
SENATE COMMITTEE ON EDUCATION

Senator Benjamin Allen, Chair

2017 - 2018 Regular

Bill No:	SB 1036	Hearing Date:	March 21, 2018
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Urgency:	No	Fiscal:	Yes
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Subject: Pupil records: directory information

SUMMARY

This bill prohibits a school district from releasing the directory information or the personal information of a parent in the minutes of a school board meeting, except as required by judicial order or federal law.

BACKGROUND

Existing federal law, the federal Family Educational Rights and Privacy Act (FERPA), prohibits federal funds from being provided to any educational agency or institution which has a policy or practice of permitting the release of a pupil's educational records to any individual, agency, or organization without the written consent of the pupil's parents. FERPA exempts from the general parental consent requirement certain kinds of disclosures, including disclosures to state and local officials for the purposes of conducting truancy proceedings, a criminal investigation, auditing or evaluating an educational program, or in relation to the application for financial aid. (United States Code, Title 20, Section 1232g and Code of Federal Regulations, Title 34, Sections 99.31)

Existing state law:

- 1) Defines "directory information" as one or more of the following items:
 - a) Student's name.
 - b) Student's address.
 - c) Student's telephone number.
 - d) Student's date of birth.
 - e) Student's email address.
 - f) Student's major field of study.
 - g) Student's participation in officially recognized activities and sports.
 - h) Weight and height of members of athletic teams.
 - i) Student's dates of attendance.
 - j) Degrees and awards received by the student.
 - k) The most recent previous public or private school attended by the student. (Education Code § 49061)

- 2) Requires school districts to adopt a policy identifying categories of directory information that may be released, and requires the school districts to determine

which individuals, officials, or organizations may receive directory information.
(Education Code § 49073)

- 3) Prohibits directory information from being released regarding a student if a parent of that student has notified the school district that the information shall not be released. Existing law prohibits directory information from being released regarding a student identified as homeless, unless specified conditions are met.
(EC § 49073)
- 4) Prohibits any information from being released to a private profitmaking entity other than employers, prospective employers, and representatives of the news media (including newspapers, magazines, and radio and television stations).
(EC § 49073)
- 5) Prohibits a school district from permitting access to pupil records to a person without parental consent or under judicial order, with some exceptions:
 - a) School districts are *required* to permit access to records relevant to the legitimate educational interests of specified requesters, including:
 - i) School officials and employees of the districts, members of a school attendance review board and any volunteer aide (as specified), provided that the person has a legitimate educational interest to inspect a record.
 - ii) Officials and employees of other public schools or school systems where the pupil intends to or is directed to enroll.
 - iii) Other federal, state and local officials as specified.
 - iv) Parents of a pupil 18 years of age or older who is a dependent.
 - v) A pupil 16 years of age or older or having completed the 10th grade who requests access.
 - vi) A district attorney, judge or probation officer, in relation to truancy proceedings.
 - vii) A district attorney's office for consideration against a parent for failure to comply with compulsory education laws.
 - viii) A probation officer, district attorney, or counsel of record for a minor, in relation to a criminal investigation or in regard to declaring a person a ward of the court or involving a violation of a condition of probation.
 - ix) A county placing agency when acting as an authorized representative of a state or local educational agency.

- b) School districts are *authorized* to release information from pupil records to the following:
 - i) Appropriate persons in connection with an emergency if the information is necessary to protect the health or safety of a pupil or other person.
 - ii) Agencies or organizations in connection with the application of a pupil for, or receipt of, financial aid.
 - iii) The county elections official for the identification of pupils who are eligible to register to vote.
 - iv) Accrediting associations in order to carry out accrediting functions.
 - v) Organizations conducting studies on behalf of educational agencies or institutions for the purpose of developing, validating or administering predictive tests, administering student aid programs, and improving instruction.
 - vi) Officials and employees of private schools or school systems where the pupil is enrolled or intends to enroll.
 - vii) A contractor or consultant with a legitimate educational interest who has a formal written agreement or contract with the school district regarding the provision of outsourced institutional services or functions by the contractor or consultant. (EC § 49076)
- 6) Requires school districts to notify parents in writing of their rights, including the types of student records kept by the district, the position of the official responsible for the records, the policies for reviewing and expunging records, and the criteria used by the district to define “school officials and employees” and to determine “legitimate educational interest.” (EC § 49063)

ANALYSIS

This bill prohibits a school district from releasing the directory information or the personal information of a parent in the minutes of a school board meeting, except as required by judicial order or federal law.

STAFF COMMENTS

- 1) *Need for the bill.* According to the author, “Current California and Federal laws allow for the publishing and release of personal information such as full names, home addresses, telephone numbers, etcetera by California school boards in the minutes of their board meetings. This release of information has led to troubling issues in our school communities. Primarily, the release of information, or potential thereof, can have the effect of suppressing participation and dissent. On controversial issues before the board, some students, parents, guardians or relatives feel the release of their home address for instance, presents the

potential for harm or other harassment based on their testimony during the meeting. Additionally, it has been applied selectively with some persons' information released and others' not. This has led to the perception that the release of personal information may be employed in a manner leading to intimidation on the part of the individual school board during instances where they receive unfavorable testimony from members of the school community."

- 2) *Limited in scope.* This bill relates only to directory information or the personal information of a parent in the minutes of a school board meeting. This bill does *not* alter existing law regarding the release of directory information or pupil records to school attendance review boards, schools in which the student intends to enroll, researchers, or recruiters. **Staff recommends amendments** to expand the scope of this bill to include directory information of students (other than a student's name) and personal information of guardians.
- 3) *Personal information.* This bill prohibits the release of personal information of a parent, but "personal information" is not defined. **Staff recommends an amendment** to define "personal information" as a person's address, telephone number, date of birth, or email address. The practical effect is that the name of a parent, guardian or student could be included in school board meeting minutes, but no other personal information.
- 4) *Opt-in?* This bill does not allow a parent to grant permission for any personal information to be included in the minutes of a school board meeting. **Staff recommends an amendment** to allow a parent, guardian or student (if over 18 years of age) to provide written permission to a school board granting permission for that person's personal information to be included in the minutes of a school board meeting. This amendment would also allow a parent or guardian to grant permission for the name of their minor child to be included in the minutes of a school board meeting.
- 5) *What about charter schools and county offices of education?* This bill applies only to school districts. **Staff recommends amendments** to make this bill applicable to charter schools and county boards of education.

SUPPORT

None received

OPPOSITION

None received

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