

FUSD Student Records Manual

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STUDENT RECORDS

Board Policy-5125 AR

Definitions

Student record is any item of information other than directory information, gathered within or outside the district, that is directly related to an identifiable student and maintained by the district 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. They do not include informal notes compiled by a school officer or employee, which remain in the sole possession of the maker and are not accessible or revealed to any other person except a substitute. (*Ed. Code 49061, 49062; 5 CCR 430; 34 CFR 99.3*)

Mandatory permanent 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 are those records, which the schools are directed to compile and maintain for stipulated periods of time (**3 years**) and are then destroyed in accordance with state law, regulation or administrative directive. (*5 CCR 430*)

Permitted are those records having clear importance only to the current educational process of the student (**6 months**) (*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. (*Ed. 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 18 years of age. (*5 CCR 430*)

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

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**. (*cf. 5111 – Admission*)
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.
(*cf. 5111.1 – District Residency*)(*cf. 5111.11 – Residency of Students with Caregiver*)
(*cf. 5111.12 – Residency Based on Parent/Guardian Employment*)(*cf. 5111.13 – Residency for Homeless Children*)
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.
(*cf. 5121 – Grades/Evaluation of Student Achievement*)
7. Verification of or exemption from required **immunizations**. (*cf. 5141.31 – Immunizations*)
8. Date of **high school graduation** or equivalent.

Unless forwarded to another district, 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 district. These records include: (*Education Code 48918; 5 CCR 432, 437, 16027*)

1. **Expulsion** orders and the causes therefor.
(*cf. 5144.1 – Suspension and Expulsion/Due Process*)
(*cf. 5144.2 – Suspension and Expulsion/Due Process - Students with Disabilities*)
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.
(*cf. 5141.32 – Child Health and Disability Prevention Program*)
4. Information on participation in **Special Education** programs, including required tests, case studies, authorizations, and evidence of eligibility for admission or discharge.
(*cf. 6159 – Individualized Education Program*)
(*cf. 6164.4 – Identification of Individuals for Special Education*)
5. **Language** training records
(*cf. 6174 – Education for English Language Learners*)
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. (*cf. 6162.5 – Student Assessment*)

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 (*cf. 5144 – Discipline*)
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. (*Ed. Code 49076*)

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, or legal guardians of students younger than age 18. (*Ed. 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.
2. **Adult students** age 18 or older or students under the age of 18 attend a post-secondary institution, in which case the student shall alone exercise rights related to his/her student records and grant consent for the release of records. (*Ed. Code 49061; 34 CFR 99.5*)
3. Those so authorized in compliance with a **court order** or lawfully issued subpoena. (*Ed. 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: (*Ed. Code 49076*)

1. **Natural parents**, adoptive parents 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 officials** and district 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. (*cf. 5113 – Absences and Excuses*)

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 **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 purpose 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**.

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 district with respect to such students. (*Ed. Code 49069.3*) (cf. 6159 – *Individualized Educ. Program*)

The 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 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 district 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 by their law enforcement agency in writing. (*Ed. Code 49076.5*)

The Superintendent or **designee may release information** from student records to the following: (*Ed. 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 *Ed. 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 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, adult student or by judicial order. (*Ed. 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 district, in writing, that such an agreement has been made. (*Ed. Code 49061*) (cf. 5021 – *Non-custodial Parents*)

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. *(Ed. Code 49076)*

Procedures for Access

Student records shall be **maintained in a central file** at the school attended to by 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. *(Ed. Code 49060; 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 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. *(Ed. Code 49069, 5 CCR 431)*

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

Security

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 Superintendent or designee shall **prevent the alteration, damage or loss** of records during inspection. *(5 CCR 435)*

When the **district discloses personally identifiable information** to officials of **another school**, school system or post-secondary institution where the student seeks or **intends to enroll**, the 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)*

Duplication

To **provide copies** of any student record, the district 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 two verifications of various records for any former student. **No charge** shall be made to **locate or retrieve any student record**. *(Ed. Code 49065)*

The Superintendent or **designee shall set a fee** and update the amount annually if actual costs change. *(cf. 3260 – Fees and Charges)*

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. *(Ed. 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: *(Ed. Code 49064)*

