

Collecting, Retaining, and Releasing Student Information

The Solano County Office of Education (SCOE) 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.

SCOE shall maintain in writing policies and procedures for gathering and handling sensitive student information, and appropriate personnel shall receive training regarding those policies and procedures.

The County 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.

The County Superintendent or designee shall designate a certificated employee to serve as custodian of records, with responsibility for student records at the county office 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 SCOE policy and administrative regulation regarding student records.

Definitions

Student records are any items of information gathered within or outside of SCOE that are directly related to an identifiable student and maintained by SCOE 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. (34 CFR 99.3; Education Code 49061-49062)

Student records do not include:

1. Directory information
2. 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
3. Records of the law enforcement unit of SCOE, 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.

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.

Permitted student records are those records having clear importance only to the current educational process of the student.

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.

Policy 5125 (Continued)

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.

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 identification (ID) number, and a list of personal characteristics or other information that would make the student's identity easily traceable.

Adult student is a person who is or was enrolled in school and who is at least 18 years of age.

Parent/guardian means a natural parent, an adopted parent, legal guardian, surrogate parent, or foster parent. (Education Code 49061)

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

Custodian of records is the employee responsible for the security of student records maintained by SCOE and for devising procedures for assuring that access to such records is limited to authorized persons. (5 CCR 433)

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

County placing agency means the county social service department or county probation department. (Education Code 49061)

Persons Granted Access to Student Records Without Prior Written Consent

Persons, agencies, or organizations specifically granted access rights to student records pursuant to law shall have access without prior written parental consent or judicial order. (Education Code 49076)

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

1. Parents/guardians of students younger than age 18 (Education Code 49069)
Access to student records and information shall not be denied to a parent because s/he is not the child's custodial parent. (Family Code 3025)
2. An adult student age 18 or older or a student under the age of 18 who attends a postsecondary institution, in which case the student alone shall exercise rights related to his/her student records and grant consent for the release of records (34 CFR 99.3, 99.5)
3. Any person, agency, or organization 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 interest of the requester: (Education Code 49076)

1. Parents/guardians of a dependent student age 18 or older

Policy 5125 (Continued)

2. Students age 16 or older or who have completed the 10th grade
3. School 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 but not for an information request related to a student's or family's immigration or citizenship status
7. Any district 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 district attorney for the purposes of conducting a criminal investigation or an investigation in regard 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
11. Any county placing agency for the purpose of fulfilling educational case management responsibilities required by the juvenile court or by law pursuant to Welfare and Institutions Code 16010 and to assist with the school transfer or enrollment of a student

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 (IEP) developed and maintained by SCOE with respect to such students. (Education Code 49069.3)

When authorized by law to assist law enforcement in investigations of suspected kidnapping, the County 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 public-school district or California private school. 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 in accordance with the procedures specified in Education Code 49076.5.

Information about Immigration Status, Citizenship Status, and National Origin

SCOE personnel shall not inquire specifically about a student's citizenship or immigration status or the citizenship or immigration status of a student's parents or guardians; nor shall personnel seek or require, to the exclusion of other permissible documentation or information, documentation or information that may indicate a student's immigration status, such as a green card, voter registration, a passport, or citizenship papers.

Where any law contemplates submission of national origin related information to satisfy the requirements of a special program, SCOE personnel shall solicit that documentation or information separately from the school enrollment process.

Policy 5125 (Continued)

Where permitted by law, SCOE personnel shall enumerate alternative means to establish residency, age, or other eligibility criteria for enrollment or programs, and those alternative means shall include among them documentation or information that are available to persons regardless of immigration status, citizenship status, or national origin, and that do not reveal information related to citizenship or immigration status.

Where residency, age, and other eligibility criteria for purposes of enrollment or any program may be established by alternative documents or information permitted by law or this policy, SCOE's procedures and forms shall describe to the applicant, and accommodate, all alternatives specified in law and all alternatives authorized under this policy.

