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Student Records

The Inyo County Board of Education recognizes the importance of keeping accurate comprehensive student records as required by law. The Superintendent or designee shall ensure that the county office's administrative regulation and school site procedures for maintaining the confidentiality of student records are 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)

The 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 Board policy and administrative regulation regarding student records. (5 CCR 431)

Legal Reference:

EDUCATION CODE

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

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

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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)

Management Resources:

WEB SITES

U.S. Department of Education, Family Policy Compliance Office: <http://www.ed.gov/offices/OM/fpco/>

BOARD POLICY

Adopted: 05-15-2007

Revised: 05-19-2009

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Definitions

Student means any individual who is or has been in attendance at a county office school and regarding whom the county office maintains student records. (34 CFR 99.3)

Attendance includes, but is not limited to, attendance in person or by paper correspondence, videoconference, satellite, Internet, or other electronic information and telecommunication technologies for students who are not physically present in the classroom, and the period during which a person is working under a work-study program. (34 CFR 99.3)

Student records are any items of information (in handwriting, print, tape, film, computer, or other medium) gathered within or outside the county office that are directly related to an identifiable student and maintained by the county office or required to be maintained by an employee in the performance of his/her duties, or maintained by a party acting for the county office. Any information maintained for the purpose of second-party review is considered a student record. Student records include the student's health record. (Education Code 49061, 49062; 5 CCR 430; 34 CFR 99.3)

Student records do not include: (Education Code 49061, 49062; 5 CCR 430; 34 CFR 99.3)

1. Directory information (cf. 5125.1 - Release of 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 employee
3. Records of law enforcement unit of the county office subject to provisions of 34CFR 99.8
4. Records created or received by the county office after an individual is no longer a student in attendance and that are not directly related to the individual's attendance as a student
5. Grades on peer-graded papers before they are collected and recorded by a teacher

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. (5 CCR 430)

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. (5 CCR 430)

Permitted student records are those records having clear importance only to the current educational process of the student. (5 CCR 430)

Disclosure means to permit access to, or the release, transfer, or other communication of personally identifiable information contained in student records to any party, except the party that provided or created the record, by any means including oral, written, or electronic. (34 CFR 99.3)

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 or an oral description or communication of a record, and a request to release a copy of any record. (Education Code 49061)

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Personally identifiable information includes, but is not limited to: (34 CFR 99.3)

1. The student's name
2. The name of the student's parent/guardian or other family members
3. The address of the student or student's family
4. A personal identifier, such as the student's social security number, student number, or biometric record (e.g., fingerprints, retina and iris patterns, voiceprints, DNA sequence, facial characteristics, and handwriting)
5. Other indirect identifiers, such as the student's date of birth, place of birth, and mother's maiden name
6. Other information that, alone or in combination, is linked or linkable to a specific student that would allow a reasonable person in the school community, who does not have personal knowledge of the relevant circumstances, to identify the student with reasonable certainty
7. Information requested by a person who the county office reasonably believes knows the identity of the student to whom the student record relates

Adult student is a person who is or was enrolled in school and who is at least 18 years of age. (5 CCR 430)

Parent/guardian means a natural parent, an adopted parent, legal guardian, surrogate parent, or foster parent. (Education Code 49061, 56050, 56055)

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

Contractor or consultant is anyone with a formal written agreement or contract with the county office regarding the provision of services or functions outsourced to him/her by the county office. Contractor or consultant shall not include a volunteer or other party. (Education Code 49076)

A legitimate educational interest is an interest held by any school official, employee, contractor, or consultant whose duties, responsibilities, or contractual obligations to the county office, 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 the county office and for devising procedures for assuring that access to such records is limited to authorized persons. (5 CCR 433)

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

Persons Granted Access

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

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1. Parents/guardians of students younger than age 18, including the parent who is not the student's custodial parent (Education Code 49069; 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 99.5)
3. Parents/guardians of an adult student with disabilities who is age 18 years or older and has been declared incompetent under state law (Education Code 56041.5) (cf. 6159 - Individualized Education Program)

In addition, the following persons or agencies shall have access to those particular records that are relevant to their legitimate educational interest or other legally authorized purpose: (Education Code 49076)

1. Parents/guardians of a dependent student age 18 or older who is a dependent child as defined under 26 USC 152 (Education Code 49076; 34 CFR 99.31)
2. Students age 16 or older or who have completed the 10th grade (Education Code 49076; 34 CFR 99.31)
3. School officials and employees, consistent with definition provided in the section "Definitions" above (Education Code 49076; 34 CFR 99.31)
4. Members of a school attendance review board (SARB) who are authorized representatives of the county office and any volunteer aide age 18 or older who has been investigated, selected, and trained by the SARB to provide follow-up services to a referred student (Education Code 49076) (cf. 5113.1 - Truancy)
5. Officials and employees of other public schools, school systems, or postsecondary institutions 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, or where the student is already enrolled, as long as the disclosure is for purposes related to the student's enrollment or transfer. (Education Code 49076; 34 CFR 99.31)

