraph (1) of subdivision (a) shall certify*
10 *in writing to the disclosing school district that the information*
11 *shall not be disclosed to another party, except as provided under*
12 *the federal Family Educational Rights and Privacy Act of 2001*
13 *(20 U.S.C. Sec. 1232g) and state law, without the prior written*
14 *consent of the parent of the pupil or the person identified as the*
15 *holder of the pupil's educational rights.*

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