

AMENDED IN SENATE APRIL 17, 2001

SENATE BILL

No. 963

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 amended, 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 *until January 1, 2005*, also authorize a school district to permit access to a probation officer for the purposes of casework planning and monitoring wards and probationers and *to a social worker with respect to a dependent child, as specified. The bill* would require ~~the~~ a probation officer or social worker 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~~ *within 5* 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 or social worker~~ 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 pupils referred to the school attendance review board, provided
15 that the person has a legitimate educational interest to inspect a
16 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



1 provided, where the pupil intends to or is directed to enroll, subject
2 to the rights of parents as provided in Section 49068.

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

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

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

22 (6) A pupil 16 years of age or older or having completed the
23 10th grade who requests access.

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

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

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

39 (10) Any judge or probation officer for the purpose of
40 conducting a truancy mediation program for a pupil, or for



1 purposes of presenting evidence in a truancy petition pursuant to
2 Section 681 of the Welfare and Institutions Code. The judge or
3 probation officer shall certify in writing to the school district that
4 the information will be used only for truancy purposes. A school
5 district releasing pupil information to a judge or probation officer
6 pursuant to this paragraph shall inform, or provide written
7 notification to, the parent or guardian of the pupil within 24 hours
8 of the release of the information.

9 (11) ~~Any~~ *Until January 1, 2005, any* probation officer for the
10 purposes of casework planning and monitoring wards and
11 probationers. The probation officer shall certify in writing to the
12 school district that the information will be used only for case
13 planning and monitoring purposes. The school district shall
14 provide the requested information to the probation officer within
15 ~~three~~ *five* working days. A school district releasing pupil
16 information to a probation officer pursuant to this paragraph shall
17 inform, or provide written notification to, the parent or guardian
18 of the pupil within 24 hours of the release of the information.

19 (12) *Until January 1, 2005, any social worker supervising a*
20 *dependent child pursuant to Article 6 (commencing with Section*
21 *300) of the Welfare and Institutions Code. The social worker shall*
22 *certify in writing to the school district that the information will be*
23 *used only for purposes authorized pursuant to Article 6*
24 *(commencing with Section 300) of the Welfare and Institutions*
25 *Code. The school district shall provide the requested information*
26 *to the social worker within five working days. A school district*
27 *releasing pupil information to a social worker pursuant to this*
28 *paragraph shall inform, or provide written notification to, the*
29 *parent or guardian of the pupil within 24 hours of the release of the*
30 *information.*

31 (b) School districts may release information from pupil records
32 to the following:

33 (1) Appropriate persons in connection with an emergency if the
34 knowledge of the information is necessary to protect the health or
35 safety of a pupil or other persons.

36 (2) Agencies or organizations in connection with a pupil's
37 application for, or receipt of, financial aid. However, information
38 permitting the personal identification of pupils or their parents
39 may be disclosed only as may be necessary for purposes as to
40 determine the eligibility of the pupil for financial aid, to determine



1 the amount of the financial aid, to determine the conditions which
2 will be imposed regarding the financial aid, or to enforce the terms
3 or conditions of the financial aid.

4 (3) The county elections official, for the purpose of identifying
5 pupils eligible to register to vote, and for conducting programs to
6 offer pupils an opportunity to register to vote. The information,
7 however, shall not be used for any other purpose or given or
8 transferred to any other person or agency.

9 (4) Accrediting associations in order to carry out their
10 accrediting functions.

11 (5) Organizations conducting studies for, or on behalf of,
12 educational agencies or institutions for the purpose of developing,
13 validating, or administering predictive tests, administering student
14 aid programs, and improving instruction, if the studies are
15 conducted in a manner that will not permit the personal
16 identification of pupils or their parents by persons other than
17 representatives of the organizations and the information will be
18 destroyed when no longer needed for the purpose for which it is
19 obtained.

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

25 No person, persons, agency, or organization permitted access to
26 pupil records pursuant to this section shall permit access to any
27 information obtained from those records by any other person,
28 persons, agency, or organization without the written consent of the
29 pupil's parent. However, this paragraph shall not be construed as
30 requiring prior parental consent when information obtained
31 pursuant to this section is shared with other persons within the
32 educational institution, agency, or organization obtaining access,
33 so long as those persons have a legitimate interest in the
34 information.

35 (c) Notwithstanding any other provision of law, any school
36 district, including any county office of education or
37 superintendent of schools, may participate in an interagency data
38 information system that permits access to a computerized data
39 base system within and between governmental agencies or
40 districts as to information or records which are nonprivileged, and



1 where release is authorized as to the requesting agency under state
2 or federal law or regulation, as long as each of the following
3 requirements are met:

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

7 (2) Each agency and school district shall develop procedures or
8 devices to secure privileged or confidential data from
9 unauthorized disclosure.

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

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

15 (5) No agency or school district may make public or otherwise
16 release information on an individual contained in the data base
17 where the information is protected from disclosure or release as to
18 the requesting agency by state or federal law or regulation.

19 SEC. 2. Notwithstanding Section 17610 of the Government
20 Code, if the Commission on State Mandates determines that this
21 act contains costs mandated by the state, reimbursement to local
22 agencies and school districts for those costs shall be made pursuant
23 to Part 7 (commencing with Section 17500) of Division 4 of Title
24 2 of the Government Code. If the statewide cost of the claim for
25 reimbursement does not exceed one million dollars (\$1,000,000),
26 reimbursement shall be made from the State Mandates Claims
27 Fund.
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