

**BP 5040 STUDENT RECORDS, DIRECTORY INFORMATION, AND  
PRIVACY**

**References:**

Education Code Sections 76200 et seq.;

Title 5 Sections 54600 et seq.;

Family Educational Rights & Privacy Act (Section 438, PL 93-380, 1974);

U.S. Patriot Act;

Civil Code Section 1798.85

***NOTE: The following language in red, underlined ink is legally required.***

The Chancellor shall assure that student records are maintained in compliance with applicable federal and state laws relating to the privacy of student records.

The Chancellor may direct the implementation of appropriate safeguards to assure that student records cannot be accessed or modified by any person not authorized to do so.

Any currently enrolled or former student of the District has a right of access to any and all student records relating to him/her maintained by the District.

No District representative shall release the contents of a student record to any member of the public without the prior written consent of the student, other than directory information as defined in this policy and information sought pursuant to a court order or lawfully issued subpoena, or as otherwise authorized by applicable federal and state laws.

Students shall be notified of their rights with respect to student records, including the definition of directory information contained here, and that they may limit the information.

Directory information shall include:

- Student participation in officially recognized activities and sports including weight, height and high school of graduation of athletic team members.
- Degrees and awards received by students, including honors, scholarship awards, athletic awards and Dean's List recognition.

**NOTE:** This is an extremely limited definition of “directory information.” Both state and federal laws permit the Board to adopt a definition of “directory information” that includes any of the following: name, address, telephone number, date and place of birth, major field of study, student participation in officially recognized activities and sports including weight, height and high school of graduation of athletic team members, degrees and awards received by students, including honors, scholarship awards, athletic awards and Dean’s List recognition, dates of attendance, and the most recent public or private school attended by the student. Such an expansive definition of “directory information” is no longer recommended out of concern for both the family privacy and the safety of students. Applicable law does not give the District discretion to use a more expansive definition of directory information on a selective basis, e.g., in order to make such data available to potential vendors.

❖ **From the current CLPCCD Policy 5511 titled Privacy Rights of Students**

It shall be the policy of the Board of Trustees that:

- ~~1. In accordance with the Family Educational Rights & Privacy Act (Section 438, PL 93-380, 1974) as amended, and with the California Code of Regulations, Title 5.
  - ~~a. The District may establish and maintain only such information on students as is relevant to admission, registration, academic history, career, student benefits or services, extra curricular activities, counseling and guidance, discipline or matters relating to student conduct, and shall establish and maintain such information as required by law; and~~
  - ~~b. Except as excluded by state or federal law, each student shall have access to the official educational records, files, documents, and other materials which contain information directly related to him or her; and~~
  - ~~c. Each student shall have the right to challenge such records on the grounds that they are inaccurate, misleading, or otherwise inappropriate; and~~
  - ~~d. Except as authorized by state and/or federal law, no record, file, document or other materials or any personally identifiable information contained therein shall be released to any individual, agency, or organization without the written consent of the student; and~~
  - ~~e. Each student shall be kept informed of his or her rights accorded by this policy.~~~~
- ~~2. Student records shall be destroyed only in accordance with the provisions of the Education Code, the California Code of Regulations, Title 5, and the Government Code.~~

❖ **From the current CLPCCD Policy 5310 titled Student Records: Maintenance, Retention and Destruction**

It is the policy of this district that all student records shall be maintained, retained, and destroyed in accordance with the provisions of California Code of Regulations, Title 5,

~~and the California Education Code. In accordance with this policy, the Dean of Admissions and Records or the Registrar shall be the student records officer responsible for the plans and procedures relating to the maintenance, retention, and destruction of student records. Records of inactive students shall be microfilmed or placed on optical discs. The Dean of Admissions and Records shall be responsible for this process in compliance with law.~~

Also see [BP/AP 3300 titled Public Records](#) and [BP/AP 3310 titled Records Retention and Destruction](#)

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**NOTE:** The **red ink** signifies language that is **legally required** and recommended by the Policy and Procedure Service and its legal counsel. The language in **black ink** is from current Chabot-Las Positas CCD Policy 5310 titled *Student Records: Maintenance, Retention and Destruction* adopted on March 19, 1996 and current Chabot-Las Positas CCD Policy 5511 titled *Privacy Rights of Students* adopted on March 19, 1996. The language in **green ink** reflects revisions during the administrative review on May 7, 2013.

