

Lewis Center for Educational Research

**AR 5125: STUDENTS
 STUDENT RECORDS**

Adopted: August 14, 2023

Revised:

Definitions

Student means any individual who is or has been in attendance at an LCER school and regarding whom LCER maintains student records.

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.

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

Student records do not include:

1. Directory information
2. Informal notes compiled by a school 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 created or received by LCER after an individual is no longer a student and that are not directly related to the individual's attendance as a student
4. 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.

Mandatory interim student records are those records which the schools are directed to compile and maintain for specified periods of time and are then destroyed in accordance with state law, regulation, or administrative directive.

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

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.

Access means a personal inspection and review of a record or 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.

Personally identifiable information includes, but is not limited to:

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 LCER 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.

Parent/guardian means a natural parent, an adopted parent, legal guardian, surrogate parent, or foster parent.

Legitimate educational interest is an interest held by any school official, employee, contractor, or consultant whose duties, responsibilities, or contractual obligations to LCER, whether routine or as a result of special circumstances, require him/her to have access to student records.

School officials and employees are officials or employees whose duties and responsibilities to LCER, 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 LCER regarding the provision of services or functions outsourced to him/her by LCER. Contractor or consultant shall not include a volunteer or other party.

Custodian of records is the employee responsible for the security of student records maintained by LCER and for devising procedures for assuring that access to such records is limited to authorized persons.

County placing agency means the county social service department or county probation department.

Persons Granted Absolute Access

In accordance with law, absolute access to any student records shall be granted to:

1. Parents/guardians of students younger than age 18 years, including the parent who is not the student's custodial parent
2. An adult student, or a student under the age of 18 years who attends a post-secondary institution, in which case the student alone shall exercise rights related to his/her student records and grant consent for the release of records
3. Parents/guardians of an adult student with disabilities who is age 18 years or older and has been declared incompetent under state law

Access for Limited Purpose/Legitimate Educational Interest

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:

1. Parents/guardians of a student age 18 or older who is a dependent child as defined under 26 USC 152
2. Students who are age 16 or older or who have completed the 10th grade
3. School officials and employees, consistent with the definition provided in the section "Definitions" above
4. Members of a school attendance review board (SARB) who are authorized representatives of LCER 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
5. Officials and employees of other public schools, school systems, or post-secondary 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

Unless the annual parent/guardian notification issued pursuant to Education Code 48980 includes a statement that LCER may disclose students' personally identifiable information to officials of another school, school system, or post-secondary institution where the student seeks or intends to enroll, the President/CEO or designee shall, when such a disclosure is made, 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.

6. The Student Aid Commission, for the purpose of providing the grade point average (GPA) of all LCER students in grade 12, and subsequently providing verification of high school graduation or its equivalent of all students who graduated in the prior academic year, for use in the Cal Grant postsecondary financial aid program, except when students opt out or are permitted by the rules of the Student Aid Commission to provide test scores in lieu of the GPA

No later than October 15 each year, the President/CEO or designee shall notify each student in grade 12, and his/her parents/guardians if the student is under age 18 years, that the student's GPA will be forwarded to the Student Aid Commission unless he/she opts out within a period of time specified in the notice, which shall not be less than 30 days.

Students' social security numbers shall not be included in the submitted information unless the Student Aid Commission deems it necessary to complete the financial aid application and the President/CEO or designee obtains permission from the student's parent/guardian, or from the adult student, to submit the social security number.

7. 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
8. 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 #7 above
9. Any person, agency, or organization authorized in compliance with a court order or lawfully issued subpoena

Unless otherwise instructed by the court, the President/CEO 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.

10. Any district attorney who is participating in or conducting a truancy mediation program or participating in the presentation of evidence in a truancy petition
11. A district attorney's office for consideration against a parent/guardian for failure to comply with compulsory education laws
12. 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 evidentiary rules specified in Welfare and Institutions Code 701

When disclosing records for these purposes, the President/CEO or designee shall obtain written certification from the recipient of the records 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.

13. 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

In such cases, the judge or probation officer shall certify in writing to the President/CEO or designee that the information will be used only for truancy purposes. Upon releasing student information to a

judge or probation officer, the President/CEO or designee shall inform, or provide written notification to, the student's parent/guardian within 24 hours.