When the county office discloses personally identifiable information to officials of another school, school system, or postsecondary 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 is disclosed, and give the parent/guardian or adult student an opportunity for a hearing to challenge the record. (34 CFR 99.34)

6. Federal, state, and local officials, as needed for an audit, evaluation, or compliance activity related to a state or federally funded education program and in accordance with a written agreement developed pursuant to 34 CFR 99.35 (Education Code 49076; 34 CFR 99.3, 99.31, 99.35)
7. Any county placing agency acting as an authorized representative of a state or local educational agency which is required to audit or evaluate a state or federally supported education program pursuant to item #6 above (Education Code 49076)
8. Any person, agency, or organization authorized in compliance with a court order or

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lawfully issued subpoena (Education Code 49077; 5 CCR 435; 34 CFR 99.31)

Unless otherwise instructed by the court, the Superintendent or designee shall, prior to disclosing a record pursuant to a court order or subpoena, 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. (Education Code 49077; 5 CCR 435; 34 CFR 99.31)

9. Any district attorney who is participating in or conducting a truancy mediation program or participating in the presentation of evidence in a truancy petition (Education Code 49076)
10. A district attorney's office for consideration against a parent/guardian for failure to comply with compulsory education laws (Education Code 49076)
11. Any probation officer, district attorney, or counsel of record for a minor student for the purposes of conducting a criminal investigation or an investigation in regards to declaring the minor student a ward of the court or involving a violation of a condition of probation, subject to specified evidentiary rules specified in Welfare and Institutions Code (Education Code 49076)

When disclosing records for these purposes, the Superintendent or designee shall obtain written certification from the recipient of the record(s) that the information will not be disclosed to another party without prior written consent of the student's parent/guardian or the holder of the student's educational rights, unless specifically authorized by state or federal law. (Education Code 49076)

12. Any judge or probation officer for the purpose of conducting a truancy mediation program for a student, or for the purpose of presenting evidence in a truancy petition pursuant to Welfare and Institutions Code 681 (Education Code 49076)

In such cases, the judge or probation officer shall certify in writing to the Superintendent or designee that the information will be used only for truancy purposes. Upon releasing student information to a judge or probation officer, the Superintendent or designee shall inform, or provide written notification to, the student's parent/guardian within 24 hours. (Education Code 49076)

13. Any foster family agency with jurisdiction over currently enrolled or former students for purposes of accessing those students' records of grades and transcripts and any individualized education program developed and maintained by the county office (Education Code 49069.3) (cf. 6159 - Individualized Education Program)
14. Appropriate law enforcement authorities, in circumstances where Education Code 48902 requires that the county office provide special education and disciplinary records of a student with disabilities who is suspended or expelled for committing an act violating Penal Code 245 (Education Code 48902, 49076)

When disclosing such records, the Superintendent or designee shall obtain written certification by the recipient of the record(s) as described in item #11 above. (Education Code 49076)

15. Designated peace officers or law enforcement agencies in cases where the county office is authorized by law to assist law enforcement in investigations of suspected criminal conduct or kidnapping and a written parental consent, lawfully issued subpoena, or court

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order is submitted to the county office, or information is provided to it indicating that an emergency exists in which the student's information is necessary to protect the health or safety of the student or other individuals (Education Code 49076.5; 34 CFR 99.1-99.67)

In such cases, 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 public school district or California private school. (Education Code 49076.5)

At his/her discretion, the Superintendent or designee may release information from student records to the following:

1. Appropriate persons, including parents/guardians of a student, in an emergency, if the health and safety of a student or other persons are at stake (Education Code 49076; 34 CFR 99.31, 99.36)
When releasing information to any such appropriate person, the Superintendent or designee shall record information about the threat to the health or safety of the student or any other person that formed the basis for the disclosure and the person(s) to whom the disclosure was made. (Education Code 49076; 34 CFR 99.32)
2. Accrediting associations (Education Code 49076; 34 CFR 99.31)
3. Under the conditions specified in Education Code 49076 and 34 CFR 99.31, 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 provided that:
 - a. The study is conducted in a manner that does not permit personal identification of parents/guardians and students by individuals other than representatives of the organization who have legitimate interests in the information.
 - b. The information is destroyed when no longer needed for the purposes for which the study is conducted.
 - c. The county office enters into a written agreement with the organization that includes the information in 34 CFR 99.31
4. Officials and employees of private schools or school systems where the student is enrolled or intends to enroll, subject to the rights of parents/guardians as provided in Education Code 49068 and in compliance with 34 CFR 99.34 (Education Code 49076; 34 CFR 99.31, 99.34)
5. Local health departments operating countywide or regional immunization information and reminder systems and the California Department of Public Health, in which case the Superintendent or designee shall notify the student's parent/guardian of his/her rights in accordance with law prior to releasing the information (Health and Safety Code 120440)
6. Contractors and consultants having a legitimate educational interest based on services or functions which have been outsourced to them through a formal written agreement or contract by the district, excluding volunteers or other parties (Education Code 49076)
7. Agencies or organizations in connection with a student's application for or receipt of