1. Parents/guardians or adult students
2. Students 16 years of age or older who have completed the 10th grade.
3. Parties obtaining district-approved directory information. *(cf. 5125.1 – Release of Directory Information)*
4. Parties who provide written parental consent, in which case the consent notice shall be filed with the record. *(Ed. Code 49075)*
5. School 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. *(Ed. Code 49064 5 CCR432)*

Changes

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) (cf. 5125.3 – Challenging Student Records)*

Transfer

If a student **transfers into this district** from any other school district or a private school, the 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. *(Ed. Code 49068; 5 CCR 438)*

When a student **transfers into this district** from another, the Superintendent or designee shall request that the student's **previous district provide any records**, either maintained by the 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**. *(Ed. Code 48201) (cf. 4158/4258/4358 – Employee Security)*

When a student **transfers from this district to another school district** or to a private school, the Superintendent or designee shall **forward a copy of the student's mandatory permanent records** as requested by the other district or private school. The original record or a **copy shall be retained permanently by this district**. 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 district or private school. *(5 CCR 438) (cf. 5118 – Transfers)*

When informed that a district student in **foster care** is **transferring** to another local educational agency, the Superintendent or designee shall cooperate to ensure that the student's health and education records are transferred to the receiving district. The district shall transfer the records **within five working days** of receiving notification regarding the student's new educational placement. *(Ed. 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 district because of any **charges or fees** owed by the student or parent/guardian. *(5 CCR 438)*

If the district 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 district along with the student's records. *(cf. 5125.2 – Withholding Grades, Diploma or Transcripts)*

Notification of Parents/Guardians

Upon students' **initial enrollment** and at the beginning of **each year** thereafter, the Superintendent or designee shall notify parents/guardians and eligible students, in writing, of their rights related to student records. Insofar as practicable, the district shall provide these notices in the student's home language and shall effectively notify parent/guardians or eligible students who are disabled. *(Ed. Code 49063; 34 CFR 99.7) (cf. 5145.6 – Parental Notifications)*

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

1. The **types** of student records kept by the district and the information contained therein.
2. The titles of the officials responsible for **maintaining** each type of record.
3. The **location** of the log identifying those who request information from the records.
4. District criteria for **defining "school officials and employees"** and for determining "legitimate educational interest".
5. District 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. (*cf. 5125.3 – Challenging Student Records*)
9. The categories of information defined as **directory information**. (*Ed. 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 containing the titles, descriptions and instructional aims of every **course offered** by the school. (*cf. 5020 – Parent Rights and Responsibilities*)
12. Any other rights and requirements set forth in *Ed. Code 49060-49078*, and the **right of parents/guardians** to file a complaint with the United States Department of Health, Education, and Welfare concerning and alleged failure by the district to comply.
13. A statement that the district **forwards education records** to other agencies or institutions that have requested the records and in which the student seeks or intends to enroll.

Board Policy-5125BP

Student Records

The Governing Board 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.

The 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.

(*cf. 3580 – District Records*)(*cf. 4040 – Employee use of Technology*) (*cf. 5125.1 – Release of Directory Information*)
(cf. 5125.2 – Withholding Grades, Diploma or Transcripts) (*cf. 5125.3 – Challenging Student Records*)

The Superintendent or designee shall designate a certificated employee to serve as custodian of records, with responsibility for student records at the district 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 Board Policy** and administrative regulation regarding student records. (*5 CCR 431*)

Board Policy-5125.3AR

Challenging Student Records

The custodial **parent/guardian** of any student may submit to the Superintendent or designee a written request to **correct or remove** from his/her **child's records** any information concerning the child which he/she alleges to be any of the following: (*Ed. Code 49070*)

1. **Inaccurate**
2. An unsubstantiated personal conclusion or inference
3. A conclusion or inference outside of the observer's area of competence
4. Not based on the personal observation of a named person with the time and place of the observation noted.
5. **Misleading**
6. In **violation of the privacy** or other rights of the student. (*cf. 5121 – Grades/Evaluation of Student Achievement*)
(cf. 5125 – Student Records)

When a **student's grade is challenged**, the teacher who gave the grade shall be given an opportunity to state orally, in writing, or both, the reasons for which the grade was given. Insofar as practicable, he/she shall be included in all discussions related to any grade change. In the absence of clerical or mechanical error, fraud, bad faith or incompetency, the student's grade as determined by the teacher shall be final. (*Ed. Code 49066*)

