

Shasta County Special Education Local Plan Area
Confidentiality of Student Records Policy & Procedure

CONFIDENTIALITY OF STUDENT RECORDS POLICY

Students

The Shasta SELPA recognizes the importance of keeping accurate, comprehensive student records as required by law. Procedures for maintaining the confidentiality of student records shall be consistent with state and federal law.

Each local educational agency (LEA) superintendent or designee shall establish regulations governing the identification, description and security of student records, as well as timely access for authorized persons. These regulations shall ensure parental rights to review, inspect, and copy student records and shall protect the student and the student's family from invasion of privacy.

Each program administrator (custodian of records) is responsible for the security of pupil records maintained by the District and shall devise procedures for assuring that access to such records is limited to authorized person.

- Ensure that records are properly assembled, dated, signed and maintained
- Maintain the "Pupil Access Log"
- Ensure proper release and/or transfer of pupil's records

Storage:

All records must be kept in a safe, secure manner so as to maintain the confidentiality of the information. FERPA requires school districts to use "reasonable methods" to ensure teachers and other school officials access to only those education records in which they have a legitimate educational interest.

Maintenance of records:

- Electronically stored information
- Registers and roll books or daily service providers
- Daily service logs and notes and other documents used to record the provision of related services
- Absence verification records (parent/doctor notes, telephone logs, and related documents)
- Transportation and other related services contracts

Each LEA superintendent or designee shall designate a certificated employee to serve as custodian of records, with responsibility for student records at the LEA level. At each school, the principal or a certificated designee shall act as custodian of records for students enrolled at that school. The custodian of records shall be responsible for implementing SELPA and LEA policy and administrative regulation regarding student records. (5 CCR 431)

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The District of Residence (DOR) is responsible for maintaining the student records. However if the student is enrolled in a regional program or NPS the District of Service (DOS) will maintain the student record.

NPS student records will be maintained by the Contract Provider who will serve as the DOS.

District NPS placements will have two options:

- Districts who place students directly into an NPS will maintain responsibility for student in placement, including the maintenance of student records
- District may request the services of the /NPS contract provider to maintain the student record as the DOS.

CONFIDENTIALITY OF STUDENT RECORDS PROCEDURE

Students

DEFINITIONS

Student record is any item of information other than directory information, gathered within or outside the local educational agency (LEA), that is directly related to an identifiable student and maintained by the LEA or required to be maintained by an employee in the performance of his/her duties. Any information maintained for the purpose of second-party review is considered a student record. A student record may be recorded in handwriting, print, computer media, video or audio tape, film, microfilm, microfiche or by other means. Student records include the student's health record.

Student records do not include:

1. Informal notes compiled by a school officer or employee which remain in the sole possession of the maker, are used only as a personal memory aid, and are not accessible or revealed to any other person except a substitute
2. Records of the law enforcement unit of the LEA, subject to the provisions of 34 CFR 99.8

Mandatory permanent student records are those records which are maintained in perpetuity and which schools have been directed to compile by state law, regulation or administrative directive. (5 CCR 430)

Mandatory interim student records are those records which the schools are directed to compile and maintain for stipulated periods of time and are then destroyed in accordance with state law, regulation or administrative directive. (5 CCR 430)

Permitted student records are those records having clear importance only to the current educational process of the student. (5 CCR 430)

Access means a personal inspection and review of a record, an accurate copy of a record or receipt of an accurate copy of a record, an oral description or communication of a record, and a request to release a copy of any record. (Education Code 49061)

Disclosure means to permit access to or the release, transfer, or other communication of personally identifiable information contained in education records, to any party, by any means including oral, written or electronic means. (34 CFR 99.3)

Personally identifiable information includes but is not limited to the student's name, the name of the student's parent/guardian or other family member, the address of the student or student's family, a personal identifier such as the student's social security number or student number, and a list of personal characteristics or other information that would make the student's identity easily traceable. (34 CFR 99.3)

Adult student is a person who is or was enrolled in school and who is at least 18 years of age. (5 CCR 430)

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School officials and employees are officials or employees of the LEA and of the SELPA Office, whose duties and responsibilities to the LEA, whether routine or as a result of special circumstances, require that they have access to student records.

A legitimate educational interest is one held by officials or employees of the LEA and of the SELPA Office, whose duties and responsibilities to the LEA, whether routine or as a result of special circumstances, require that they have access to student records.

