

Senate Bill No. 963

Passed the Senate September 13, 2001

Secretary of the Senate

Passed the Assembly September 12, 2001

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day of
_____, 2001, at _____ o'clock __M.

Private Secretary of the Governor



CHAPTER _____

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, 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.

The people of the State of California do enact as follows:

SECTION 1. Section 48980.5 is added to the Education Code, to read:

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

(b) This section shall remain in effect only until January 1, 2005, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2005, deletes or extends that date.

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

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



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

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

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

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

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

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

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

(7) Any district attorney who is participating in or conducting a truancy mediation program pursuant to Section 48263.5, or Section 601.3 of the Welfare and Institutions Code, or



participating in the presentation of evidence in a truancy petition pursuant to Section 681 of the Welfare and Institutions Code.

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

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

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

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

(12) Until January 1, 2005, any social worker supervising a dependent child pursuant to Article 6 (commencing with Section 300) of the Welfare and Institutions Code. The social worker shall certify in writing to the school district that the information will be used only for purposes authorized pursuant to Article 6 (commencing with Section 300) of the Welfare and Institutions



Code. The school district shall determine the most cost-effective manner in which to send the information, including, but not limited to, United States postal service, facsimile or other electronic transmission, or upon agreement with the social worker, make the information available at the schoolsite to the social worker within five working days.

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

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

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

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

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

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

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



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

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

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

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

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

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

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

SEC. 3. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for



reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund.



Approved _____, 2001

Governor