If SCOE possesses information that could indicate immigration status, citizenship status, or national origin information, SCOE shall not use the acquired information to discriminate against any students or families or bar children from enrolling in or attending school.

If parents or guardians choose not to provide information that could indicate their or their children's immigration status, citizenship status, or national origin information, SCOE shall not use such actions as a basis to discriminate against any students or families or bar children from enrolling or attending school.

SCOE shall not allow school resources or data to be used to create a registry based on race, gender, sexual orientation, religion, ethnicity, or national origin.

Social Security Numbers or Cards

SCOE shall not solicit or collect entire Social Security numbers or cards. SCOE shall solicit and collect the last four digits of an adult household member's Social Security number only if required to establish eligibility for federal benefit programs.

When collecting the last four digits of an adult household member's Social Security number to establish eligibility for a federal benefit program, SCOE shall explain the limited purpose for which this information is collected, and clarify that a failure to provide this information will not bar the student from enrolling in or attending the school.

SCOE shall treat all students equitably in the receipt of all school services, including, but not limited to, the gathering of student and family information for the free and reduced lunch program, transportation and educational instruction.

Release of Student Records

SCOE shall avoid the disclosure of information that might indicate a student's or family's citizenship or immigration status if the disclosure is not authorized by Family Educational Rights and Privacy Act (FERPA).

SCOE personnel shall take the following action steps upon receiving an information request related to a student's or family's immigration or citizenship status:

1. Notify a designated SCOE official about the information request.
2. Provide students and families with appropriate notice and a description of the immigration officer's request.
3. Document any verbal or written request for information by immigration authorities.
4. Unless prohibited, provide students and parents/guardians with any documents issued by the immigration-enforcement officer.

Policy 5125 (Continued)

Except for investigations of child abuse, child neglect, or child dependency, or when the subpoena served on the local educational agency prohibits disclosure, SCOE shall provide parental or guardian notification of any court orders, warrants, or subpoenas before responding to such requests.

SCOE shall require written parental or guardian consent for release of student information, unless the information is relevant for a legitimate educational interest or includes directory information only.

Neither exception permits disclosing information to immigration authorities for immigration-enforcement purposes; no student information shall be disclosed to immigration authorities for immigration-enforcement purposes without a court order or judicial subpoena.

SCOE requests for written or parental or guardian consent for release of student information must include the following information:

1. the signature and date of the parent, guardian, or eligible student providing consent;
2. a description of the records to be disclosed;
3. the reason for release of information;
4. the parties or class of parties receiving the information; and
5. if requested by the parents, guardians or eligible student, a copy of the records to be released.

SCOE shall permanently keep the consent notice with the record file.

The parent, guardian, or eligible student is not required to sign the consent form. If the parent, guardian or eligible student refuses to provide written consent for the release of student information that this not otherwise subject to release, SCOE shall not release the information.

The County Superintendent or designee may release information from a student's records to the following: (34 CFR 99.36; Education Code 49076)

1. Appropriate persons in an emergency if the health and safety of the student or other persons are at stake
2. Accrediting associations
3. 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
4. Officials and employees of private schools or school systems where the student is enrolled or intends to enroll
5. Agencies or organizations in connection with the student's application for or receipt of financial aid. However, information permitting the personal identification of a student or his/her parents/guardians for these purposes may be disclosed only as may be necessary to determine the eligibility of the student for financial aid, to determine the amount of 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.
6. County elections officials for the purpose of identifying students eligible to register to vote and offering such students an opportunity to register

Policy 5125 (Continued)

The County Superintendent or designee may release a student's immunization record information to local health departments operating countywide or regional immunization information and reminder systems and the California Department of Public Health. Prior to releasing such information, the County Superintendent or designee shall notify the parent/guardian of his/her right to refuse to share the information as well the other information specified in law. The following information may be released:

1. Name of the student and the student's parent/guardian
2. Student's gender
3. Student's date and place of birth
4. Types and dates of immunizations received
5. Manufacturer and lot number of the immunization received
6. Adverse reaction to the immunization
7. Other nonmedical information necessary to establish the student's unique identity and record

