

*Shasta County Special Education Local Plan Area*  
**Student Records Policy**

**STUDENT RECORDS**

**Parents**

Under Family Educational Rights and Privacy Act (FERPA), parents have the right to inspect and review their children's education records and seek to amend them in certain circumstances. Access to the records must be granted no later than five business days following the date of the request. In addition, an educational agency subject to FERPA may not have a policy or practice of disclosing education records, without the written consent of the parent or eligible student.

**Educationally Related Mental Health Records**

Records of educationally related mental health services are considered "education records" because they are (1) directly related to a student and (2) maintained by the school or party acting for the school.

Because student health information is education records are protected by FERPA, the HIPAA Privacy Rule excludes such information from its coverage. See the exception at paragraph (2)(i) to the definition of "protected health information" in the HIPPA Privacy Rule are 45 CFR § 160.103.

Parents have the right under FERPA to inspect and review these health and medical records because they are "educational records" under FERPA. See 34 CFR §§ 99.10-99.12.

**Type of Records**

All pupil records are classified as Mandatory Permanent, Mandatory Interim or Permitted. Regulations governing assess, transfer, and destruction of records vary according to their classification. Special Education pupil records are classified as Mandatory Interim Records. Therefore, school districts must protect the confidentiality of personally identifiable information at collection, storage, disclosure, and destruction stages.

**Safeguards**

One official at each agency (school) must assume responsibility for ensuring the confidentiality of any personal identifiable information. All persons collecting or using personally identifiable information must receive training of instruction regarding the state policies and procedures as stated in the annual program plan. Each agency (school) must maintain for public inspection a current list of names and positions of those employees who have access to personal identifiable information.

**Location of Pupil Records**

Records for each individual pupil shall be maintained in a central file at the school attended by the pupil. In Shasta SELPA all out-of-home student records will be housed at Shasta Union High

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School Districts, Special Education Office. When records are maintained in different locations a notation in the central file as to where such other records may be found is required.

Following are the procedural guidelines:

- All confidential records must be kept in a locked location.
- An access log must be kept in each file.
- An access log must be kept indicating when and who access was given plus when and who records were sent outside the district.
- A list of district personnel who routinely have access to student files must be posted in the room in which the files are located.
- All others must be identified in the file log prior to accessing file.

Special Education information and material to be included in the student record file:

- Copies of IEPs. Less than or equal to three years old signed by student's educational right holder.
- Assessment plans and reports, less than or equal to three years old
- Communication to and from parents, including all mandatory information, less than or equal to three years old
- Transition plans (included as necessary)
- Positive behavior support plans (included as necessary)
- Last district annual or triennial, even if older than three years.
- Last district psycho-educational report

### **Transfers**

Confidential records and/or information may be transferred between public schools and public school districts within the state of California without written permission by parent, guardian or student over 18 years of age. Records may be transferred by facsimile or secure modern to appropriate personnel.

Transfer of confidential records and/or information to a public school or district outside the state does require the written consent of parent, guardian, or student over 18 years of age.

Transfer of confidential records and/or information to a private school or any private or public agency or other individual does require the written consent of the parent, guardian or student over 18 years of age.

### **Access to Student Records**

Access means a personal inspection and review of a record or an accurate copy of a record, an oral description or communication of a record or receipt of a copy of a record.

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Those granted access are prohibited from releasing information to another person or agency without written permission from the parent or legal guardian. If the student is 18 or older, the right of consent belongs to the student unless a parent or guardian obtains conservatorship.

Students who are married are considered to be emancipated minors even if younger than 18 years of age.

State and federal laws permit access to records according to the following listings.

**Mandatory Access**

- Natural parents, adoptive parents or legal guardian of student younger than age 18 or dependent student age 18 or older (within 5 days of request)
  
- School officials and employees for legitimate educational purposes
- School Attendance and Review Board (SARB) members
- Other public schools (California) where student has enrolled or intends to enroll
- Federal, State, and county officials for program audit or compliance
- Agencies specified by law in cases of child abuse
- Those so authorized in compliance with a court order
- Private schools or out-of-state schools of anticipated or new enrollment

**Permitted Access**

- Appropriate persons in an emergency
- Agencies or organizations in connection with student applying for financial aid
- Accrediting associations
- Organizations conducting studies of behalf of the district
- Private schools or out-of-state schools (to mandatory interim and permitted student records)
- The person or agencies authorized by parent or guardian with custody (or student of age 18 or older)

**Prohibited Access**

If an agency or person is not included, the above access can only be granted through written permission. Such permission must:

- 1) Specify the nature of the information to be released; and
  
- 2) Specify the purpose for which the information is released In addition, the recipient must be informed of, but need not acknowledge in writing restrictions upon further release to another agency or person without specific written authorization.

