

AMENDED IN ASSEMBLY MARCH 30, 1995

CALIFORNIA LEGISLATURE—1995–96 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1721**

**Introduced by Assembly Member Ducheny**

February 24, 1995

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

LEGISLATIVE COUNSEL'S DIGEST

AB 1721, as amended, 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 school district makes a reasonable effort to notify* the parent or legal guardian and the pupil ~~are notified~~ and, in the case of community college districts, *the community college district makes a reasonable effort to notify* 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 compliance with a lawfully  
8 issued subpoena and, in the case of compliance with a  
9 court order, if lawfully possible within the requirements  
10 of the 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 that  
17 employee, in lieu of personal appearance as a witness in  
18 the proceeding, by submitting to the court, or other  
19 agency, or person designated in the subpoena, at the time  
20 and place required by the subpoena or court order, a copy  
21 of that record, accompanied by an affidavit certifying that



1 the copy is a true copy of the original record on file in the  
2 school or school office. The copy of the record shall be in  
3 the form of a photostat, microfilm, microcard, or  
4 miniature photograph or other photographic copy or  
5 reproduction, or an enlargement thereof.

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

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

15 SEC. 4. Section 76245 of the Education Code is  
16 amended to read:

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

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



1 dollars (\$1,000,000), reimbursement shall be made from  
2 the State Mandates Claims Fund.  
3 Notwithstanding Section 17580 of the Government  
4 Code, unless otherwise specified, the provisions of this act  
5 shall become operative on the same date that the act  
6 takes effect pursuant to the California Constitution.

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