Persons Granted Access to Student Records With Prior Written Consent

Persons, agencies, or organizations not afforded access rights by 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 SCOE, 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)

Access to Records by Authorized Persons

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. Parents/guardians 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, organizations, or agencies 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 County Superintendent or designee or the custodian of records. (5 CCR 435)

When prior written consent is required by law, the parent/guardian shall provide a signed and dated written consent before SCOE discloses the student record. Such consent may be given through electronic means in those cases where it can be authenticated. The consent shall specify the records that may be disclosed, state the purpose of the disclosure, and identify the party or class of parties to whom the disclosure may be made. Upon request by the parent/guardian, SCOE shall provide him/her a copy of the records disclosed. (34 CFR 99.30)

Policy 5125 (Continued)

Within five business days following the date of request, a parent/guardian or other authorized person shall be granted access to inspect, review, and obtain copies of student records during regular school hours. (Education Code 49069)

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 County 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 or subpoena, the County Superintendent or designee shall, unless otherwise instructed by the court, 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. (34 CFR 99.31; 5 CCR 435)

When SCOE discloses personally identifiable information to officials of another school, school system, or postsecondary institution where the student seeks or intends to enroll, the County Superintendent or designee shall make a reasonable attempt to notify the parent/guardian or adult student at his/her last known address, provide a copy of the record that was disclosed, and give him/her an opportunity for a hearing to challenge the record. (34 CFR 99.34)

Upon releasing student information to a judge or probation officer for the purpose of conducting a truancy mediation program or presenting evidence in a truancy petition, the County Superintendent or designee shall inform, or provide written notification to, the student's parent/guardian within 24 hours. (Education Code 49076)

SCOE requests for written or parental or guardian consent for release of student information must include the following information:

1. the signature and date of the parent, guardian, or eligible student providing consent;
2. a description of the records to be disclosed;
3. the reason for release of information;
4. the parties or class of parties receiving the information; and
5. if requested by the parents, guardians or eligible student, a copy of the records to be released.

SCOE shall permanently keep the consent notice with the record file.

The parent, guardian, or eligible student is not required to sign the consent form. If the parent, guardian or eligible student refuses to provide written consent for the release of student information that this not otherwise subject to release, SCOE shall not release the information.

Immunization Records

If SCOE is planning to release a student's immunization information to the county health department or California Department of Public Health, the County Superintendent or designee shall inform the student's parents/guardians of the following:

Policy 5125 (Continued)

1. The type of information that will be shared
2. The name and address of the agency with which SCOE 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; foster care agencies; 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; and/or 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

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 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 record access by: (Education Code 49064)

1. Parents/guardians or adult students
2. Students 16 years of age or older or who have completed the 10th grade
3. Parties obtaining SCOE-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 officials or employees who have a 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)

Duplication of Student Records

To provide copies of any student record, SCOE shall 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)

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)

Policy 5125 (Continued)

Only a parent/guardian having legal custody of the student or an adult 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

All anecdotal information and assessment reports maintained as student records shall be dated and signed by the individual who originated the data. (5 CCR 431)

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. Sex 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

Mandatory interim student records, unless forwarded to another district, 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 SCOE program. These records include: (5 CCR 432, 437)

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 verification or waiver of the health screening for school entry
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
11. Written findings resulting from an evaluation conducted to determine whether it is in a student's best interest to remain in independent study

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)

Transfer of Student Records

If a student transfers into a SCOE program from any other school district or a private school, the County Superintendent or designee 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)

When a student transfers into a SCOE program from another, the County Superintendent or designee shall request that the student's previous district provide any records, either maintained by that district 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.

When a student transfers from a SCOE program to another public educational agency or to a private school, the County Superintendent or designee shall forward a copy of the student's mandatory permanent record as requested by the other agency or private school. The original record or a copy shall be retained permanently by SCOE. If the transfer is to another California public school, the student's entire mandatory interim record shall also 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 district or private school.