**Parent Access to Student Records**

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Parents must be notified, in writing, of their rights to inspect and review the school records of their students. This must be done at the time of initial enrollment and annually thereafter. If 15 percent of pupils enrolled speak a single primary language other than English, as determined from census data in the preceding year, then all notices, reports, statements, or records sent to parent or guardian of pupil by school shall, in addition to being written in English, be written in primary language, and may be responded to either in English or primary language.

A lack of English fluency should not preclude parent or guardian from exercising their educational rights. The school shall take reasonable steps to ensure parents and guardians are properly notified in English and in their home language of rights and opportunities available to them.

The notice should contain the following specific information:

- The types of records and information contained therein.
- The position of the official responsible for the maintenance of each type of record.
- The location of the log or record required to be maintained.
- Criteria used by the district to define “school officials and employees” and in determining “legitimate educational interest.”
- The policies of the district for reviewing and expunging records.
- The right of the parent to access student records.
- The procedures for challenging the content of student records.
- The cost, if any, charged to the parent for reproducing copies of records.
- The categories of information that the institution has designated as directory information.
- Any other rights stated in the California Education Code and the right to file a complaint with the Department of Health, Education and Welfare (HEW).
- Notice of all locations where copies of the policies and procedures regarding the General Education Provisions Act and confidential student records may be obtained.
- The right to inspect and review also includes responses to reasonable requests.

Parents may request explanations and interpretations of the records and additionally, have the right to have a representative inspect and review the records. The parent must make the request in writing. The request is given to a certificated staff member who interprets the records where necessary. The certificated staff member may schedule an appointment with the parent within five days to review the contents of the student’s file with the parent. If photocopies are requested, copy the materials and provide the records to the parent within five days of the request.

**Purging Information from a Student’s Special Education File**

The special education file for African-American students should be reviewed when the student transfers into the district or is being reevaluated. The file shall be permanently sealed if it contains information or reference to I.Q. tests or prohibited tests. The records are to be opened only for litigation purposes, official state or federal audits, or upon parent requests.

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The parents shall be notified that the records will be sealed. The parent shall be informed of the court decision which prohibits the use of intelligence test for African-American students for any purpose related to special education. Additionally, prior to sealing the records, a qualified professional should identify appropriate data to be copied and purge all references to information from I.Q. tests or prohibited tests. The remaining data should then be transferred to the student's current special education file.

- 1) Review the student's special education file for information pertaining to I.Q. or other prohibited tests
- 2) Remove any prohibited protocols and all assessment reports which contain prohibited information.
- 3) Copy the original assessment report.
- 4) The following information shall be redacted from the duplicated copy utilizing white out:
  - a) Any reference to a test instrument which yields an I.Q. score or standard score that is an indication of cognitive functioning.
  - b) Any test data summary scores from the test instrument(s).
  - c) Commentary in the report which discusses the student's performance on the test instruments(s).
- 5) Duplicate copy of the purged report. File this in the student's special education file.
- 6) Seal the original report, any relevant protocols, and a copy of the letter sent to the parent/guardian in an envelope. Indicate the student's name and the document destruction date of five years hence on the outside of the envelope. Also, attach a label indicating the envelope is sealed per Larry P. ruling, and only to be opened for purpose of litigation official state or federal audits, or upon parent request.
- 7) Place notification in the student's special education file regarding the sealed envelope.
- 8) Forward the sealed envelope to the district's Special Education Office.
- 9) The special education administrator will notify the parent in writing.

**Destruction of Student Records**

Mandatory interim student records may be classified as disposable after determining that their usefulness has ceased or after the student has left the district. Destruction shall be after the third year in which they are deemed disposable. Permitted student records may be maintained for as long as they have an appropriate education purpose. They may be destroyed when their

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usefulness ceases. The method of destruction shall assure that records are not available to possible public inspection in the process of destruction. The typically used method is shredding.

Citations: (EC § 48985), (EC § 49061(b)), (EC § 49064), (E.C. § 49061(e)), (E.C. § 49068), (E.C. § 49069), (EC § 49063), (E.C. § 49070(a)-(c)), (EC § 49076(a)(1)), (E.C. § 49076(1)(2)), (EC § 49076.5(a-b)), EC § 49077), (52 CCR § 432(b)(2)), (52 CCR § 432(b)(3)), (52 CCR § 437) (34 CFR § 99.3)