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## Board Cover Memorandum

**To** Board of Education

**From** Kyla Johnson-Trammell, Superintendent  
Sondra Aguilera, CAO  
Jenn Blake, Executive Director, Special Education

**Meeting Date** April 24, 2024

**Subject** Amendment to Board Policy 5125: Student Records

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**Ask of the Board** Approval by the Board of Education of the new Board Policy 5125: Student Records related to the 2024-2027 Oakland Unified SELPA Part B Special Education Local Plan

**Background** The California Department of Education requires that each Special Education Local Plan Area (SELPA) create, adopt and implement a Local Plan, Annual Budget Plan, and Annual Service plan. The Local Plan must be revised every three years, and it contains detailed information about the operations, procedures and governance structures of the SELPA. Part B of the Local Plan requires review of board policies related to serving students with disabilities to assure conformity with Title 20 *United States Code (USC)* and in accordance with Title 34 *Code of Federal Regulations (CFR)* Section 300.201.

**Discussion** We ask that the Board approve the amendment to Board Policy 5125 Student Records to assure that Oakland Unified Board Policies align with language required by the California Department of Education (CDE) related to the Special Education Local Plan.

**Fiscal Impact** No Fiscal Impact. Will use existing Special Education funds. Funds can be withheld by the California Department of Education (CDE) if the plan is not adopted in a timely manner.

**Attachment(s)**

- BP 5125 Student Records (Redline)
- BP 5125 Student Records (Clean)

# OAKLAND UNIFIED SCHOOL DISTRICT

## Board Policy

### Students

BP 5125

#### Student Records

The Governing Board recognizes the importance of keeping accurate, comprehensive student records as required by law. The Superintendent or designee shall ensure that the district's administrative regulation and school site procedures for maintaining the confidentiality of student records are consistent with state and federal law.

The Governing Board believes all students should have an opportunity for higher education and recognizes that colleges and universities often request student discipline information from the District and that disclosure of such information on college applications is not required.

The Superintendent or designee shall establish and maintain administrative regulations governing the identification, retention, and security of student records. These regulations shall ensure the rights of authorized persons to have timely access to student records and shall protect students and their families from invasion of privacy. The administrative regulations relating to student records (AR 5125) and the expungement of disciplinary records (AR 5144.3) shall maximize student's rights to privacy in their discipline information in the context of higher education.

District employees shall not provide information about an individual student's disciplinary history to any unauthorized person or entity unless (1) required by law or (2) upon the written consent of the parent or guardian of a minor student or the student's written consent if the student is not a minor.

*(cf. 3580 - District Records)*

*(cf. 4040 - Employee Use of Technology)*

*(cf. 5125.1 - Release of Directory Information)*

*(cf. 5125.3 - Challenging Student Records)*

The Superintendent or designee shall designate a certificated employee to serve as custodian of records with responsibility for student records at the district level. At each school, the principal or a certificated employee shall be designated 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)

Contract for Digital Storage, Management, and Retrieval of Student Records

The Superintendent or designee may enter into a contract with a third party for the digital storage, management, and retrieval of student records and/or to authorize a third party provider of digital software to access, store, and use student records, provided that the contract meets the requirements of Education Code 49073.1 and other applicable state and federal laws.

*(cf. 3312 - Contracts)*

### Confidentiality

It shall be the policy of this LEA that the confidentiality of personally identifiable data, information, and records maintained by the LEA relating to children with disabilities and their parents and families shall be protected pursuant to the Family Educational Rights and Privacy Act, non-academic programs, and services available to non-disabled children.

#### *Legal Reference:*

##### *EDUCATION CODE*

*17604 Contracts*

*48201 Student records for transfer students who have been suspended/expelled*

*48853.5 Foster youth; placement, immunizations*

*48902 Notification of law enforcement of specified violations*

*48904-48904.3 Withholding grades, diplomas, or transcripts*

*48918 Rules governing expulsion procedures*

*48980 Parental notifications*

*48985 Notices in parent/guardian's primary language*

*49060-49079 Student records*

*49091.14 Parental review of curriculum*

*51747 Independent study*

*56041.5 Rights of students with disabilities*

*56050 Surrogate parents*

*56055 Foster parents*

*69432.9 Cal Grant program; notification of grade point average*

##### *BUSINESS AND PROFESSIONS CODE*

*22580-22582 Digital privacy*

*22584-22585 Student Online Personal Information Protection Act*

##### *CODE OF CIVIL PROCEDURE*

*1985.3 Subpoena duces tecum*

##### *FAMILY CODE*

*3025 Access to records by noncustodial parents*

*6552 Caregiver's authorization affidavit*

##### *GOVERNMENT CODE*

*6252-6260 Inspection of public records*

##### *HEALTH AND SAFETY CODE*

*120440 Immunizations; disclosure of information*

##### *PENAL CODE*

*245 Assault with deadly weapon*

*WELFARE AND INSTITUTIONS CODE*

*681 Truancy petitions*

*701 Juvenile court law*

*16010 Health and education records of a minor*

*CODE OF REGULATIONS, TITLE 5*

*430-438 Individual student records*

*16020-16027 Destruction of records of school districts*

*UNITED STATES CODE, TITLE 20*

*1232g Family Educational Rights and Privacy Act*

*1232h Protection of Pupil Rights Amendment*

*UNITED STATES CODE, TITLE 26*

*152 Definition of dependent child*

*UNITED STATES CODE, TITLE 42*

*11434a McKinney-Vento Homeless Assistance Act; definitions*

*CODE OF FEDERAL REGULATIONS, TITLE 16*

*Part 312 Children's Online Privacy Protection Rule*

*CODE OF FEDERAL REGULATIONS, TITLE 34*

*99.1-99.67 Family Educational Rights and Privacy*

*300.501 Opportunity to examine records for parents of student with disability*

*Management Resources:*

*FEDERAL REGISTER*

*Final Rule and Analysis of Comments and Changes, Family Educational Rights and Privacy, December 9, 2008,*

*Vol. 73, No. 237, pages 74806-74855*

*NATIONAL SCHOOL BOARDS ASSOCIATION PUBLICATIONS*

*Data in the Cloud: A Legal and Policy Guide for School Boards on Student Data Privacy in the Cloud Computing Era, April 2014*

*U.S. DEPARTMENT OF EDUCATION PUBLICATIONS*

*Joint Guidance on the Application of the Family Educational Rights and Privacy Act (FERPA) and the Health Insurance Portability and Accountability Act of 1996 (HIPAA) to Student Health Records, 2008*

*Balancing Student Privacy and School Safety: A Guide to the Family Educational Rights and Privacy Act for Elementary and Secondary Schools, October 2007*

*WEB SITES*

*California Department of Education: <http://www.cde.ca.gov>*

*National School Boards Association: <http://www.nsba.org>*

*U.S. Department of Education, Family Policy Compliance, <http://www.ed.gov/policy/gen/guid/fpco>*

8/25/04; 8/12/15A; 9/9/15A; 5/23/18A; 4/24/24A

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