

Introduced by Senator Vincent

February 23, 2001

An act to amend Section 49076 of the Education Code, relating to pupil records.

LEGISLATIVE COUNSEL'S DIGEST

SB 963, as introduced, Vincent. Pupil records.

Existing law prohibits a school district from permitting access to pupil records to any person without written parental consent or under judicial order except under certain circumstances, including permitting access to a probation officer for the purpose of conducting a truancy mediation program for a pupil, or for purposes of presenting evidence in a truancy petition. Existing law requires the probation officer to certify in writing to the school district that the information will be used only for truancy purposes. Existing law requires a school district releasing pupil information to a probation officer to inform, or provide written notification to, the parent or guardian of the pupil within 24 hours of the release of the information.

This bill would also authorize a school district to permit access to a probation officer for the purposes of casework planning and monitoring wards and probationers and would require the probation officer to certify in writing to the school that the information will only be used for these purposes. The bill would require the school district to provide the requested information to the probation officer within 3 working days. The bill would require a school district that releases pupil information to a probation officer for the purposes of casework planning and monitoring wards and probationers to inform, or provide written notification to, the parent or guardian of the pupil within 24 hours of the

release of the information, thereby imposing a state-mandated local program.

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 49076 of the Education Code is
2 amended to read:

3 49076. A school district is not authorized to permit access to
4 pupil records to any person without written parental consent or
5 under judicial order except that:

6 (a) Access to those particular records relevant to the legitimate
7 educational interests of the requester shall be permitted to the
8 following:

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

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



1 (3) Authorized representatives of the Comptroller General of
2 the United States, the Secretary of Education, and administrative
3 head of an education agency, state education officials, or their
4 respective designees, or the United States Office of Civil Rights,
5 where the information is necessary to audit or evaluate a state or
6 federally supported education program or pursuant to a federal or
7 state law, provided that except when collection of personally
8 identifiable information is specifically authorized by federal law,
9 any data collected by those officials shall be protected in a manner
10 which will not permit the personal identification of students or
11 their parents by other than those officials, and any personally
12 identifiable data shall be destroyed when no longer needed for the
13 audit, evaluation, and enforcement of federal legal requirements.

14 (4) Other state and local officials to the extent that information
15 is specifically required to be reported pursuant to state law adopted
16 prior to November 19, 1974.

17 (5) Parents of a pupil 18 years of age or older who is a
18 dependent as defined in Section 152 of the Internal Revenue Code
19 of 1954.

20 (6) A pupil 16 years of age or older or having completed the
21 10th grade who requests access.

22 (7) Any district attorney who is participating in or conducting
23 a truancy mediation program pursuant to Section 48263.5, or
24 Section 601.3 of the Welfare and Institutions Code, or
25 participating in the presentation of evidence in a truancy petition
26 pursuant to Section 681 of the Welfare and Institutions Code.

27 (8) A prosecuting agency for consideration against a parent or
28 guardian for failure to comply with the Compulsory Education
29 Law (Chapter 2 (commencing with Section 48200) of Part 27 of
30 Division 4 of Title 2) or with Compulsory Continuation Education
31 (Chapter 3 (commencing with Section 48400) of Part 27 of
32 Division 4 of Title 2).

33 (9) Any probation officer or district attorney for the purposes
34 of conducting a criminal investigation or an investigation in
35 regards to declaring a person a ward of the court or involving a
36 violation of a condition of probation.

37 (10) Any judge or probation officer for the purpose of
38 conducting a truancy mediation program for a pupil, or for
39 purposes of presenting evidence in a truancy petition pursuant to
40 Section 681 of the Welfare and Institutions Code. The judge or



1 probation officer shall certify in writing to the school district that
2 the information will be used only for truancy purposes. A school
3 district releasing pupil information to a judge or probation officer
4 pursuant to this paragraph shall inform, or provide written
5 notification to, the parent or guardian of the pupil within 24 hours
6 of the release of the information.

7 *(11) Any probation officer for the purposes of casework*
8 *planning and monitoring wards and probationers. The probation*
9 *officer shall certify in writing to the school district that the*
10 *information will be used only for case planning and monitoring*
11 *purposes. The school district shall provide the requested*
12 *information to the probation officer within three working days. A*
13 *school district releasing pupil information to a probation officer*
14 *pursuant to this paragraph shall inform, or provide written*
15 *notification to, the parent or guardian of the pupil within 24 hours*
16 *of the release of the information.*

17 (b) School districts may release information from pupil records
18 to the following:

19 (1) Appropriate persons in connection with an emergency if the
20 knowledge of the information is necessary to protect the health or
21 safety of a ~~student~~ *pupil* or other persons.

22 (2) Agencies or organizations in connection with a ~~student's~~
23 *pupil's* application for, or receipt of, financial aid. However,
24 information permitting the personal identification of ~~students~~
25 *pupils* or their parents may be disclosed only as may be necessary
26 for purposes as to determine the eligibility of the pupil for financial
27 aid, to determine the amount of the financial aid, to determine the
28 conditions which will be imposed regarding the financial aid, or
29 to enforce the terms or conditions of the financial aid.

30 (3) The county elections official, for the purpose of identifying
31 ~~students~~ *pupils* eligible to register to vote, and for conducting
32 programs to offer ~~students~~ *pupils* an opportunity to register to vote.
33 The information, however, shall not be used for any other purpose
34 or given or transferred to any other person or agency.

35 (4) Accrediting associations in order to carry out their
36 accrediting functions.

37 (5) Organizations conducting studies for, or on behalf of,
38 educational agencies or institutions for the purpose of developing,
39 validating, or administering predictive tests, administering student
40 aid programs, and improving instruction, if the studies are



1 conducted in a manner that will not permit the personal
2 identification of ~~students~~ *pupils* or their parents by persons other
3 than representatives of the organizations and the information will
4 be destroyed when no longer needed for the purpose for which it
5 is obtained.

6 (6) Officials and employees of private schools or school
7 systems where the pupil is enrolled or intends to enroll, subject to
8 the rights of parents as provided in Section 49068. This
9 information shall be in addition to the pupil's permanent record
10 transferred pursuant to Section 49068.

11 No person, persons, agency, or organization permitted access to
12 pupil records pursuant to this section shall permit access to any
13 information obtained from those records by any other person,
14 persons, agency, or organization without the written consent of the
15 pupil's parent. However, this paragraph shall not be construed as
16 requiring prior parental consent when information obtained
17 pursuant to this section is shared with other persons within the
18 educational institution, agency, or organization obtaining access,
19 so long as those persons have a legitimate interest in the
20 information.

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

30 (1) Each agency and school district shall develop security
31 procedures or devices by which unauthorized personnel cannot
32 access data contained in the system.

33 (2) Each agency and school district shall develop procedures or
34 devices to secure privileged or confidential data from
35 unauthorized disclosure.

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

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



1 (5) No agency or school district may make public or otherwise
2 release information on an individual contained in the data base
3 where the information is protected from disclosure or release as to
4 the requesting agency by state or federal law or regulation.
5 SEC. 2. Notwithstanding Section 17610 of the Government
6 Code, if the Commission on State Mandates determines that this
7 act contains costs mandated by the state, reimbursement to local
8 agencies and school districts for those costs shall be made pursuant
9 to Part 7 (commencing with Section 17500) of Division 4 of Title
10 2 of the Government Code. If the statewide cost of the claim for
11 reimbursement does not exceed one million dollars (\$1,000,000),
12 reimbursement shall be made from the State Mandates Claims
13 Fund.
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