

**Title 5 California Code of Regulations § 400. Attendance Records.**

Records of attendance of every pupil in the public schools shall be kept for the following purposes:

- (a) For apportionment of State funds.
- (b) To insure general compliance with the compulsory education law, and performance by a pupil of his duty to attend school regularly as provided in Section 300.

**§ 430. Definition**

- (a) "Pupil" means a person who is or was enrolled in a school.
- (b) "Adult Pupil" means a person who is or was enrolled in school and who is at least 18 years of age.
- (c) "Eligible Pupil" means a person 16 years or older or who has completed Grade 10.
- (d) "Pupil Record" means information relative to an individual pupil gathered within or without the school system and maintained within the school system, regardless of the physical form in which it is maintained. Essential in this definition is the idea that any information which is maintained for the purpose of second party review is considered a pupil record.
  - (1) "Mandatory Permanent Pupil Records" are those records which are maintained in perpetuity and which schools have been directed to compile by California statute, regulation, or authorized administrative directive.
  - (2) "Mandatory Interim Pupil Records" are those records which the schools are directed to compile and maintain for stipulated periods of time and are then destroyed as per California statute, regulation, or authorized administrative directive.
  - (3) "Permitted Pupil Records" are those records having clear importance only to the current educational process of the student.
- (e) "District" means a local school district or county or state operated special school or private or out-of-state school for which California tax revenues pay all or part of the tuition.

**§ 431. Responsibilities of Local Governing Boards.**

- (a) Local governing boards shall designate a certificated employee as custodian of records. Such employee shall be charged with districtwide responsibility for implementing board policies relating to pupil records.
- (b) The principal of each school or a certificated designee shall be responsible for the implementation of board and district policies relating to the pupil records maintained in that school.
- (c) Each district shall establish written policies and procedures for pupil records which implement Education Code Section 49060, and Title 5 regulations relating to pupil records. Such procedures and policies shall:
  - (1) Guarantee access to authorized persons within 5 days following the date of request;
  - (2) Assure security of the records; and

- (3) Enumerate and describe the pupil records collected and maintained by the district.
- (d) All anecdotal information and assessment reports maintained as a pupil record shall be dated and signed by the individual who originated the data.
- (e) The district shall notify parents in writing at least annually of their rights in regard to pupil records as per Education Code Section 49063.
- (f) When a parent's dominant language is not English, the district shall make an effort to:
  - (1) Provide interpretation of the pupil record in the dominant language of the parent, or
  - (2) Assist the parent(s) in securing an interpreter.
- (g) Neither the pupil record, nor any part thereof, shall be withheld from the parent or eligible pupil requesting access.

**§ 432. Varieties of Pupil Records.**

(a) The principal of each school shall keep on file a record of enrollment and scholarship for each pupil currently enrolled in said school.

(b) Local school districts shall not compile any other pupil records except mandatory or permitted records as herein defined:

(1) "Mandatory **Permanent** Pupil Records" are those records which the schools have been directed to compile by California statute authorization or authorized administrative directive. **Each school district shall maintain indefinitely all mandatory permanent pupil records or an exact copy thereof for every pupil who was enrolled in a school program within said district.** The mandatory permanent pupil record or a copy thereof shall be forwarded by the sending district upon request of the public or private school in which the student has enrolled or intends to enroll. Such records shall include the following:

- (A) Legal name of pupil.
- (B) Date of birth.
- (C) Method of verification of birth date.
- (D) Sex of pupil.
- (E) Place of birth.
- (F) Name and address of parent of minor pupil.
  - 1. Address of minor pupil if different than the above.
  - 2. An annual verification of the name and address of the parent and the residence of the pupil.
- (G) Entering and leaving date of each school year and for any summer session or other extra session.
- (H) Subjects taken during each year, half-year, summer session, or quarter.
- (I) If marks or credit are given, the mark or number of credits toward graduation allows for work taken.
- (J) Verification of or exemption from required immunizations.

(K) Date of high school graduation or equivalent.

(2) “Mandatory **Interim Pupil Records**” are those records which schools are required to **compile and maintain for stipulated periods of time and are then destroyed as per California statute or regulation**. Such records include:

(A) A log or record identifying those persons (except authorized school personnel) or organizations requesting or receiving information from the record. The log or record shall be accessible only to the legal parent or guardian or the eligible pupil, or a dependent adult pupil, or an adult pupil, or the custodian of records.

(B) Health information, including Child Health Developmental Disabilities Prevention Program verification or waiver.

(C) Participation in special education programs including required tests, case studies, authorizations, and actions necessary to establish eligibility for admission or discharge.

(D) Language training records.

(E) Progress slips and/or notices as required by Education Code Sections 49066 and 49067.

(F) Parental restrictions regarding access to directory information or related stipulations.

(G) Parent or adult pupil rejoinders to challenged records and to disciplinary action.

(H) Parental authorizations or prohibitions of pupil participation in specific programs.

(I) Results of standardized tests administered within the preceding three years.

(3) “**Permitted Records**” are those pupil records which **districts may maintain for appropriate educational purposes**. Such records may include:

(A) Objective counselor and/or teacher ratings.

(B) Standardized test results older than three years.

(C) Routine discipline data.

(D) Verified reports of relevant behavioral patterns.

(E) All disciplinary notices.

(F) **Attendance records** not covered in the Administrative Code Section 400.

### **§ 433. Maintenance and Security of Pupil Records.**

(a) The custodian of records shall be responsible for the security of pupil records maintained by the district and shall devise procedures for assuring that access to such records is limited to authorized persons.