Within **30 days of receiving a request to correct or remove** information from a record, the Superintendent or designee shall meet with the parent/guardian and with the employee (if still employed) who recorded the information in question. The Superintendent shall then sustain or deny the allegations. (*Ed. Code 49070*)

If the parent/guardian's allegations are sustained, the Superintendent shall **order the correction or removal** and destruction of the information. (*Ed. Code 49070*)

If the Superintendent denies the allegations, the parent/guardian may write **within 30 days to appeal the decision** to the Governing Board. Within 30 days of receiving the written appeal, the Board shall meet in closed session with the parent/guardian and the employee (if still employed) who recorded the information in question. The Board shall then decide whether or not to sustain or deny the allegations. If it sustains any or all of the allegations, the Superintendent shall immediately correct or remove and destroy the information from the student's records. (*Ed Code 49070*)

The **decision of the Board shall be final**. If the decision of the Superintendent or Board is unfavorable to the parent/guardian, the parent/guardian shall have the right to submit a written statement of objections. This statement shall become a part of the student's record. (*Ed. Code 49070*)

Both the Superintendent and the Board have the option of appointing a **hearing panel** to assist in making the decision. The hearing panel may be used at the discretion of the Superintendent or the Board provided that the parent/guardian consents to releasing record information to panel members. (*Ed. Code 49070, 49071*)

The **right to challenge a record** becomes the sole right of the student when the **student becomes 18** or attends a post-secondary institution. (*Ed. Code 49061*)

At the beginning of each school year, **parents/guardians** shall be **notified** of the availability of the above procedures for challenging student records. (*Ed. Code 49063*)(*cf. 1312 – Complaints Concerning the Schools*)(*cf. 5145.6 – Parental Notifications*)

Board Policy-3580BP

Business and Non-Instructional Operations

District Records

District **records shall be developed, maintained and disposed of** in accordance with law and California Department of Education regulations. (*cf. 1340 – Access to District Records*) (*cf. 3440 – Inventory*) (*cf. 4040 – Employee Use of Technology*) (*cf. 4112.6/4212.6/4312.6 – Personnel Files*)(*cf. 5125 – Student Records*) (*cf. 5125.1 – Release of Directory Information*)

The Superintendent or **designee shall establish regulations** that define records, which are permanent, optional and disposable and specify how each type of record is to be maintained or destroyed. **Any microfilm or electronic copies of original records shall be permanently retained.**

Microfilming or Photographic Copies of Records

The governing board of any school district may make photographic, microfilm or **electronic copies** of any records of the district. The original of any records of which a photographic, microfilm, or electronic copy has been made may be **destroyed when provision is made for permanently maintaining** such photographic, microfilm, or electronic copies in the files of the district, except that no original records that is basic to any required **audit** shall be destroyed prior to the second July 1st succeeding the completion of the audit. (*Stats. 1999, Ch. 646*)

The Superintendent or designee shall ensure the **confidentiality** of records as required by law and shall establish regulations to **safeguard data against damage or loss.**

Safe at Home Program

District **public records shall not include the actual addresses of students**, parents/guardians or employees when a substitute address is designated by the Secretary of State for **victims of domestic violence or stalking**. (*Government Code 6207*) (*cf. 5111.1 – District Residency*)

Board Policy-3580-3.bAR

Students

The **records of enrollment and scholarship** for each student *required by Title 5, Section 432*, and all records pertaining to any **accident or injury** involving a minor for which a **claim for damages** had been filed as required by law. This includes any related **policy of liability insurance** except that these records cease to be Class 1 (*Permanent*) **one year after the claim has been settled** or the statute of limitations has run.

Board Policy-5021BP

Non-Custodial Parents

Both natural or **adoptive parents** of any student may **access** their child's student records, **participate** in school activities, **visit** the student at school and pick up the student after school. These rights shall be respected even if **legal custody** is vested in only one named parent, unless a **court order restricts** the right of the non-custodial parent. Parent/guardians may be asked to provide evidence of any completed or pending legal action, which curtails the non-custodial parent's rights. School staff shall always **abide by the most recent court order** on the matter.