CHANGES TO STUDENT RECORDS

No additions except routine updating shall be made to a student's record after high school graduation or permanent departure without prior consent of the parent/guardian or adult student. (5 CCR 437)

Only a parent/guardian having legal custody of the student may challenge the content of a record or offer a written response to a record. (Education Code 49061)

RETENTION AND DESTRUCTION OF STUDENT RECORDS

The following mandatory permanent student records shall be kept indefinitely: (5 CCR 432, 437)

1. Legal name of student
2. Date and place of birth, and method of verifying birth date
3. Gender of student
4. Name and address of parent/guardian of minor student
 - a. Address of minor student if different from the above
 - b. Annual verification of parent/guardian's name and address and student's residence
5. Entrance and departure date of each school year and for any summer session or other extra session
6. Subjects taken during each year, half-year, summer session or quarter, and marks or credits given
7. Verification of or exemption from required immunizations
8. Date of high school graduation or equivalent

Unless forwarded to another LEA, mandatory interim student records shall be maintained subject to destruction during the third school year following a determination that their usefulness has ceased or the student has left the LEA. These records include: (Education Code 48918; 5 CCR 432, 437, 16027)

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1. Expulsion orders and the causes therefore
2. A log identifying persons or agencies who request or receive information from the student record
3. Health information, including Child Health and Disability Prevention Program verification or waiver
4. Information on participation in special education programs, including required tests, case studies, authorizations, and evidence of eligibility for admission or discharge
5. Language training records
6. Progress slips/notices required by Education Code 49066 and 49067
7. Parental restrictions/stipulations regarding access to directory information
8. Parent/guardian or adult student rejoinders to challenged records and to disciplinary action
9. Parent/guardian authorization or denial of student participation in specific programs
10. Results of standardized tests administered within the past three years

Permitted student records may be destroyed six months after the student completes or withdraws from the educational program, including: (5 CCR 432, 437)

1. Objective counselor/teacher ratings
2. Standardized test results older than three years
3. Routine disciplinary data
4. Verified reports of relevant behavioral patterns
5. All disciplinary notices
6. Supplementary attendance records

Records shall be destroyed in a way that assures they will not be available to possible public inspection in the process of destruction. (5 CCR 437)

PERSONS WITH ACCESS TO STUDENT RECORDS

Persons, agencies or organizations specifically granted access rights pursuant to state law shall have access without written parental consent or judicial order. In addition, parental consent is not required when information is shared with other persons within educational institutions, agencies or organizations obtaining access, as long as those persons have a legitimate educational interest in the information. (Education Code 49076)

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The following persons or agencies shall have absolute access to any and all student records in accordance with state law:

1. Natural parents, adoptive parents, education rights holders, or legal guardians of students younger than age 18 (Education Code 49069)
 - a. Access to student records and information shall not be denied to a parent because he/she is not the child's custodial parent. (Family Code 3025)
2. Adult students age 18 or older or students under the age of 18 who attend a postsecondary institution, in which case the student shall alone exercise rights related to his/her student records and grant consent for the release of records (Education Code 49061; 34 CFR 99.5)
3. Those so authorized in compliance with a court order or lawfully issued subpoena (Education Code 49077)

In addition, the following persons or agencies shall have access to those particular records that are relevant to the legitimate educational interests of the requester: (Education Code 49076)

1. Natural parents, adoptive parents, education rights holders, or legal guardians of a dependent student age 18 or older
2. Students 16 or older or who have completed the 10th grade
3. School, LEA, and SELPA Office officials and employees
4. Members of a school attendance review board, and any volunteer aide age 18 or older who has been investigated, selected and trained by such a board to provide follow-up services to a referred student
5. Officials and employees of other public schools or school systems where the student intends or is directed to enroll, including local, county or state correctional facilities where educational programs leading to high school graduation are provided
6. Federal, state and local officials, as needed for program audits or compliance with law
7. Any LEA attorney who is participating in or conducting a truancy mediation program or participating in the presentation of evidence in a truancy petition
8. A prosecuting agency for consideration against a parent/guardian for failure to comply with compulsory education laws
9. Any probation officer or LEA attorney 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 student, or for purposes of presenting evidence in a truancy petition pursuant to Welfare and Institutions Code 681

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County child welfare services workers responsible for the case plan of a minor who is being placed in foster care shall have access to the student's school records. (Welfare and Institutions Code 16010)

Foster family agencies with jurisdiction over currently enrolled or former students may access those students' records of grades and transcripts, and any Individualized Education Program (IEPs) developed and maintained by the LEA with respect to such students. (Education Code 49069.3)

***Note: As amended by AB 1748 (Ch. 593, Statutes of 2000), Health and Safety Code 120440 authorizes LEAs to share a student's immunization information with county health departments operating immunization registries and the state Department of Health Services, as specified below. Pursuant to Health and Safety Code 120440, as amended, a LEA must notify a student's parent/guardian prior to releasing the information. See pages (k)-(l) of this regulation.

