

Pupil Records Access and Confidentiality—Basic FAQs

- 1. What laws apply to pupil records?** Federal and state laws govern pupil records access and confidentiality—the Family Educational Rights and Privacy Act (“FERPA”), 20 USC section 1232g and its regulations (34 C.F.R. part 99) and the California Education Code (“EC”) section 49060 *et seq.* and its regulations (Title V, CCR sections 400, 430 *et seq.*). Please also see BUL 2469.
- 2. What is a pupil record?** A pupil record is any item of information directly related to an identifiable pupil which is maintained by a school district or required to be maintained by an employee in the performance of his duties whether recorded by handwriting, print, tapes, film, microfilm or other means. Student records do not include informal notes related to a pupil compiled by a school officer/employee, as long as such informal notes remain in the sole possession of the maker and are not accessible/revealed to anyone else but a substitute who performs the duties of the individual who made the notes (EC section 49061 (b)).

“Directory information” is information designated by LAUSD that may be made public to specific agencies. A parent/guardian/eligible student may refuse public access to this information by opting out annually. EC section 49073 also provides that a school may limit or deny release of specific categories of directory information to any public or private nonprofit based on a determination of the best interests of the student. Please see the Parent/Student Handbook for more details.

- 3. Who can access a student record?** Access to student records is limited by law. Parents/guardians/18 year old students who aren’t conserved or under guardianship have an absolute right to access pupil records. Even noncustodial parents, in the absence of an order preventing access, can access pupil records. Parents with legal custody may authorize a third party (like attorneys) to have access to pupil records. EC section 49075 states that this written consent must specify the person/class of people who can have access and the specific record(s) to be accessed. The consent must be kept in the student’s file. For parent requests, schools must provide access (copies or inspection) within 5 business days. If parents request records located at another unit/office, the school should forward the request to that location.

Third parties may access pupil records with a valid court order—the order must specify the name of the student, which records, and who receives the records.

By statute, there are special circumstances that allow for access without parent/guardian consent or a court order. Exceptions include SARB members, the school where the student enrolls or intends to enroll, and District employees who need the information in order to perform their job duties. There is also an emergency exception: the school may disclose to appropriate persons in connection with an emergency (as determined by the school) if the knowledge of the information is necessary to protect the health or safety of a pupil or other persons (EC section 49076 (b) (1)). Please see BUL 2469 for more details.

- 4. What if a researcher contacts my school for data?** Although data for research may be authorized under applicable laws and regulations, external research requests—including projects of school staff working on graduate degrees—must be approved through the District’s Research Unit. Please refer requesters to this unit: 213-241-2460 and/or www.lausd.net, Offices, Office of Data & Accountability.
- 5. What happens if improper disclosure of a pupil record occurs?** In addition to the Federal penalty of a suspension of all Federal funding, improper disclosure of a pupil record may lead to a claim of infringement of privacy rights under State constitutional and statutory law. In

California, the privacy of all individuals is constitutionally protected. As educators, we are entrusted with safeguarding privacy and must take this task seriously. When in doubt, contact the Office of General Counsel.

*This **LAUSD Legal Brief** is for information only and does not constitute legal advice. Please contact the Office of the General Counsel to determine how this information may apply to your school's specific facts and circumstances.*