Upon receiving a request from an admitting school for a student's records, SCOE shall also forward any expulsion order and the causes for the expulsion.

Upon receiving a request from a county placing agency to transfer a student in foster care out of a SCOE program, the County Superintendent or designee shall transfer the student's records to the next educational placement within two business days. (Education Code 49069.5)

All student records shall be updated before they are transferred.

Student records shall not be withheld from the requesting educational agency because of any charges or fees owed by the student or parent/guardian.

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

Notification of Parents/Guardians

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

The notice shall include: (34 CFR 99.34)

1. The types of student records kept by SCOE and the information contained therein
2. The title(s) of the official(s) responsible for maintaining each type of record
3. The location of the log identifying those who request information from the records
4. SCOE criteria for defining school officials and employees and for determining legitimate educational interest
5. SCOE 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 Education concerning an alleged failure by SCOE to comply with 20 USC 1232g
13. A statement that SCOE forwards education records to other agencies or institutions that have requested the records and in which the student seeks or intends to enroll

Legal Reference:

EDUCATION CODE

- 234.7 Pupil Protections Relating to Immigration and Citizenship Status
- 48201 Student records for transfer students who have been suspended/expelled
- 48904-48904.3 Withholding grades, diplomas, or transcripts of pupils causing property damage or injury; transfer of pupils to new school districts; notice to rescind decision to withhold
- 48918 Rules governing expulsion procedures 49060-49079 Pupil records
- 49091.14 Parental review of curriculum
- 51747 Independent study programs
- 56050 Surrogate parents
- 56055 Foster parents

CODE OF CIVIL PROCEDURE

- 1985.3 Subpoena duces tecum

FAMILY CODE

- 3025 Access to records by noncustodial parents

GOVERNMENT CODE

- 6252-6260 Inspection of public records

HEALTH AND SAFETY CODE

- 120440 Immunizations; disclosure of information

WELFARE AND INSTITUTIONS CODE

- 681 Truancy petitions
- 16010 Health and education records of a minor

CODE OF REGULATIONS, TITLE 5

- 430-438 Individual pupil records
- 16020-16027 Destruction of records of school districts

UNITED STATES CODE, TITLE 20

- 1232g Family Educational Rights and Privacy Act

CODE OF FEDERAL

REGULATIONS, TITLE 34

- 99.1-99.67 Family Educational Rights and Privacy
- 300.500 Definition of "personally identifiable"
- 300.501 Opportunity to examine records for parents of student with disability
- 300.573 Destruction of information

COURT DECISIONS

- Falvo v. Owasso Independent School District, 220 F.3d. 1200 (10th Cir. 2000)

ATTORNEY GENERAL GUIDANCE

- Promoting a Safe and Secure Learning Environment for All (2018)

Policy Cross-Reference:

- 3515 Campus Security
- 3515.3 District Police/Security Department
- 3580 District Records
- 4158 Employee Security
- 5020 Parent Rights and Responsibilities
- 5021 Noncustodial Parents
- 5111 Admission
- 5111.1 District Residency
- 5111.12 Residency Based on Parent/Guardian Employment
- 5111.13 Residency for Homeless Children
- 5113.1 Truancy
- 5121 Grades/Evaluation of Student Achievement
- 5125.1 Release of Directory Information
- 5125.2 Withholding Grades, Diploma or Transcripts
- 5125.3 Challenging Student Records
- 5141.3 Immunizations
- 5141.32 Health Screening for School Entry
- 5144 Discipline
- 5144.1 Suspension and Expulsion/Due Process
- 5144.2 Suspension and Expulsion/Due Process (Students with Disabilities)
- 5145.6 Parental Notifications
- 6158 Independent Study
- 6159 Individualized Education Program
- 6162.51 Standardized Testing and Reporting Program
- 6164.4 Identification and Evaluation of Individuals for Special Education
- 6173.1 Education for Foster Youth
- 6174 Education for English Language Learners