



P&P Chapter Lead Recommendation
San Bernardino Community College District

Current Step:
*To Constituents &
First Anticipated AS Review*

Point Person	Date Requested	Anticipated Date of Recommendation:	Recommendation Received:
N Ornelas	8/7/2023	Recommendation Received	2/21/2024

Reason(s) for Review/Changes

- > Legal Update 42: The Service updated this policy to state that a district will develop and implement a process for students, staff, and faculty to declare an affirmed name, gender, or both pursuant to changes in the Education Code.
- > Legal Update 40: The Service updated this policy to add legal citations and language concerning a student’s ability to request name and gender changes in the student’s records. (2022-23 carryover)

Review Level

Level 3

Anticipated AP2410 Schedule *(for info on this process, visit <https://sbccd.edu/ap2410>)*

- 02/26/2024 PPAC Approves Review Level
- 03/06/2024 Level 3 First Anticipated AS Review
- 03/11/2024 Level 3 PPAC Reviews Constituent & Initial AS Feedback
- 03/20/2024 Level 3 Second Anticipated AS Review
- 04/15/2024 PPAC Reviews Second AS Feedback
- 05/09/2024 BOT First Reading
- 06/13/2024 BOT Final Approval

Action Requested

1. Please review this Chapter Lead recommendation based on the reasons above.
2. Staff recommended changes are **shown in red**.
3. Legal changes are **shown in blue** and should only be considered optional if indicated.
4. If there are no changes showing, this item is being presented for information only.
5. For questions on this recommendation, please contact J Torres or kgoodric@sbccd.edu.

RECOMMENDATION STARTS ON NEXT PAGE



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Review Process Notes:

(Replaces current SBCCD BP 5040 and BP 5045)

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 to review any and all student records relating to him/ or her maintained by the District.

Upon request by a former student of the District, the District will update and reissue student records to include an updated legal name or gender. These documents include but are not limited to transcripts or a diploma.

Commencing with the 2023–24 graduating class, a graduating student may request the District confer the diploma in the student's chosen name. The District shall not require a graduating student to provide legal documentation to demonstrate a legal name or gender change in order to have the student's chosen name listed on the student's diploma.

No District representative shall release the contents of a student record including directory information to any member of the public without the prior written consent of the student, other than 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 as required by law is included in the College Catalog which is updated and posted to the college website annually. Directory information shall include but is not limited to:

- 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.

References:

Education Code Sections 66271.4 and 76200, et seq.;
Title 5, Sections 54600, et seq.
20 U.S. Code Section 1232g(j);
ACCJC Accreditation Standard II.C.8

End of Recommendation for BP 5040 Student Records, Directory Information, and Privacy



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- > Legal Update 39: The Service updated this procedure to add a legal citation to reflect an amendment to Title 10 of the U.S. Code regarding the disclosure of student information to the military for recruitment purposes. (2022-23 carryover)

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Review Process Notes:

STUDENT RECORDS

- A. The colleges shall maintain appropriate records to document and verify student enrollment, attendance, and withdrawal information as required for state apportionment purposes.
- B. Data provided by the instructor shall be readily available for audits, internal controls, and other verification.
- C. Data for Enrollment (Data)
 - 1. Student Applications
 - 2. Change of Program Data
 - 3. Fee Data
 - 4. Credit by Examination
 - 5. Student Academic Records
 - 6. Assessment Scores

COLLECTION AND RETENTION OF STUDENT INFORMATION

- A. The District shall treat all students equitably in the receipt of all school services, including, but not limited to, the gathering of student and family information for the institution's benefit programs.
- B. The Colleges shall maintain in writing District policies and procedures for gathering and handling sensitive student information, and appropriate personnel shall receive training regarding those policies and procedures.
- C. The District will provide students and families with annual notice, at the beginning of each school year, of institutional policies for student privacy and the abilities of parents or eligible students to inspect student information.
- D. The District will provide students an opportunity to opt out of disclosure of directory information. Notices must describe the following:
 - a. The kind of information that the school has identified as directory information;
 - b. The eligible student's ability to refuse to let the school designate the information as directory information, which could be disclosed to outside entities;



- c. The period of time in which the eligible student has to notify the school in writing that they do not want the information designated as directory information; and
- d. That opting out by the noted deadline is the students' only way to prevent the release of directory information.