(b) Records for each individual pupil shall be maintained in a central file at the school attended by the pupil, or when records are maintained in different locations a notation in the central file as to where such other records may be found is required.

#### **§ 434. Access to Pupil Records.**

Access to pupil records should be in accordance with Education Code Sections 49069 and 49073 through 49077.

#### **§ 435. Procedure for Access to Pupil Records.**

(a) Authorized organizations, agencies, and persons from outside the school whose access requires the consent of the parent or the adult pupil must submit their request to view the records, together with any required authorization, to the chief school administrator or the custodian of records.

(b) The chief school administrator or the custodian of records or a certificated designee shall be responsible during the inspection for interpretation of the records where necessary and for prevention of their alteration, damage, or loss. In every instance of inspection of pupil records by persons who do not have assigned educational responsibility, an entry shall be made in the access log of said record, indicating the name of the person(s) granted access, the reason access was granted, the time and circumstances of inspection, and the records inspected.

(c) Unless otherwise judicially instructed, the school district shall, prior to the disclosure of any pupil records to organizations, agencies, or persons outside the school pursuant to a court order, give the parent or adult pupil at least three days' notice, if lawfully possible within the requirements of the judicial order, of the name of the requesting agency and the specific records requested. Such notification shall be provided in writing, if practicable. Only those records related to the specific purpose of the court order shall be disclosed.

#### **§ 436. Rights of Parents and Adult Pupils.**

A parent or an adult pupil may challenge the content of any pupil record according to the procedures established by Education Code Sections 49069 and 49070. A hearing panel may be convened to aid the superintendent or board in deciding whether a challenge should be sustained, as specified in Education Code Section 49071.

Information shall be corrected or removed if it is: (1) inaccurate, (2) an unsubstantiated personal conclusion or inference, (3) a conclusion or inference outside of the observer's area of competence, or (4) not based on the personal observation of a named person with the time and place of the observation noted.

#### **§ 437. Retention and Destruction of Pupil Records.**

(a) No additions except routine updating shall be made to the record after high school graduation or permanent departure without the prior consent of the parent or adult pupil.

(b) Mandatory permanent pupil records shall be preserved in perpetuity by all California schools according to Chapter 2, Division 16, Part I, of this title.

(c) Unless forwarded to another district, mandatory interim pupil records may be adjudged to be disposable when the student leaves the district or when their usefulness ceases. Destruction shall be in accordance with Section 16027 of this title during the third school year following such classification.

(d) Permitted pupil records may be destroyed when their usefulness ceases. They may be destroyed after six months following the pupil's completion of or withdrawal from the educational program.

The method of destruction shall assure that records are not available to possible public inspection in the process of destruction.

#### **§ 438. Transfer of Records.**

(a) When a pupil transfers to another school district or to a private school, a copy of the pupil's Mandatory Permanent Pupil Record shall be transferred upon request from the other district or private school. The original or a copy must also be retained permanently by the sending district. If the transfer is to another California public school, the pupil's entire Mandatory Interim Pupil Record shall be forwarded. If the transfer is out of state or to a private school, the Mandatory Interim Pupil Record may be forwarded. Permitted pupil records may be forwarded. All pupil records shall be updated prior to such transfer.

(b) If the pupil is a within-California transfer, the receiving school shall notify parents of the record transfer. If the student transfers out of state, the sending district may notify the parents of the rights accorded them. The notification shall include a statement of the parent's right to review, challenge, and receive a copy of the pupil record, if desired.

(c) Pupil records shall not be withheld from the requesting district because of any charges or fees owed by the pupil or his parent. This provision applies to pupils in grades K-12 in both public and private schools.

### **5 CCR § 16020**

#### **§ 16020. Definition of Records.**

(a) As used in this article, "records" means all records, maps, books, papers, and documents of a school district required by law to be prepared or retained or which are prepared or retained as necessary or convenient to the discharge of official duty.

#### **§ 16022. Classification of Records.**

(a) **Prior Year Records.** Before January 1, the district superintendent (or a person designated by the district not employing a superintendent) shall review documents and papers originating during the prior school year and classify them as Class 1 -Permanent, Class 2 -Optional, or Class 3 -Disposable.

(b) **Continuing Records.** Records of a continuing nature, i.e., active and useful for administrative, legal, fiscal, or other purposes over a period of years, shall not be classified until such usefulness has ceased. **A pupil's cumulative record, if not transferred, is a continuing record until the pupil ceases to be enrolled in the district.**

#### **§ 16023. Class 1 -Permanent Records.**

The original of each of the records listed in this section, or one exact copy thereof when the original is required by law to be filed with another agency, is a Class 1 -Permanent record and shall be retained indefinitely, unless microfilmed in accordance with Section 16022(c).

(c) Personnel Records.

**(2) Pupils.**

**(A) The records of enrollment and scholarship for each pupil required by Section 432.**

(B) All records pertaining to any accident or injury involving a minor for which a claim for damages has been filed . . .

**§ 16023. Class 2 -Optional Records.**

Any record worthy of temporary preservation but not classified as Class 1-Permanent may be classified as Class 2-Optional and shall then be retained until reclassified as Class 3-Disposable. If the superintendent and governing board agree that classification should not be made by the time specified in section 16022, all records of the prior year may be classified as Class 2-Optional pending further review and classification within one year.

**§ 16025. Class 3 -Disposable Records.**

All records not classified as Class 1 -Permanent or Class 2 -Optional shall be classified as Class 3 -Disposable, including but not limited to . . .

**§ 16026. Retention Period.**

. . . A continuing record shall not be destroyed until the fourth year after it has been classified as Class 3 -Disposable.