The LEA superintendent or designee may release a student's immunization record information to local health departments operating countywide immunization information and reminder systems and the State Department of Health Services. The following information may be released: the name of the student and the student's parent/guardian; types and dates of immunizations received by the student; manufacturer and lot number of the immunization received; adverse reaction to the immunization; other non-medical information necessary to establish the student's unique identity and record; current address and telephone number of the student and his/her parent/guardian; the student's gender; and the student's place of birth. (Health and Safety Code 120440)

When authorized by law to assist law enforcement in investigations of suspected kidnapping, the LEA superintendent or designee shall provide information about the identity and location of the student as it relates to the transfer of that student's records to another LEA or private school within the state. The information shall be released only to designated peace officers, federal criminal investigators and federal law enforcement officers whose names have been submitted in writing by their law enforcement agency. (Education Code 49076.5)

The LEA superintendent or designee may release information from student records to the following: (Education Code 49076)

1. Appropriate persons in an emergency if the health and safety of a student or other persons are at stake
2. Agencies or organizations in connection with a student's application for or receipt of financial aid
3. Accrediting associations
4. Under the conditions specified in Education Code 49076, organizations conducting studies on behalf of educational institutions or agencies for the purpose of developing, validating or administering predictive tests, administering student aid programs or improving instruction
5. Officials and employees of private schools or school systems where the student

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is enrolled or intends to enroll

6. County elections officials for the purpose of identifying students eligible to register to vote and offering such students an opportunity to register

Persons, agencies or organizations not afforded access rights pursuant to state law may be granted access only through written permission of the parent/guardian or adult student, or by judicial order. (Education Code 49075)

Only a parent/guardian having legal custody of the student may consent to the release of records to others. Either parent may grant consent if both parents notify the LEA, in writing, that such an agreement has been made. (Education Code 49061)

Any person or agency granted access is prohibited from releasing information to another person or agency without written permission from the parent/guardian or adult student. (Education Code 49076)

PROCEDURES FOR ACCESS

Student records shall be maintained in a central file at the school attended by the student or, when records are maintained in different locations, a notation shall be placed in the central file indicating where other records may be found. On request, parents/guardians/education rights holders shall be notified of the location of student records if not centrally located. (Education Code 49069; 5 CCR 433)

To inspect, review or obtain copies of student records, authorized persons shall submit a request to the custodian of records.

Authorized persons from outside the school whose access requires consent from the parent/guardian or adult student shall submit their request, together with any required authorization, to the LEA superintendent or designee or the custodian of records. (5 CCR 435)

Within five days following the date of request, an authorized person shall be granted access to inspect, review and obtain copies of student records during regular school hours. (Education Code 49069; 5 CCR 431)

Qualified certificated personnel shall be available to interpret records when requested. (Education Code 49069)

The custodian of records shall be responsible for the security of student records and shall assure that access is limited to authorized persons. (5 CCR 433)

The custodian of records or the LEA superintendent or designee shall prevent the alteration, damage or loss of records during inspection. (5 CCR 435)

Prior to disclosing a record pursuant to a court order, the LEA superintendent or designee shall, unless otherwise instructed by the order, give the parent/guardian or adult student at least three days' notice of the name of the requesting agency and the specific record requested if lawfully possible within the requirements of the judicial order. (5 CCR 435)

Upon releasing student information to a judge or probation officer for the purpose of conducting

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a truancy mediation program or presenting evidence in a truancy petition, the LEA superintendent or designee shall inform, or provide written notification to, the student's parent/guardian within 24 hours. (Education Code 49076)

If the LEA is planning to release a student's immunization information to the county health department or state Department of Health Services, the Superintendent or designee shall inform the student's parents/guardians of the following: (Health and Safety Code 120440)

1. The type of information that will be shared
2. The name and address of the agency with which the LEA will share the information
3. That any shared information shall be treated as confidential and shall be used to share only with each other and, upon request, with health care providers, child care facilities, family child care homes, service providers for the Women, Infants and Children (WIC) food program, county welfare departments, and health care plans
4. That the information may be used only to provide immunization service; to provide or facilitate third-party payer payments for immunizations; to compile and disseminate statistical information on immunization status on groups of people, without identifying the student
5. That the parent/guardian has the right to examine any immunization-related information shared in this manner and to correct any errors
6. That the parent/guardian may refuse to allow this information to be shared

DUPLICATION OF STUDENT RECORDS

To provide copies of any student record, a LEA may charge a reasonable fee not to exceed the actual cost of furnishing the copies. No charge shall be made for providing up to two transcripts or up to two verifications of various records for any former student. No charge shall be made to locate or retrieve any student record. (Education Code 49065)

The LEA superintendent or designee shall set a fee and update the amount periodically if actual costs change.