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**Date Adopted:**

*(This policy replaces current CLPCCD Policies 5310 and 5511)*

## Legal Citations for BP 5040

### EDUCATION CODE SECTIONS 76200 et seq.

**76200.** It is the intent of the Legislature to resolve potential conflicts between California law and the provisions of Public Law 93-380 regarding the confidentiality of student records in order to insure the continuance of federal **education** funds to public community colleges within the state, and to revise generally and update the law relating to such records.

76210. As used in this chapter, the following definitions shall apply:

(a) (1) "Student record" means any item of information directly related to an identifiable student, other than directory information, which is maintained by a community college or required to be maintained by any employee in the performance of his or her duties, whether recorded by handwriting, print, tapes, film, microfilm or other means.

(2) "Student record" does not include (A) confidential letters and statements of recommendations maintained by a community college on or before January 1, 1975, if these letters or statements are not used for purposes other than those for which they were specifically intended, (B) information provided by a student's parents relating to applications for financial aid or scholarships, or (C) information related to a student compiled by a community college officer or employee that remains in the sole possession of the maker and is not accessible or revealed to any other person except a substitute. For purposes of this paragraph, "substitute" means a person who performs, on a temporary basis, the duties of the individual who made the notes and does not refer to a person who permanently succeeds the maker of the notes in his or her position.

(3) "Student record" also does not include information related to a student created or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in his or her professional or paraprofessional capacity, or assisting in that capacity, and that is created, maintained, or used only in connection with the provision of treatment to the student and is not available to anyone other than persons providing that treatment. However, that record may be personally reviewed by a physician or other appropriate professional of the student's choice.

(4) "Student record" does not include information maintained by a community college law enforcement unit, if the personnel of the unit do not have access to student records pursuant to Section 76243, the information maintained by the unit is kept apart from information maintained pursuant to subdivision (a), the information is maintained solely for law enforcement purposes, and the information is not made available to persons other than law enforcement officials of the same jurisdiction. "Student record" does not include information maintained in the normal course of business pertaining to persons who are employed by a community college, if the information relates exclusively to the person in that person's capacity as an employee and is not available for use for any other purpose.

(b) "Directory information" means one or more of the following items: a student's name, address, telephone number, date and place of birth, major field of study, participation in officially recognized activities and sports, weight and height of members of

athletic teams, dates of attendance, degrees and awards received, the most recent previous public or private school attended by the student, and any other information authorized in writing by the student.

(c) "Access" means a personal inspection and review of a record or an accurate copy of a record, or an oral description or communication of a record or an accurate copy of a record, and a request to release a copy of any record.

76220. Community college districts shall establish, maintain, and destroy student records according to regulations adopted by the Board of Governors of the California Community Colleges. Such regulations shall establish state policy as to what items of information shall be placed into student records and what information is appropriate to be compiled by individual community college officers or employees under the exception to student records provided in subdivisions (a) and (b) of Section 76210. No student records shall be destroyed except pursuant to such regulations or as provided in subdivisions (b) and (c) of Section 76232.

76221. Community college districts shall notify students in writing of their rights under this chapter upon the date of the student's enrollment and at least annually thereafter. The notice shall take a form that reasonably notifies students of the availability of the following specific information:

(a) The types of student records and information contained therein that are directly related to students and maintained by the institution.

(b) The official responsible for the maintenance of each type of record.

(c) The location of the log or record required to be maintained pursuant to Section 76222.

(d) The criteria to be used by the institution in defining "officials and employees" and in determining "legitimate educational interest" as used in Section 76222 and subdivision (a) of Section 76243.

(e) The policies of the institution for reviewing and expunging those records.

(f) The right of the student to have access to his or her records.

(g) The procedures for challenging the content of student records.

(h) The cost if any that will be charged for reproducing copies of records.

(i) The categories of information that the institution has designated as directory information pursuant to Section 76240.

(j) Any other rights and requirements set forth in this chapter and the right of the student to file a complaint with the United States Department of Education concerning an alleged failure by the institution to comply with Section 438 of the General Education Provisions Act (20 U.S.C.A. 1232g).

76222. A log or record shall be maintained for each student's record which lists all persons, agencies, or organizations requesting or receiving information from the record and the legitimate interests therefor. The listing need not include any of the following:

(a) Students to whom access is granted pursuant to Section 76230.

(b) Parties to whom directory information is released pursuant to Section 76240.

(c) Parties for whom written consent has been executed by the

student pursuant to Section 76242.

(d) Officials or employees having a legitimate educational interest pursuant to subdivision (a) of Section 76243.