Note: Only the custodial **parent/guardian** has the right to **challenge** the content of student records, provide a written response to student records, or consent to their release to third parties. Non-custodial parents do not have their rights.

Upon request, the district may provide non-custodial parents with announcements and notices that are sent to the custodial parent. (cf. 1240 – Parent Involvement) (cf. 5125 – Student Records) (cf. 5142 – Student)

Board Policy-5118BP

Transfers

Students who apply for **initial admission** to district schools will be placed at the grade they would have reached elsewhere pending observation and evaluation by classroom teachers, guidance personnel and the principal or designee.

Evaluation and observation to determine final grade placement of each newly enrolled student should be completed within 30 days of enrollment. The principal or designee shall determine the student's final grade placement.

The district shall accept for credit any coursework satisfactorily completed by students while detained in a juvenile court school or county or state-operated institution. Students **successfully completing** graduation requirements of the district while being detained shall receive a diploma of graduation from the school last attended in the district.

(cf. 5111 – Admission) (cf. 5116 – School Attendance Boundaries) (cf. 5141.31 – Immunizations)
(cf. 6146.3 – Reciprocity on Standards of Proficiency/Graduation Requirements)

Withdrawals

Students who are going to **transfer or withdraw** from school should bring a note from their parents/guardians indicating where they are **moving**, and, if possible, what school they plan to attend.

By the day of clearance, students should have **returned all schoolbooks and materials**. Students should be certain that no fines remain against them at time of withdrawal. Transcripts and grades may be withheld from students who do not return school property which they have been lent.(cf. 5125 – Student Records; Confidentiality) (cf. 5131.5 – Vandalism) (cf. 6161.2 – Overdue, Damaged or Lost Instructional materials) (cf. 6146.1 – High School Graduation Requirement/Standards of Proficiency) (cf. 5125.2 – Withholding Grades, Diploma or Transcripts)

Prior to disclosing a record pursuant to a **court order**, the 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) (BP 5125AR)

Court Orders

Information concerning a student shall be furnished in **compliance with a court order or a lawfully issued subpoena**. The school district shall make a reasonable effort to **notify the parent** and the pupil in advance of compliance with lawfully issued subpoena and in the case of compliance with a court order, if lawfully possible within the requirements of the judicial order. (Amended Stats. 1996, Ch. 879) (Ed Code 49078)

SUBPOENA PROCEDURE

Subpoena Defined (CC Proc. 1985)

1. The process by which the attendance of a witness is required is the subpoena. It is a **writ or order** directed to a person and requiring the person's attendance at particular time and place to testify as a witness. It may also **require a person to bring things with them such as records**, book, and documents under that person's control.
(subpoena duces tecum)

2. A copy of an **affidavit shall be served with subpoena** duces tecum issued before trial, **showing good cause for the production** of the matters and things described in the subpoena, in precise and exact detail.
3. The clerk, or judge, shall issue a subpoena or subpoena duces tecum signed and sealed but otherwise blank to a party who shall fill it out before service. An attorney of record may sign and issue a subpoena, in such cases the **subpoena need not be sealed**. However, it must be **signed and dated by the attorney**. (*Amend. Stats. 1990., Ch. 511*)

If there is any doubt as to whether the subpoena has been signed and dated by an attorney, the attorney should be contacted and requested to provide a signed and dated copy of the subpoena before school records will be released, along with **proof of service** of a consumer notice as described hereinafter. Schedule

Prior to the release of “personal records,” school records are so defined by law to be “personal records”; **a copy of the subpoena and affidavit must be served on the consumer** (teacher, student, parent, or district staff member who records are requested) whose records are being sought, along **with a notice and proof of services** of the service on the consumer.

The subpoena must be **served not less than ten (10) days prior to the date of production** in the subpoena duces tecum if personally served, plus additional time *prescribed by section 1013* if service is by mail (*5 days if mail in California; 10 days if mailed outside of California*).

Prior to the production of the records, the subpoenaing party shall do either of the following:

1. Serve or cause to be served upon the witness a proof of personal service of or service by mail attesting to **compliance with “consumer notice”** provisions of *Section 1985.3*.
2. **Furnish to the witness a written authorization** to release the records signed by the consumer or by his or her attorney, and stating that any objection to the release of records is waived.
3. **Witness fees may be requested** if testimony is required, if no testimony is required than fees may only be collected as described in Evidence *Code Section 1563*.