14. 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 LCER
15. A student age 14 years or older who is both a homeless student and an unaccompanied minor as defined in 42 USC 11434a
16. An individual who completes items 1-4 of the caregiver's authorization affidavit pursuant to Family Code 6552 and signs the affidavit for the purpose of enrolling a minor in school
17. A caseworker or other representative of a state or local child welfare agency or tribal organization that has legal responsibility for the care and protection of a student, provided that the information is directly related to providing assistance to address the student's educational needs
18. Appropriate law enforcement authorities, in circumstances where Education Code 48902 requires that LCER provide special education and disciplinary records of a student with disabilities who is suspended or expelled for committing an act violating Penal Code 245

When disclosing such records, the President/CEO or designee shall obtain written certification by the recipient of the records as described in item #12 above.

19. Designated peace officers or law enforcement agencies in cases where LCER 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 order is submitted to LCER, 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

In such cases, the President/CEO 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, charter, or California private school.

When disclosing records for the above purposes, the President/CEO or designee shall obtain the necessary documentation to verify that the person, agency, or organization is a person, agency, or organization that is permitted to receive such records.

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.

In addition, the parent/guardian or adult student may provide written consent for access to be granted to persons, agencies, or organizations not afforded access rights by law. The written consent shall specify the records to be released and the party or parties to whom they may be released.

Only a parent/guardian having legal custody of the student may consent to the release of records to others. Either parent/guardian may grant consent if both parents/guardians notify LCER, in writing, that such an agreement has been made.

Discretionary Access

At his/her discretion, the President/CEO or designee may release information from a student's records to the following:

1. Appropriate persons, including parents/guardians of a student, in an emergency if the health and safety of the student or other persons are at stake

When releasing information to any such appropriate person, the President/CEO 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.

Unless it would further endanger the health or safety of the student or other persons, the President/CEO or designee shall inform the parent/guardian or adult student within one week of the disclosure that the disclosure was made, of the articulable and significant threat to the health or safety of the student or other individuals that formed the basis for the disclosure, and of the parties to whom the disclosure was made.

2. Accrediting associations
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. LCER enters into a written agreement with the organization that complies with 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
5. Local health departments operating countywide or regional immunization information and reminder systems and the California Department of Public Health, unless the parent/guardian has requested that no disclosures of this type be made
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 LCER, excluding volunteers or other parties comply with provisions in the California Student Data Privacy Agreement

7. Agencies or organizations in connection with the student's application for or receipt of 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
8. County elections officials for the purpose of identifying students eligible to register to vote or 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

When disclosing records for the above purposes, the President/CEO or designee shall obtain the necessary documentation to verify that the person, agency, or organization is a person, agency, or organization that is permitted to receive such records.

De-identification of Records

When authorized by law for any program audit, educational research, or other purposes, the President/CEO 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 President/CEO 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.

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.

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

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 student records in which they have legitimate educational interests.

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 from a parent/guardian is required by law, the parent/guardian shall provide a written, signed, and dated consent before LCER discloses the student record. Such consent may be given through electronic means in those cases where it can be authenticated. LCER'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, LCER shall provide him/her a copy of the records disclosed.

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.

Qualified certificated personnel shall be available to interpret records when requested.

The custodian of records or the President/CEO or designee shall prevent the alteration, damage, or loss of records during inspection.

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.

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.

The log may include record of access by:

1. Parents/guardians or adult students
2. Students who are 16 years of age or older or who have completed the 10th grade
3. Parties obtaining LCER-approved directory information
4. Parties who provide written parental consent, in which case the consent notice shall be filed with the record pursuant to Education Code 49075
5. School officials and employees who have a legitimate educational interest

The log shall be accessible only to the parent/guardian, adult student, dependent adult student, student who is age 16 years or older or who has completed the 10th grade, custodian of records, and certain state or federal officials.

Duplication of Student Records

To provide copies of any student record, LCER 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.

Changes to Student Records

Only a parent/guardian having legal custody of a student or an adult student may challenge the content of a record or offer a written response to a record.

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.

A student's legal name or gender as entered on the mandatory student record required pursuant to 5 CCR 432 shall only be changed pursuant to a court order. However, at the written request of a student or, if appropriate, his/her parents/guardians, LCER shall use the student's preferred name and pronouns consistent with his/her gender identity on all other LCER-related documents.