ACCESS LOG

A log shall be maintained for each student's record which lists all persons, agencies or organizations requesting or receiving information from the records and the legitimate educational interest of the requester. (Education Code 49064)

In every instance of inspection by persons who do not have assigned educational responsibility, the school custodian of records shall make an entry in the log indicating the record inspected, the name of the person granted access, the reason access was granted, and the time and circumstances of inspection. (5 CCR 435)

The log does not need to include: (Education Code 49064)

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1. Parents/guardians or adult students
2. Students 16 years of age or older who have completed the 10th grade
3. Parties obtaining LEA-approved directory information
4. Parties who provide written parental consent, in which case the consent notice shall be filed with the record pursuant to Education Code 49075
5. School, LEA, or SELPA Office officials or employees who have legitimate educational interest

The log shall be accessible only to the parent/guardian, adult student, dependent adult student, student age 16 years or older or who has completed the 10th grade, custodian of records, and certain state/federal officials. (Education Code 49064; 5 CCR 432)

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TRANSFER OF STUDENT RECORDS

If a student transfers into a LEA from any other school, LEA or a private school, the LEA superintendent or designee of the school in which the student is currently enrolled shall inform the parent/guardian of his/her rights regarding student records, including the right to review, challenge and receive a copy of student records. (Education Code 49068; 5 CCR 438)

When a student transfers into a LEA from another, the LEA superintendent or designee of the school in which the student is currently enrolled shall request that the student's previous LEA provide any records, either maintained by that LEA in the ordinary course of business or received from a law enforcement agency, regarding acts committed by the transferring student that resulted in his/her suspension or expulsion. (Education Code 48201)

When a student transfers from one LEA to another school LEA or to a private school, the LEA superintendent or designee of the school from which the student transfers shall forward a copy of the student's mandatory permanent records as requested by the other LEA or private school. The original record or a copy shall be retained permanently by each LEA. If the transfer is to another California public school, the student's entire mandatory interim record shall be forwarded. If the transfer is out of state or to a private school, the mandatory interim record may be forwarded. Permitted student records may be forwarded to any other LEA or private school. (5 CCR 438)

When informed that a LEA student in foster care is transferring to another local educational agency, the LEA superintendent or designee shall cooperate to ensure that the student's health and education records are transferred to the receiving LEA. The LEA shall transfer the records within five working days of receiving notification regarding the student's new educational placement. (Education Code 49069.5)

All student records shall be updated before they are transferred. (5 CCR 438)

Student records shall not be withheld from the requesting LEA because of any charges or fees owed by the student or parent/guardian. (5 CCR 438)

If the LEA is withholding grades, diploma or transcripts from the student because of his/her damage or loss of school property, this information shall be sent to the requesting LEA along with the student's records.

NOTIFICATION OF PARENTS/GUARDIANS

Upon students' initial enrollment and at the beginning of each year thereafter, the LEA superintendent or designee shall notify parents/guardians and eligible students, in writing, of their rights related to student records. Insofar as practicable, the LEA shall provide these notices in the student's home language and shall effectively notify parents/guardians or eligible students who are disabled. (Education Code 49063; 34 CFR 99.7)

The notice shall include information about: (Education Code 49063; 34 CFR 99.7, 99.34)

1. The types of student records kept by the LEA and the information contained therein
2. The titles of the officials responsible for maintaining each type of record

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3. The location of the log identifying those who request information from the records
4. LEA criteria for defining "school officials and employees" and for determining "legitimate educational interest"
5. LEA policies for reviewing and expunging student records
6. The right to inspect and review student records, and the procedures for doing so
7. The right to challenge and the procedures for challenging the content of a student record that the parent/guardian or student believes to be inaccurate, misleading or otherwise in violation of the student's privacy rights
8. The cost, if any, charged for duplicating copies of records
9. The categories of information defined as directory information pursuant to Education Code 49073
10. The right to consent to disclosures of personally identifiable information contained in the student's records except when disclosure without consent is authorized by law
11. The availability of the curriculum prospectus developed pursuant to Education Code 49091.14 containing the titles, descriptions and instructional aims of every course offered by the school
12. Any other rights and requirements set forth in Education Code 49060-49078, and the right of parents/guardians to file a complaint with the United States Department of Health, Education, and Welfare concerning an alleged failure by the LEA to comply with 20 USC 1232g (FERPA).

The notification shall also include a statement that the LEA forwards education records to other agencies or institutions that have requested the records and in which the student seeks or intends to enroll.