Evidence *Code Section 1563* provides in pertinent part:

This article shall not be interpreted to require tender or payment of payment of more than **one witness fee and one mileage fee or other charge**, to a witness or witness; business, unless there is an agreement to the contrary between the witness and the requesting party.

- A. All reasonable **costs incurred** in a civil proceeding by any witness which is not a party with respect to the production of all or any part of business records the production of which is requested pursuant to a subpoena duces tecum may be charged against the party serving the subpoena duces tecum.

1. **“Reasonable cost,”** as used in this section, shall include, but not be limited to, the following specific costs: ten cents (**\$0.10 per page**) for standard reproduction of documents of a size 8_ by 14 inches or less; twenty cents (\$0.20) per page for copying of documents from microfilm; actual costs for the reproduction of oversize documents or the reproduction of documents requiring special processing which are made in response to a subpoena; reasonable clerical costs incurred in locating and making the records available to be billed at the maximum rate of twenty-four dollars (**\$24 per hour per person**), computed on the basis of six dollars (\$6) per quarter hour or fraction thereof; actual postage charges; and the actual cost, if any, charged to the witness by a third person.

2. The requesting party, or the requesting party’s deposition officer, shall not be required to pay those costs or any estimate thereof prior to the time the records are available for delivery pursuant to the subpoena, but the witness may demand payment of costs pursuant to this section simultaneous with actual delivery of the subpoenaed records, and **until payment is made, is under no obligation to deliver the records**.

3. The witness shall submit an itemized statement for the costs to the requesting party, or the requesting party's deposition officer, setting forth the **reproduction and clerical costs incurred by the witness**. Should the costs exceed those authorized in paragraph (1), or the witness refuses to produce an itemized statement of costs as required by paragraph (3), upon demand by the requesting party, or the requesting party's deposition officer, the witness shall furnish a statement setting forth the actions taken by the witness in justification of the costs.

Subpoena

The service of a lawfully issued subpoena or a court order upon a public school employee solely for the purpose of causing him or her to produce a school record pertaining to any pupil may be complied with by that employee, in lieu of the personal appearance as a witness in the proceeding, by submitting to the court, or other agency, or person designated in the subpoena, at the time and place required by the subpoena or court order, a copy of that record, accompanied by an affidavit certifying that the copy is a true copy of the original record on file in the school or school office. The copy of the record shall be in the form of a Photostat, microfilm microcard, or miniature photograph or other photographic copy or reproduction, or an enlargement thereof. (*Ed Code 49078*)

Subpoenas Fees and Mileage

Any witness who is subpoenaed in any civil or administrative action or proceeding shall be given written notice on the subpoena that the witness may be entitled to receive fees and mileage. Such notice shall indicate generally the manner in which the request for fees and mileage should be made. (*Added Stats. 1979, Ch. 67*)

District should prior to delivery of produced documents give **notice to parents** and student of request for records as required by state and federal law. The notice should be given at least **3 days prior to the release of student records**. (*5 CCR 435*)
Board Policy AR5125.

Custody

Joint Custody Defined (FC 3002)

Joint Custody means joint physical custody and joint legal custody. (*Add. Stats. 1992, Ch. 162*)

Joint Legal Custody Defined (FC 3003)

Joint legal custody means that both parents shall share the right and the responsibility to make the decisions relating to the health, education, and welfare of a child. (*Add. Stats. 1992, Ch. 162*)

Joint Legal Custody; Court Order (FC 3083)

In making an order of joint legal custody, the court shall specify the circumstances under which the consent of both parents is required to be obtained in order to exercise legal control of the child and the consequences of the failure to obtain mutual consent. In all other circumstances, either parent acting alone may exercise legal control of the child. An order of joint legal custody shall not be construed to permit an action that is inconsistent with the physical custody order unless the action is expressly authorized by the court. (*Add. Stats. 1992, Ch. 162*)

Joint Physical Custody Defined (FC 3004)