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:

1. Legal name of student
2. Date and place of birth and method of verifying birth date
3. Sex of student
4. Name and address of parent/guardian of minor student
 - a. Address of minor student if different from the above
 - b. Annual verification of parent/guardian's name and address and student's residence
5. Entrance and departure dates of each school year and for any summer session or other extra session
6. Subjects taken during each year, half-year, summer session, or quarter, and marks or credits given
7. Verification of or exemption from required immunizations
8. Date of high school graduation or equivalent

Mandatory interim student records, unless forwarded to another district, charter or private school, shall be maintained subject to destruction during the third school year after the school year in which they originated, following a determination that their usefulness has ceased or the student has left LCER. These records include:

1. Expulsion orders and the causes therefore
2. A log identifying persons or agencies who request or receive information from the student record
3. Health information, including verification or waiver of the health screening for school entry
4. Information on participation in special education programs, including required tests, case studies, authorizations, and evidence of eligibility for admission or discharge

5. Language training records
6. Progress slips/notices required by Education Code 49066 and 49067
7. Parental restrictions/stipulations regarding access to directory information
8. Parent/guardian or adult student rejoinders to challenged records and to disciplinary action
9. Parent/guardian authorization or denial of student participation in specific programs
10. Results of standardized tests administered within the past three years
11. Written findings resulting from an evaluation conducted after a specified number of missed assignments 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:

1. Objective counselor and/or teacher ratings
2. Standardized test results older than three years
3. Routine disciplinary data
4. Verified reports of relevant behavioral patterns
5. All disciplinary notices
6. Supplementary attendance records

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

Transfer of Student Records

When a student transfers into LCER from any other school district, charter, or a private school, the President/CEO or designee shall inform the student's parent/guardian of his/her rights regarding student records, including the right to review, challenge, and receive a copy of student records.

When a student transfers into an LCER school from another district, charter or private school, the President/CEO or designee shall request that the student's previous school provide any records, either maintained by that district or school in the ordinary course of business or received from a law enforcement agency, regarding acts committed by the transferring student that resulted in his/her suspension or expulsion.

When a student transfers from LCER to another school district or to a charter or private school, the President/CEO or designee shall forward a copy of the student's mandatory permanent record within 10 school days of LCER's receipt of the request for the student's records. The original record or a copy shall be retained permanently by LCER. If the transfer is to another California public school, the

student's entire mandatory interim record shall also be forwarded. If the transfer is out of state or to a private school, the mandatory interim record may be forwarded. Permitted student records may be forwarded to any other district, charter or private school.

Upon receiving a request from a county placing agency to transfer a student in foster care out of an LCER school, the President/CEO or designee shall transfer the student's records to the next educational placement within two business days.

All student records shall be updated before they are transferred.

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

If LCER 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 or school along with the student's records.

Notification of Parents/Guardians

Upon any student's initial enrollment, and at the beginning of each school year thereafter, the President/CEO or designee shall notify parents/guardians and eligible students, in writing, of their rights related to student records. If 15 percent or more of the students enrolled in an LCER school speak a single primary language other than English, then LCER shall provide these notices to that language. Otherwise, LCER shall provide these notices in the student's home language insofar as practicable. LCER shall effectively notify parents/guardians or eligible students with disabilities.

The notice shall include:

1. The types of student records kept by LCER 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. LCER criteria for defining school officials and employees and for determining legitimate educational interest
5. LCER 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. Availability of the curriculum prospectus developed pursuant to Education Code 49091.14 containing the titles, descriptions, and instructional aims of every course offered by the school
12. Any other rights and requirements set forth in Education Code 49060-49078, and the right of parents/guardians to file a complaint with the U.S. Department of Education concerning an alleged failure by LCER to comply with 20 USC 1232g
13. A statement that LCER 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

Student Records from Social Media

For the purpose of gathering and maintaining records of students' social media activity, the Superintendent or designee shall:

1. Gather or maintain only information that pertains directly to school safety or student safety
2. Provide a student with access to any information that LCER obtained from his/her social media activity and an opportunity to correct or delete such information
3. Destroy information gathered from social media and maintained in student records within one year after a student turns 18 years of age or within one year after the student is no longer enrolled in an LCER school, whichever occurs first
4. Notify each parent/guardian that the student's information is being gathered from social media and that any information maintained in the student's records shall be destroyed as provided in item #3 above. The notification shall also include, but is not limited to, an explanation of the process by which a student or his/her parent/guardian may access the student's records for examination of the information gathered or maintained and the process by which removal of the information may be requested or corrections to the information may be made. The notification may be provided as part of the annual parental notification required pursuant to Education Code 48980.
5. If LCER contracts with a third party to gather information on a student from social media, ensure that the contract:
 - a. Prohibits the third party from using the information for purposes other than those specified in the contract or from selling or sharing the information with any person or entity other than LCER, the student, or his/her parent/guardian
 - b. Requires the third party to destroy the information immediately upon satisfying the terms of the contract, or when LCER notifies the third party that the student has turned 18 years of age or is no longer enrolled in an LCER school, whichever occurs first