E. Any sensitive information, such as a student's, parent's, or guardian's SSN, any AB 540 determinations, or citizenship status information collected by the District or disclosed by the student, should be maintained only for as long as necessary.

F. If the District possesses information that could indicate immigration status or citizenship status, the District shall not consider the acquired information in admissions decisions or access to educational courses or degree programs.

G. Students may elect not to provide immigration or citizenship status information to the institution, and this election shall not impede admissions or enrollment in educational programs.

H. The District shall not create a list of student names linked with immigration status.

I. District police or security departments shall not inquire into an individual's immigration status for immigration enforcement purposes.

J. District police or security departments shall not aid any effort to create a registry containing individuals' country of birth or based on any other protected characteristics of victims, witnesses, or suspects of crimes unless required by law for specified purposes.

ACCESS TO STUDENT RECORDS

A. Definitions

1. "Student" means any person who is currently enrolled or formally enrolled in classes in the San Bernardino Community College District.
2. The following data and documents will be maintained by the colleges and classified as "Student Records":
 - a. admission data
 - b. discipline records
 - c. health records
 - d. veteran records
 - e. educational records
3. The following are not classified as "Student Records":
 - a. information provided by a student's parents relating to applications for financial aid or scholarships.
 - b. information related to a student compiled by a college officer or employee:
 1. appropriate for such officer or employee's performance of ~~his/her~~their responsibility; and
 2. which remains in the sole possession of the maker thereof; and
 3. is not accessible or revealed to any other person except a substitute. For the purposes of this subdivision, "substitute" shall mean 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/her~~their position.

- c. information related to a student created or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional:
 - 1. acting or assisting in his professional or para-professional capacity; and
 - 2. the record is created, maintained or used in connection with the provision of treatment to the student; and
 - 3. the record is not available to anyone other than persons providing such treatment provided, however, that such a record may be personally reviewed by a physician or other appropriate professional of the student's choice.
- d. information maintained by a college law enforcement unit:
 - 1. necessary and appropriate to enable such law enforcement unit to carry out its duties and responsibilities as required by law or as may be assigned by the district;
 - 2. unit personnel do not have access to other student records; and
 - 3. such information is kept apart from other student records; and
 - 4. maintained solely for law enforcement purposes; and
 - 5. is available only to other law enforcement officials of the same jurisdiction.

e. any data or records not identified in part 2 is not to be considered a student record.

B. Access to Student Records

- 1. Students, as defined in this policy, have the right to review and receive copies of all student records relating to the student as maintained by the colleges. Expressly exempted from the right of inspection:
 - a. financial records of the parents of the students;
 - b. confidential letters and statements of recommendation that were placed in the education record prior to January 1, 1975. After January 1, 1975, confidential recommendations and other materials regarding admission to special departmental programs or honorary recognition for students may be acquired and remain confidential if the student has signed a waiver of ~~his/her~~their right to review and inspect such documents. In the event a student does not sign a waiver, such student must be given access to these records;
 - c. records of instructional, supervisory, counseling and administrative personnel which are in their sole possession and are not accessible or revealed to any other person except a substitute;
 - d. records of employees at the college, who are not in attendance at the college, made and maintained in the normal course of college business; and
 - e. records of students made and maintained by the college Health Office that are used in the treatment of students.
- 2. Procedures shall be developed by each college to provide for access to student records that will include:
 - a. a written request from the individual student;
 - b. access to student records not to exceed ten working days;
 - c. a review and inspection process that will be under the direct supervision of a designated employee



- d. the option to obtain copies of their student records at a designated fee for each page copied.
3. If any material or document in the education record of a student includes information on more than one student, the student shall have the right to inspect and review only such part of the material or document as relates to him/herself or to be informed of the specific information contained in such part of the material or document.

