

ASSEMBLY BILL

No. 1721

Introduced by Assembly Member Ducheny

February 24, 1995

An act to amend Sections 49077, 49078, 76244, and 76245 of the Education Code, relating to education.

LEGISLATIVE COUNSEL'S DIGEST

AB 1721, as introduced, Ducheny. Student records.

(1) Existing law requires school districts and community college districts to make a reasonable effort to notify students prior to complying with a court order requesting information concerning the student.

This bill would provide that information concerning a student shall be furnished in compliance with a court order, or pursuant to any lawfully issued subpoena, upon the condition that, in the case of school districts, the parent or legal guardian and the pupil are notified and, in the case of community college districts, the student is notified, of a lawfully issued subpoena and, in the case of compliance with a court order, if lawfully possible within the requirements of the order, in advance of compliance therewith by the school district or community college district. Because this requirement would impose additional duties and responsibilities upon local school districts and community college districts, the bill would impose a state-mandated local program.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs

mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

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

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

1 SECTION 1. Section 49077 of the Education Code is
 2 amended to read:
 3 49077. Information concerning a student shall be
 4 furnished in compliance with a court order *or a lawfully*
 5 *issued subpoena*. The school district shall ~~make a~~
 6 ~~reasonable effort to~~ notify the parent *or legal guardian*
 7 and the pupil in advance of ~~such~~ *compliance with a*
 8 *lawfully issued subpoena and, in the case of compliance*
 9 *with a court order*, if lawfully possible within the
 10 requirements of the ~~judicial~~ order.
 11 SEC. 2. Section 49078 of the Education Code is
 12 amended to read:
 13 49078. The service of a *lawfully issued subpoena or a*
 14 *court order* upon a public school employee solely for the
 15 purpose of causing him *or her* to produce a school record
 16 pertaining to any pupil may be complied with by ~~such~~
 17 *that* employee, in lieu of personal appearance as a witness
 18 in the proceeding, by submitting to the court, or other
 19 agency ~~issuing~~, *or person designated in* the subpoena, at
 20 the time and place required by the subpoena *or court*
 21 *order*, a copy of ~~such~~ *that* record, accompanied by an
 22 affidavit certifying that ~~such~~ *the* copy is a true copy of the
 23 original record on file in the school or school office. The
 24 copy of the record shall be in the form of a photostat,
 25 microfilm, microcard, or miniature photograph or other



1 photographic copy or reproduction, or an enlargement
2 thereof.

3 SEC. 3. Section 76244 of the Education Code is
4 amended to read:

5 76244. Information concerning a student shall be
6 furnished in compliance with a court order *or a lawfully*
7 *issued subpoena*. The community college district shall
8 ~~make a reasonable effort to~~ notify the student in advance
9 of ~~such~~ compliance *with a lawfully issued subpoena and,*
10 *in the case of compliance with a court order,* if lawfully
11 possible within the requirements of the ~~judicial~~ order.

12 SEC. 4. Section 76245 of the Education Code is
13 amended to read:

14 76245. The service of a *lawfully issued subpoena or a*
15 *court order* upon a community college employee solely
16 for the purpose of causing him *or her* to produce a school
17 record pertaining to any student may be complied with
18 by ~~such that~~ employee, in lieu of personal appearance as
19 a witness in the proceeding, by submitting to the court,
20 or other agency ~~issuing,~~ *or person designated in* the
21 subpoena, at the time and place required by the subpoena
22 *or court order,* a copy of ~~such that~~ record, accompanied
23 by an affidavit certifying that ~~such the~~ copy is a true copy
24 of the original record on file in the community college or
25 community college office. The copy of the record shall be
26 in the form of a photostat, microfilm, microcard, or
27 miniature photograph or other photographic copy or
28 reproduction, or an enlargement thereof.

29 SEC. 5. Notwithstanding Section 17610 of the
30 Government Code, if the Commission on State Mandates
31 determines that this act contains costs mandated by the
32 state, reimbursement to local agencies and school
33 districts for those costs shall be made pursuant to Part 7
34 (commencing with Section 17500) of Division 4 of Title
35 2 of the Government Code. If the statewide cost of the
36 claim for reimbursement does not exceed one million
37 dollars (\$1,000,000), reimbursement shall be made from
38 the State Mandates Claims Fund.

39 Notwithstanding Section 17580 of the Government
40 Code, unless otherwise specified, the provisions of this act



1 shall become operative on the same date that the act
2 takes effect pursuant to the California Constitution.

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