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- financial aid, provided that information permitting the personal identification of a student or his/her parents/guardians for these purposes is disclosed only as may be necessary to determine the eligibility of the student for financial aid, determine the amount of financial aid, determine the conditions which will be imposed regarding the financial aid, or enforce the terms or conditions of the financial aid (Education Code 49076; 34 CFR 99.31, 99.36)
8. County elections officials for the purpose of identifying students eligible to register to vote and offering such students an opportunity to register, subject to the provisions of 34 CFR 99.37 and under the condition that any information provided on this basis shall not be used for any other purpose or transferred to any other person or agency (Education Code 49076; 34 CFR 99.31, 99.37) (cf. 1400 - Relations Between Other Governmental Agencies and the Schools)

Persons, agencies, or organizations not afforded access rights by law may be granted access only through written consent 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 the county office, in writing, that such an agreement has been made. (Education Code 49061)

Any person, agency, or organization granted access is prohibited from releasing information to another person, agency, or organization without written permission from the parent/guardian or adult student unless specifically allowed by state law or the federal Family Educational Rights and Privacy Act. (Education Code 49076)

De-Identification of Records

When authorized by law for any program audit, educational research, or other purposes, the Superintendent or designee may release information from a student record without prior consent of the parent/guardian or adult student after the removal of all personally identifiable information. Prior to releasing such information, the Superintendent or designee shall make a reasonable determination that the student's identity is not personally identifiable, whether through single or multiple releases and taking into account other reasonably available information. (Education Code 49074, 49076; 34 CFR 99.31)

Process for Providing Access to Records

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)

The custodian of records shall be responsible for the security of student records and shall ensure that access is limited to authorized persons. (5 CCR 433)

The custodian of records shall develop reasonable methods, including physical, technological, and administrative controls, to ensure that school officials and employees obtain access to only those

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student records in which they have legitimate educational interests. (34 CFR 99.31)

To inspect, review, or obtain copies of student records, authorized persons shall submit a request to the custodian of records. Prior to granting the request, the custodian of records shall authenticate the individual's identity. For any individual granted access based on a legitimate educational interest, the request shall specify the interest involved.

When prior written consent is required by law, the parent/guardian shall provide a written, signed, and dated consent before the county office discloses the student record. Such consent may be given through electronic means in those cases where it can be authenticated. The county office's consent form 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, the county office shall provide him/her a copy of the records disclosed. (34 CFR 99.30)

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

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 county-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 pursuant to Education Code 490755.
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,

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student who is 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, the county office shall charge a reasonable fee not to exceed the actual cost of providing 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

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)

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)

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 (cf. 5111 - Admission)
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 (cf. 5121 - Grades/Evaluation of Student Achievement)
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 county office programs. These records include: (Education Code 48918, 51747; 5 CCR 432, 437, 16027)

1. Expulsion orders and the causes therefore (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 verification or waiver of the health screening for school entry

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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 and Evaluation of Individuals for Special Education)
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
(cf. 6162.52 - High School Exit Examination)
11. Written findings resulting from an evaluation conducted after a specified number of missed assignments to determine 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 (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)

Transfer of Student Records

When a student transfers into a county office program 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. (Education Code 49068; 5 CCR 438)

When a student transfers into a county office program from another district, the 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. (Education Code 48201) (cf. 4158/4258/4358 - Employee Security)

When a student transfers from the county office to another school district or to a private school, the Superintendent or designee shall forward a copy of the student's mandatory permanent record within 10 school days of the county office's receipt of the request for the student's records. The original record or a copy shall be retained permanently by the county office. 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.

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Permitted student records may be forwarded to any other district or private school. (5 CCR 438)

Upon receiving a request from a county placing agency to transfer a student in foster care out of a county office school, the 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. (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 Superintendent 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.

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 county office shall provide these notices in the student's home language and shall effectively notify parents/guardians or eligible students with disabilities. (Education Code 49063; 34 CFR 99.7) (cf. 5145.6 - Parental Notifications)

The notice shall include: (Education Code 49063; 34 CFR 99.7, 99.34)

1. The types of student records kept by the county office 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. County office criteria for defining "school officials and employees" and for determining "legitimate educational interest"
5. County office 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 (cf. 5020 - Parent Rights and Responsibilities)
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 U.S. Department of Education concerning

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- an alleged failure by the county office to comply with 20 USC 1232g
13. A statement that the county office forwards education records to other agencies or institutions that request the records and in which the student seeks or intends to enroll or is already enrolled as long as the disclosure is for purposes related to the student's enrollment

ADMINISTRATIVE REGULATION:

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