Joint physical custody means that each of the parents shall have significant periods of physical custody. Joint physical custody shall be shared by the parents in such a way so as to assure a child of frequent and continuing contact with both parents, *subject to Sec. 3011 and 3020*. (*Amend. Stats. 197, Ch. 849*)

Joint Physical Custody; Parental Rights (FC 3084)

In making an order of joint physical custody, the court shall specify the rights of each parent to physical control of the child in sufficient detail to enable a parent deprived of that control to implement laws for relief of child snatching and kidnapping. (*Add. Stats. 1992, Ch. 162*)

Joint Physical Custody; No Physical Custody (FC 3085)

In making an order for custody with respect to both parents, the court may grant joint legal custody without granting joint physical custody. (*Amend. Stats. 1993, Ch. 219*)

Joint Physical, Legal Custody; Primary Caretaker (FC 3086)

In making an order of joint physical custody or joint legal custody, the court may specify one parent as the primary caretaker of the child and one home as the primary home of the child, for the purposes of determining eligibility for public assistance. *(Add. Stats. 1992, Ch. 162)*

Sole Legal Custody Defined *(FC 3006)*

Sole legal custody means that one parent shall have the right and the responsibility to make the decisions relating to the health, education, and welfare of a child. *(Add. Stats. 1992, Ch. 162)*

Sole Physical Custody *(FC 3007)*

Sole Physical custody means that a child shall reside with and be under the supervision of one parent, subject to the power of the court to order visitation. *(Add. Stats. 1992, Ch. 162)*

Restraining Orders

- If the school staff does not know the restrained individual, they may (but are not required to) ask for a photograph that can be attached to the restraining order.
- The restraining order can be kept in the student's cumulative folder.
- If school staff knows or is informed that the restrained individual is on campus, they should call the police as soon as possible.
- Have a copy of the restraining order available for the officer when she or he arrives.

Regulation:

Fontana Unified School District
Board Approved

Student Records

Retention & Destruction

Mandatory Permanent <i>(Maintain Permanently)</i> Class 1	Mandatory Interim <i>(Maintain 3 years after usefulness ceases)</i> Class 2	Permitted <i>(Maintain 6 months after usefulness ceases)</i> Class 3
<p>The following Permanent Records shall be kept indefinitely:</p> <ol style="list-style-type: none"> 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. <ol style="list-style-type: none"> 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. 	<p>Unless forwarded to another district, Interim 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 district. These records include:</p> <ol style="list-style-type: none"> 1. Expulsion orders and the causes therefor 2. A log identifying persons or agencies who request or receive information from the 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 Ed. Code 49066 & 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. 	<p>Permitted Record may be destroyed six months after the student completes or withdraws from the educational program, including:</p> <ol style="list-style-type: none"> 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. Supplementary attendance records

Transfer of Record

(Ed. Code 49068 & 5CCR 438)

Required <i>(keep original or copy)</i>	Required	Optional
To California Public Schools To Private Schools To Out-of-state Public Schools	To California Public Schools (including number of days of suspension & expulsion record) Optional <i>(Section 4891 (j))</i> : To Private Schools To Out-of-state Public Schools	To California Public Schools To Private Schools To Out-of-state Public Schools

Destruction

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

Access

Per *CCR Title 5, Sec. 434* Access to pupil records should be in accordance with *Ed. Code Sec. 49069, 49073-49077. (Reg. 77, No. 39)*

