

AMENDED IN ASSEMBLY JULY 18, 2001

AMENDED IN SENATE MAY 8, 2001

AMENDED IN SENATE APRIL 17, 2001

SENATE BILL

No. 963

Introduced by Senator Vincent

February 23, 2001

An act to amend Section 49076 of, and to add and repeal Section 48980.5 of, the Education Code, relating to pupil records.

LEGISLATIVE COUNSEL'S DIGEST

SB 963, as amended, Vincent. Pupil records.

(1) 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 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 make the requested information available at the schoolsite within 5 working days, thereby imposing a state-mandated local program.

(2) Existing law prohibits a school district from permitting access to pupil records to any person without parental consent or without a judicial order except under certain circumstances, including permitting access to any probation officer or district attorney for the purposes of conducting a criminal investigation, or an investigation regarding the declaration of a person to be a ward of the court, or involving a violation of a condition of probation.

This bill would also authorize a school district to permit a public defender or other defense attorney representing a pupil access under these circumstances.

(3) Existing law requires the governing board of each school to notify parents and guardians each school year of their rights and responsibilities and other specified information.

This bill would also require, until January 1, 2005, the notification to advise parents that probation officers and social workers are authorized to access relevant pupil records, thereby imposing a state-mandated local program.

~~(3)~~

(4) 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 48980.5 is added to the Education Code,
2 to read:



1 48980.5. (a) The notification required pursuant to Section
2 48980 shall include information to parents or guardians that
3 probation officers and social workers are authorized to access
4 relevant pupil records pursuant to Section 49076.

5 ~~This~~

6 (b) *This* section shall remain in effect only until January 1,
7 2005, and as of that date is repealed, unless a later enacted statute,
8 that is enacted before January 1, 2005, deletes or extends that date.

9 SEC. 2. Section 49076 of the Education Code is amended to
10 read:

11 49076. A school district is not authorized to permit access to
12 pupil records to any person without written parental consent or
13 under judicial order except that:

14 (a) Access to those particular records relevant to the legitimate
15 educational interests of the requester shall be permitted to the
16 following:

17 (1) School officials and employees of the district, members of
18 a school attendance review board appointed pursuant to Section
19 48321, and any volunteer aide, 18 years of age or older, who has
20 been investigated, selected, and trained by a school attendance
21 review board for the purpose of providing followup services to
22 pupils referred to the school attendance review board, provided
23 that the person has a legitimate educational interest to inspect a
24 record.

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

30 (3) Authorized representatives of the Comptroller General of
31 the United States, the Secretary for Education, and administrative
32 head of an education agency, state education officials, or their
33 respective designees, or the United States Office of Civil Rights,
34 where the information is necessary to audit or evaluate a state or
35 federally supported education program or pursuant to a federal or
36 state law, provided that except when collection of personally
37 identifiable information is specifically authorized by federal law,
38 any data collected by those officials shall be protected in a manner
39 which will not permit the personal identification of students or
40 their parents by other than those officials, and any personally



1 identifiable data shall be destroyed when no longer needed for the
2 audit, evaluation, and enforcement of federal legal requirements.

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

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

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

11 (7) Any district attorney who is participating in or conducting
12 a truancy mediation program pursuant to Section 48263.5, or
13 Section 601.3 of the Welfare and Institutions Code, or
14 participating in the presentation of evidence in a truancy petition
15 pursuant to Section 681 of the Welfare and Institutions Code.

16 (8) A prosecuting agency for consideration against a parent or
17 guardian for failure to comply with the Compulsory Education
18 Law (Chapter 2 (commencing with Section 48200) of Part 27 of
19 Division 4 of Title 2) or with Compulsory Continuation Education
20 (Chapter 3 (commencing with Section 48400) of Part 27 of
21 Division 4 of Title 2).

22 (9) Any probation officer ~~or~~, district attorney, *public defender*
23 *representing the pupil, or other defense attorney representing the*
24 *pupil* for the purposes of conducting a criminal investigation or an
25 investigation in regards to declaring a person a ward of the court
26 or involving a violation of a condition of probation.

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

37 (11) Until January 1, 2005, any probation officer for the
38 purposes of casework planning and monitoring wards and
39 probationers. The probation officer shall certify in writing to the
40 school district that the information will be used only for case



1 planning and monitoring purposes. The school district shall make
2 the information available at the schoolsite to the probation officer
3 within five working days.

4 (12) Until January 1, 2005, any social worker supervising a
5 dependent child pursuant to Article 6 (commencing with Section
6 300) of the Welfare and Institutions Code. The social worker shall
7 certify in writing to the school district that the information will be
8 used only for purposes authorized pursuant to Article 6
9 (commencing with Section 300) of the Welfare and Institutions
10 Code. The school district shall make the information available at
11 the schoolsite to the social worker within five working days.

12 (b) School districts may release information from pupil records
13 to the following:

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

17 (2) Agencies or organizations in connection with a pupil's
18 application for, or receipt of, financial aid. However, information
19 permitting the personal identification of pupils or their parents
20 may be disclosed only as may be necessary for purposes as to
21 determine the eligibility of the pupil for financial aid, to determine
22 the amount of the financial aid, to determine the conditions which
23 will be imposed regarding the financial aid, or to enforce the terms
24 or conditions of the financial aid.

25 (3) The county elections official, for the purpose of identifying
26 pupils eligible to register to vote, and for conducting programs to
27 offer pupils an opportunity to register to vote. The information,
28 however, shall not be used for any other purpose or given or
29 transferred to any other person or agency.

30 (4) Accrediting associations in order to carry out their
31 accrediting functions.

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



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

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

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

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

28 (2) Each agency and school district shall develop procedures or
29 devices to secure privileged or confidential data from
30 unauthorized disclosure.

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

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

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



1 SEC. 3. Notwithstanding Section 17610 of the Government
2 Code, if the Commission on State Mandates determines that this
3 act contains costs mandated by the state, reimbursement to local
4 agencies and school districts for those costs shall be made pursuant
5 to Part 7 (commencing with Section 17500) of Division 4 of Title
6 2 of the Government Code. If the statewide cost of the claim for
7 reimbursement does not exceed one million dollars (\$1,000,000),
8 reimbursement shall be made from the State Mandates Claims
9 Fund.
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