The log or record shall be open to inspection only by the student and the community college official or his or her designee responsible for the maintenance of student records, and to the Comptroller General of the United States, the Secretary of Education, an administrative head of an education agency as defined in Public Law 93-380, and state educational authorities as a means of auditing the operation of the system.

76223. Any community college may make a reasonable charge in an amount not to exceed the actual cost of furnishing copies of any student record; provided, however, that no charge shall be made for furnishing (1) up to two transcripts of students' records or (2) up to two verifications of various records of students. No charge may be made to search for or to retrieve any student record.

76224. (a) When grades are given for any course of instruction taught in a community college district, the grade given to each student shall be the grade determined by the instructor of the course and the determination of the student's grade by the instructor, in the absence of mistake, fraud, bad faith, or incompetency, shall be final.

(b) No grade of a student participating in a physical education class, however, may be adversely affected due to the fact that the student does not wear standardized physical education apparel where the failure to wear such apparel arises from circumstances beyond the control of the student.

76225. Whenever a student transfers from one community college or public or private institution of postsecondary education to another within the state, appropriate records or a copy thereof shall be transferred by the former community college, or college or university upon a request from the student. However, the community college, college, or university from which the student is transferring may notify the student that the student's records will be transferred upon payment by the student of all fees and charges due the community college, college, or university. Any community college, college, or university making a transfer of these records shall notify the student of his or her right to receive a copy of the record and his or her right to a hearing to challenge the content of the record.

The board of governors may adopt rules and regulations concerning transfer of these records to, from, or between colleges under its jurisdiction.

76230. Any currently enrolled or former student has a right to access to any and all student records relating to him maintained by community colleges. The editing or withholding of any such records, except as provided for in this chapter, is prohibited.

Each community college district shall adopt procedures for the granting of requests by students to inspect and review records during regular school hours, provided that access shall be granted no later than 15 working days following the date of the request. Procedures shall include notification of the location of all official student

records if not centrally located and the providing of qualified personnel to interpret records where appropriate.

76231. A student may waive his or her right to access to student records devoted solely to confidential recommendations for career placement, postsecondary admission, or the receipt of an honor or honorary recognition. However, the recommendations shall be used solely for the purpose for which they were specifically intended, and the student shall be notified, upon request, of the names of all persons making confidential recommendations. A waiver may not be required as a condition for admission to, receipt of financial aid from, or receipt of any other services or benefits from a community college.

76232. (a) Any student may file a written request with the chief administrative officer of a community college district to correct or remove information recorded in his or her student records which the student alleges to be: (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.

(b) Within 30 days of receipt of the request, the chief administrative officer, or his or her designee, shall meet with the student and the employee who recorded the information in question, if any, if the employee is presently employed by the community college district. The chief administrative officer or his or her designee shall then sustain or deny the allegations.

If the chief administrative officer, or his or her designee, sustains any or all of the allegations, he or she shall order the correction or removal and destruction of the information.

If the chief administrative officer, or his or her designee, denies any or all of the allegations and refuses to order the correction or removal of the information, the student, within 30 days of the refusal, may appeal the decision in writing to the governing board of the community college district.

(c) Within 30 days of receipt of an appeal, the governing board shall, in closed session with the student and the employee who recorded the information in question, if any, and if that employee is presently employed by the community college district, determine whether to sustain or deny the allegations.

If the governing board sustains any or all of the allegations, it shall order the chief administrative officer, or his or her designee, to immediately correct or remove and destroy the information.

The decision of the governing board shall be final.

Records of these administrative proceedings shall be maintained in a confidential manner and shall be destroyed one year after the decision of the governing board unless the student initiates legal proceedings relative to the disputed information within the prescribed period.

(d) If the final decision of the governing board is unfavorable to the student or if the student accepts an unfavorable decision by the chief administrative officer, the student shall have the right to submit a written statement of his or her objections to the information. This statement shall become a part of the student's

record until the information objected to is corrected or removed.

76233. Whenever there is included in any student record information concerning any disciplinary action taken by community college personnel in connection with the student, the student shall be allowed to include in such record a written statement or response concerning the disciplinary action.

76234. Whenever there is included in any student record information concerning any disciplinary action taken by a community college in connection with any alleged sexual assault or physical abuse, including rape, forced sodomy, forced oral copulation, rape by a foreign object, sexual battery, or threat of sexual assault, or any conduct that threatens the health and safety of the alleged victim, the alleged victim of that sexual assault or physical abuse shall be informed within three days of the results of any disciplinary action by the community college and the results of any appeal. The alleged victim shall keep the results of that disciplinary action and appeal confidential.