C. Release of Student Records

1. Release of or access to individual student records is not authorized without specific written consent of the individual student or under judicial order, except that access may be permitted to the following:
 - a. officials and employees of the college, provided that any such person has a legitimate educational interest to inspect a record.
 - b. 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 such information is necessary to audit or evaluate a state or federally supported education program, or pursuant to a federal or state law, provided that except when collection of personally identifiable information is specifically authorized by federal law, any data collected by such officials shall be protected in a manner which will not permit the personal identification of students or their parents by other than those officials, and such personally identifiable data shall be destroyed when no longer needed for such audit, evaluation, and enforcement of federal legal requirements.
 - c. 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.
 - d. accrediting organizations in order to carry out their accrediting functions.
 - e. 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 such 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 such organizations and such information will be destroyed when no longer needed for the purpose for which it is conducted.
 - f. appropriate persons in connection with an emergency if the knowledge of such information is necessary to protect the health or safety of a student or other persons, or safety of a student or other persons, or subject to such regulations as may be issued by the Secretary of Health, Education and Welfare.
2. The agencies and individuals listed above are expressly forbidden from permitting access of said educational records to third parties.
3. Where the colleges receive a judicial order to review and/or release a student record, the student involved will receive notification of this action by the colleges as soon as possible.
4. No person, persons, agency or organization permitted access to student records pursuant to this policy shall permit access to any information obtained from such records by any other person, persons, agency or organization without the written consent of the student; however, this paragraph shall not be construed as to 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 as long as such person(s) have a legitimate educational interest in the information.

D. Access to Student Records for Immigration Enforcement Purposes

The District must obtain a student's written consent before disclosing educational records, unless the information is relevant for a legitimate educational interest or includes directory information only. Neither exception permits disclosing



information for immigration enforcement purposes; no student information shall be disclosed for immigration enforcement purposes without a court order or judicial warrant. Without a court order or a judicial warrant, written consent must be signed and dated by the student, or (if the student is a minor) by the student's parent(s) or guardian(s), before disclosure of the information, and must specify the records that may be disclosed, the purpose of the disclosure, and the party or class of parties to whom the disclosure may be made.

If desired by the student, the District must provide a copy of the records to be released. The party to whom the information is disclosed may not re-disclose the information to any other party without the prior consent of the student or subsequent court order.

District personnel shall develop a written policy for interactions with immigration authorities seeking to review student records. At minimum, such policies shall include the following information:

- Contact information [**name, title, e-mail addresses, and phone numbers**] for the correct person to review and respond to a request for student records.
- Access to sample warrant and subpoena documents that could be used for access onto campus property, or to seize or arrest students or other individuals on campus.
- District personnel shall provide a set of responses for [**building personnel or residence hall staff**] to use in response to officers seeking access to records for immigration enforcement purposes.

In addition to notifying the [**designated campus official**], District personnel shall take the following action steps in response to an officer other than campus police requesting access to student records:

1. Ask for the officer's name, identification number, and agency affiliation;
2. Record or copy this information;
3. Ask for a copy of any warrants;
4. Inform the officer that you are not obstructing their efforts but that you need to contact a campus administrator or campus counsel for assistance.

Campus Police shall not provide personal information about an individual for immigration enforcement purposes, unless that information is publicly available, or required by a court order or judicial warrant. "Personal information" is defined as any information that identifies or describes an individual, and includes but is not limited to, a student's physical description, home or work address, telephone number, education, financial matters, medical or employment history, and statements made by, or attributed to, the individual. This restriction does not apply to information regarding the immigration or citizenship status of an individual.

Unless the District is served with a judicial subpoena or court order that by its terms prohibits disclosure to the student, the student must be notified of any judicial order or subpoena before the institution complies with the order in accordance with FERPA.

