

AMENDED IN ASSEMBLY SEPTEMBER 6, 2001

AMENDED IN ASSEMBLY JULY 18, 2001

AMENDED IN SENATE MAY 8, 2001

AMENDED IN SENATE APRIL 17, 2001

**SENATE BILL**

**No. 963**

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**Introduced by Senator Vincent**

February 23, 2001

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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 *determine the most cost-effective manner in which to send the information, or upon agreement with the probation officer or social worker, as the case may be*, 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.

(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:

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

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8 2005, and as of that date is repealed, unless a later enacted statute,  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

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

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

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

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

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

31 (3) Authorized representatives of the Comptroller General of  
32 the United States, the Secretary for Education, and administrative  
33 head of an education agency, state education officials, or their  
34 respective designees, or the United States Office of Civil Rights,  
35 where the information is necessary to audit or evaluate a state or  
36 federally supported education program or pursuant to a federal or  
37 state law, provided that except when collection of personally  
38 identifiable information is specifically authorized by federal law,



1 any data collected by those officials shall be protected in a manner  
2 which will not permit the personal identification of students or  
3 their parents by other than those officials, and any personally  
4 identifiable data shall be destroyed when no longer needed for the  
5 audit, evaluation, and enforcement of federal legal requirements.

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

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

12 (6) A pupil 16 years of age or older or having completed the  
13 10th grade who requests access.

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

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

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

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



1 (11) Until January 1, 2005, any probation officer for the  
2 purposes of casework planning and monitoring wards and  
3 probationers. The probation officer shall certify in writing to the  
4 school district that the information will be used only for case  
5 planning and monitoring purposes. The school district shall  
6 *determine the most cost-effective manner in which to send the*  
7 *information, including, but not limited to, United States postal*  
8 *service, facsimile or other electronic transmission, or upon*  
9 *agreement with the probation officer,* make the information  
10 available at the schoolsite to the probation officer within five  
11 working days.

12 (12) Until January 1, 2005, any social worker supervising a  
13 dependent child pursuant to Article 6 (commencing with Section  
14 300) of the Welfare and Institutions Code. The social worker shall  
15 certify in writing to the school district that the information will be  
16 used only for purposes authorized pursuant to Article 6  
17 (commencing with Section 300) of the Welfare and Institutions  
18 Code. The school district shall *determine the most cost-effective*  
19 *manner in which to send the information, including, but not limited*  
20 *to, United States postal service, facsimile or other electronic*  
21 *transmission, or upon agreement with the social worker,* make the  
22 information available at the schoolsite to the social worker within  
23 five working days.

24 (b) School districts may release information from pupil records  
25 to the following:

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

29 (2) Agencies or organizations in connection with a pupil's  
30 application for, or receipt of, financial aid. However, information  
31 permitting the personal identification of pupils or their parents  
32 may be disclosed only as may be necessary for purposes as to  
33 determine the eligibility of the pupil for financial aid, to determine  
34 the amount of the financial aid, to determine the conditions which  
35 will be imposed regarding the financial aid, or to enforce the terms  
36 or conditions of the financial aid.

37 (3) The county elections official, for the purpose of identifying  
38 pupils eligible to register to vote, and for conducting programs to  
39 offer pupils an opportunity to register to vote. The information,



1 however, shall not be used for any other purpose or given or  
2 transferred to any other person or agency.

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

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

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

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

29 (c) Notwithstanding any other provision of law, any school  
30 district, including any county office of education or  
31 superintendent of schools, may participate in an interagency data  
32 information system that permits access to a computerized data  
33 base system within and between governmental agencies or  
34 districts as to information or records which are nonprivileged, and  
35 where release is authorized as to the requesting agency under state  
36 or federal law or regulation, as long as each of the following  
37 requirements are met:

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



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

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

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

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

13 SEC. 3. Notwithstanding Section 17610 of the Government  
14 Code, if the Commission on State Mandates determines that this  
15 act contains costs mandated by the state, reimbursement to local  
16 agencies and school districts for those costs shall be made pursuant  
17 to Part 7 (commencing with Section 17500) of Division 4 of Title  
18 2 of the Government Code. If the statewide cost of the claim for  
19 reimbursement does not exceed one million dollars (\$1,000,000),  
20 reimbursement shall be made from the State Mandates Claims  
21 Fund.

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