76240. (a) (1) Community college districts shall adopt a policy identifying those categories of directory information, as defined under Section 1232g of Title 20 of the United States Code as it exists on January 1, 2006, that may be released. The names and addresses of students may be provided to a private school or college operating under Sections 8080 to 8093, inclusive, Sections 33190 and 33191, or Sections 94000 to 94409, inclusive, or its authorized representative. However, no private school or college shall use this information for other than purposes directly related to the academic or professional goals of the institution.

(2) Any violation of this subdivision is a misdemeanor, punishable by a fine not to exceed two thousand five hundred dollars (\$2,500), and, in addition, the privilege of the school or college to receive this information shall be suspended for a period of two years from the time of discovery of the misuse of the information.

(b) Any community college district may limit or deny the release of specific categories of directory information based upon a determination of the best interests of students.

(c) Directory information may be released according to local policy as to any former student or any student currently attending the community college. However, public notice shall be given at least annually of the categories of information that the district plans to release and of the recipients. No directory information shall be released regarding any student or former student when the student or former student has notified the institution that the information shall not be released.

76241. Nothing in this chapter shall preclude a community college from providing, in its discretion, statistical data from which no student may be identified to any public agency or entity or private nonprofit college, university, or educational research and development organization when such actions would be in the best educational interests of students.

76242. A community college district may permit access to student



records to any person for whom the student has executed written consent specifying the records to be released and identifying the party or class of parties to whom the records may be released. The recipient must be notified that the transmission of the information to others without the written consent of the student is prohibited. The consent notice shall be permanently kept with the record file.

76243. (a) A community college or community college district is not authorized to permit access to student records to any person without the written consent of the student or under judicial order except that access may be permitted to the following:

(1) Officials and employees of the community college, if that person has a legitimate educational interest to inspect a record.

(2) Authorized representatives of the Comptroller General of the United States, the Secretary of Health, Education, and Welfare, an administrative head of an education agency, state education officials, or their respective designees or the United States Office of Civil Rights, where that information is necessary to audit or evaluate a state or federally supported education program or pursuant to a federal or state law, except that when the collection of personally identifiable information is specifically authorized by federal law, any data collected by those officials shall be protected in a manner that will not permit the personal identification of students or their parents by other than those officials, and any personally identifiable data shall be destroyed when no longer needed for that audit, evaluation, and enforcement of federal legal requirements.

(3) Other state and local officials or authorities to the extent that information is specifically required to be reported pursuant to state law adopted prior to November 19, 1974.

(4) Officials of other public or private schools or school systems, including local, county, or state correctional facilities where educational programs are provided, where the student seeks or intends to enroll, or is directed to enroll, subject to the rights of students as provided in Section 76225.

(5) Agencies or organizations in connection with a student's application for, or receipt of, financial aid, provided that information permitting the personal identification of students may be disclosed only as may be necessary for those purposes as to determine the eligibility of the student for financial aid, to determine the amount of the financial aid, to determine the conditions that will be imposed regarding the financial aid, or to enforce the terms or conditions of the financial aid.

(6) Accrediting organizations in order to carry out their accrediting functions.

(7) Organizations conducting studies for, or on behalf of, educational agencies or institutions for the purpose of developing, validating, or administering predictive tests, administering student aid programs, and improving instruction, if those studies are conducted in such a manner as will not permit the personal identification of students or their parents by persons other than representatives of those organizations and the information will be destroyed when no longer needed for the purpose for which it is conducted.

(8) Appropriate persons in connection with an emergency if the knowledge of that information is necessary to protect the health or safety of a student or other persons, or subject to any regulations

issued by the Secretary of Health, Education, and Welfare.

No person, persons, agency or organization permitted access to student records pursuant to this section shall permit access to any information obtained from those records by any other person, persons, agency or organization without the written consent of the student, provided that this paragraph shall not require prior student consent when information obtained pursuant to this section is shared with other persons within the educational institution, agency or organization obtaining access, so long as those persons have a legitimate educational interest in the information.