~~D-E~~ Record of Access

1. A log or record shall be maintained of each person, agency, or organization requesting or receiving information from individual student records. Such listing need not include college officials, instructors, or counselors.
2. The log or record shall be open to inspection only by the Student and the college official or ~~his/her~~ their designee responsible for the maintenance of student records, and to other school officials with legitimate educational interests in the records, and to the Comptroller General of the United States, the Secretary of Health, Education



and Welfare, and 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.

3. Personal information may be transferred to a third party only on the condition that such party will not permit access by any other party without the written consent of the student. (As an example, information released to agencies for auditing purposes or for improving instruction.) The following statement will accompany student records released under these circumstances:

"All student education records will be destroyed when they are no longer needed for implementation of the study. Student education records may not be released without the written consent of the student."

F. Name and Gender Changes to Former Student Records

If the District receives government-issued documentation, as described below, from a former student demonstrating that the former student's legal name or gender has been changed, the District shall update the former student's records to include the updated legal name or gender. If requested by the former student, the District shall reissue any documents conferred upon the former student with the former student's updated legal name or gender. Documents that shall be reissued by the District upon request include, but are not necessarily limited to, a transcript or a diploma conferred by the institution.

The District shall not charge a higher fee for correcting, updating, or reissuing a document based on a legal name or gender change than the fee it charges for correcting, updating, or reissuing that document generally.

The documentation of a former student sufficient to demonstrate a legal name or gender change includes, but is not necessarily limited to, any of the following:

- State-issued driver's license or identification card;
- Birth certificate;
- Passport;
- Social security card;
- Court order indicating a name change or a gender change, or both.

The District is not required to modify records that the former student has not requested for modification or reissuance.

Commencing with the 2023–24 graduating class, a graduating student may request that the District confer the diploma in the student's chosen name. The District cannot not require a graduating student to provide legal documentation to demonstrate a legal name or gender change in order to have the student's chosen name listed on the student's diploma.

E.G. Challenge of Student Records

See Administrative Procedure 5045 titled Student Records: Challenging Content and Access Log

H. Use of Social Security Numbers

The District shall not do any of the following:

- Publicly post or publicly display an individual's social security number;
- Print an individual's social security number on a card required to access products or services;
- Require an individual to transmit their social security number over the internet using a connection that is not secured or encrypted;
- Require an individual to use their social security number to access an Internet Web site without also requiring a password or unique personal identification number or other authentication device; or



- Print, in whole or in part, an individual's social security number that is visible on any materials that are mailed to the individual, except those materials used for:
- Application or enrollment purposes;
- To establish, amend, or terminate an account, contract, or policy; or
- To confirm the accuracy of the social security number.

If the District has, prior to January 1, 2004, used an individual's social security number in a manner inconsistent with the above restrictions, it may continue using that individual's social security number in that same manner only if:

- The use of the social security number is continuous;
- The individual is provided an annual disclosure that informs the individual that they have the right to stop the use of their social security number in a manner otherwise prohibited;
- The District agrees to stop the use of an individual's social security number in a manner otherwise prohibited upon a written request by that individual;
- No fee shall be charged for implementing this request; and the District shall not deny services to an individual for making such a request.

F.I. Annual Notice to Students

1. Students of the *San Bernardino Community College* District shall be notified annually of their rights under this procedure.
2. Standard college publications may be used to satisfy this annual notice to students.

G.J. Destruction of Records

Nothing in this policy shall prevent the destruction of records per established District procedure. (See BP/AP 3310 titled Records Retention and Destruction)

References:

Education Code Sections 66093.3 and 76200 et seq.;
Title 5 Sections 54600 et seq. and 59410;
20 U.S. Code Section 1232g(j) (U.S. Patriot Act);
Civil Code Section 1798.85;
ACCJC Accreditation Standard II.C.8

End of Recommendation for AP 5040 Student Records, Directory Information, and Privacy