Withholding

In Accordance with *Ed. Code Sec. 48904* – Transfer transcripts excepted

CODE	ABBREVIATION	SUBJECT	PAGE
FUSD Board Policy			
3580	BP	District Records	8
3580-3.b	AR	Students	9
5021	BP	Non-Custodial Parents	9
5118	BP	Transfers	9
5125	BP	Students Records	7
5125	AR	Students Records	2
5125.3	AR	Challenging Student Records	7
Educational Codes			
48201	EC	Transfer	6
48918	EC	Interim Student Records (3 years)	3
49060	EC	Access Student Records Procedures	5,7
49061	EC	Definitions, Legal Custody, Rights	2,3,5,7,8
49062	EC	Parent Rights	2,7
49063	EC	Parent Notification	6,7,8
49064	EC	Access Log	5,6,7
49065	EC	Fees Charges	5,7
49066	EC	Progress Slips, Parent Rights, Challenging	3,7
49067	EC	Progress Slips, Parent Rights	3,7
49068	EC	Transfer, Parent Rights, Required Forwarding	6,7
49069	EC	Access Student Records, Parent Rights	3,5,7
49069.3	EC	Foster Family	4
49069.5	EC	Transfer – Foster Care	6
49070	EC	Parent Rights, Challenging Records	7,8
49071	EC	Parent Rights, Hearing Panels	7,8
49072	EC	Parent Rights, Discipline Records	7
49073	EC	Directory Information, Parent Rights	7
49074	EC	Parent Rights	7
49075	EC	Access Student Records	5,6
49076	EC	Access Student Records, Parent Rights	3,4,5,7
49076.5	EC	Suspected Kidnapping	4
49077	EC	Court Order	3
49078	EC	Parent Rights, Court Orders, Subpoena	7,9,10
Calif. Code of Regulations, Title 5			
430	5 CCR	Definitions	2
431	5 CCR	Records Time Frame, Custodian	5
432	5 CCR	Log, Student Records, Transfer	2,6,9
433	5 CCR	Access Procedures	5
435	5 CCR	Consent Required, Security, Court Order, Notices	5,11
437	5 CCR	Charges	2,6
438	5 CCR	Transfer, Updated, Charges	6
16027	5 CCR	Interim Records, Destruction	3
Code of Federal Regulations			
99.3	34-CFR	Definitions	2
99.34	34-CFR	Enrollment Parent Notification	5,7
99.5	34-CFR	Adult Student	3
99.7	34-CFR	Parent Notification	6,7
Welfare & Institutions			
681	WIC	Probation Officer – Access	4
16010	WIC	Welfare Services	4
Health & Safety			
120440	HSC	Immunizations	4

CODE	ABBREVIATION	SUBJECT	PAGE
		Evidence Code	
1563	Evc	Witness Fees	10
		Government Code	
6207	GC	Safety at Home Program	8
		Family Code	
3002	FC	Custody	11
3004	FC	Joint Physical Custody	11
3006	FC	Sole Legal Custody	12
3007	FC	Sole Physical Custody	12
3083	FC	Court Order, Legal Custody	11
3084	FC	Parental Rights, Joint Physical Custody	12
3085	FC	No Physical Custody	12
3086	FC	Primary Caretaker	12
		Other Board Policy - References	
1240	cf	Parent Involvement	9
1312	cf	Complaints Concerning Schools	8
1340	cf	District Records Maintained	8
3260	cf	Fees & Charges	5
3440	cf	District Records Maintained	8
4040	cf	District Records Maintained	8
4112.6	cf	District Records Maintained	8
4158	cf	Employees Security	6
4212.6	cf	District Records Maintained, Personnel Files	8
4258	cf	Employees Security	6
4312.6	cf	District Records Maintained, Personnel Files	8
4358	cf	Employees Security	6
5020	cf	Parent Rights & Responsibilities	7
5111	cf	Admission	2,9
5111.1	cf	District Residency	3,8
5111.12	cf	Residency Based on Parents	3
5111.13	cf	Residency for Homeless	3
5113	cf	Absences & Excuses	4
5116	cf	School Attendance Boundaries	9
5118	cf	Transfer	6
5121	cf	Grades/Evaluation, Non-custodian, Privacy	3,5,7
5125	cf	Student Records, Withdrawals	8,9
5125.1	cf	Release of Directory Information	6
5125.2	cf	Withholding, Damage or Loss, Notification	6,8,9
5125.3	cf	Challenging Student Records	6,7
5131.5	cf	Vandalism	9
5141.31	cf	Immunizations	3,9
5141.32	cf	Health & Disability	3
5142	cf	Student	9
5144	cf	Discipline	3
5144.1	cf	Suspension & Expulsion	3
5144.2	cf	Suspension & Expulsion (Disability)	3
5145.6	cf	Parent Notification	6
6146.1	cf	H.S. Grad. Requirements, Proficiency	9
6146.3	cf	Proficiency/Graduation Requirements	9
6159	cf	Individualized Education	3,4
6161.2	cf	Overdue, Damage or Lost	9
6162.5	cf	Student Assess.	3
6164.4	cf	Special Ed. Identification Individual	3
6174	cf	English Language	3