(b) The alleged victim of any sexual assault or physical abuse, including rape, forced sodomy, forced oral copulation, rape by a foreign object, sexual battery, or threat or assault, or any conduct that threatens the health and safety of the alleged victim, which is the basis of any disciplinary action taken by a community college, shall be permitted access to that information. For the purposes of this subdivision, access to student record information shall be in the form of notice of the results of any disciplinary action by the community college and the results of any appeal, which shall be provided to the alleged victim within three days following that disciplinary action or appeal. The alleged victim shall keep the results of that disciplinary action and appeal confidential.

76244. Information concerning a student shall be furnished in compliance with a court order or a lawfully issued subpoena. The community college district shall make a reasonable effort to notify the student in advance of compliance with a lawfully issued subpoena and, in the case of compliance with a court order, if lawfully possible within the requirements of the order.

76245. The service of a lawfully issued subpoena or a court order upon a community college employee solely for the purpose of causing the employee to produce a school record pertaining to any student may be complied with by that employee, in lieu of the personal appearance as a witness in the proceeding, by submitting to the court, or other agency or person designated in the subpoena, at the time and place required by the subpoena or court order, a copy of that record, accompanied by an affidavit certifying that the copy is a true copy of the original record on file in the community college or community college office. The copy of the record shall be in the form of a photostat, microfilm, microcard, or miniature photograph or other photographic copy or reproduction, or an enlargement thereof.

76246. The Board of Governors of the California Community Colleges shall adopt appropriate rules and regulations to insure the orderly implementation of this chapter. A community college district governing board may adopt rules and regulations which are not inconsistent with this chapter or with those adopted by the board of governors in order to ensure the orderly implementation of this chapter.

TITLE 5. EDUCATION  
DIVISION 6. CALIFORNIA COMMUNITY COLLEGES  
CHAPTER 5. STUDENTS  
SUBCHAPTER 6. STUDENT RECORDS

s 54600. Purpose.

This chapter is adopted pursuant to and for implementation of Chapter 1.5 (commencing with Section 76200), Part 47 of Division 7 of the Education Code regarding Student Records. The provisions of this Chapter should be read and interpreted in conjunction with the provisions of Chapter 1.5.

5 CCR § 54602  
Cal. Admin. Code tit. 5, § 54602

TITLE 5. EDUCATION  
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§ 54602. Construction.

5 CCR § 54604  
Cal. Admin. Code tit. 5, § 54604

TITLE 5. EDUCATION  
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§ 54604. Policy.

Community college districts may establish and maintain only such information on students relevant to admission, registration, academic history, career, student benefits or services, extracurricular activities, counseling and guidance, discipline or matters relating to student conduct, and shall establish and maintain such information required by law.

5 CCR § 54606  
Cal. Admin. Code tit. 5, § 54606

TITLE 5. EDUCATION  
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§ 54606. Definitions.

Note: Authority cited: Sections 76220 and 76246, Education Code. Reference: Section 76210, Education Code; 20 USC 1232(g); and 45 CFR 99.3.

5 CCR § 54608  
Cal. Admin. Code tit. 5, § 54608

TITLE 5. EDUCATION  
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§ 54608. Retention and Destruction of Student Records.

The retention and destruction of student records, where not otherwise specifically provided for in this subchapter, shall be in accordance with subchapter 2.5 (commencing with section 59020) of chapter 10.

Note: Authority cited: Sections 70901, 76220 and 76246, Education Code. Reference: Section 72603, Education Code; 20 USC Section 1232(g); and 45 CFR Section 99.3.

5 CCR § 54610  
Cal. Admin. Code tit. 5, § 54610

TITLE 5. EDUCATION  
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§ 54610. Student Access.

Community college districts shall provide access to student records pursuant to Education Code sections 76210(c) and 76230, provided that if any material or document in the student record includes information on more than one student, the rights provided in section 76230 shall only extend to such information as pertains to the student. Each student shall be permitted to select the means of access to his or her own student records.

Note: Authority cited: Sections 76220 and 76246, Education Code. Reference: Sections 76230, Education Code; 20 USC Section 1232(g); and 34 CFR Part 99.

5 CCR § 54612  
Cal. Admin. Code tit. 5, § 54612

TITLE 5. EDUCATION  
DIVISION 6. CALIFORNIA COMMUNITY COLLEGES  
CHAPTER 5. STUDENTS  
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§ 54612. Waiver.

A student may waive his or her right of access to student records concerning recommendations as provided in Education Code section 76231. Such waivers shall be in writing and signed by the student.

Note: Authority cited: Sections 76220 and 76246, Education Code. Reference: Section 76231, Education Code; 20 USC Section 1232(g); and 45 CFR Section 99.12.