



SHARING OF STUDENT RECORDS BETWEEN THE SCHOOL DISTRICT AND OTHER STATE AGENCIES

INFORMATION HELD BY SCHOOL DISTRICT

Mandatory Reporting by School District

Attendance information

State law requires school districts to notify the appropriate court or parole board if a student fails to attend all or any portion of a school day when the school district has received notice that the student is required to attend school as a condition of release pending an adjudicatory trial, as part of a sentence imposed by the court, or as a condition of or in connection with any sentence imposed by a municipal court.

Assault or harassment of school district staff

State law requires school districts to report the following incidents involving actions directed toward teachers or other school employees either to the local district attorney or to an appropriate law enforcement agency or officer:

- assault;
- disorderly conduct;
- harassment;
- making a knowingly false allegation of child abuse;
- damage occurring on school premises to the personal property of a teacher or school employee; or
- any offense under the Colorado Criminal Code.

Court order or subpoena

A student's education records must be provided to a court upon the issuance of a court order or lawfully issued subpoena. In these instances, the district must make a reasonable effort to notify the student's parent or legal guardian or the student, if he or she is 18 years or older, about the order or subpoena in advance of compliance so that the parent, legal guardian, or student has the opportunity to seek protective action. Such notice is not required if the disclosure is in compliance with a federal grand jury subpoena or any other subpoena issued for a law enforcement purpose and the court or issuing agency has ordered that the subpoena not be disclosed.

Discretionary Reporting by School District

Criminal investigation

State law authorizes the superintendent or his/her designee to share disciplinary and attendance information with a criminal justice agency investigating a criminal matter concerning a student who is enrolled or who will enroll in the school district, when necessary to effectively serve the student prior to adjudication. Such information may only be shared upon written

certification by the agency that the information will not be disclosed to any other party, except as specifically authorized or required by law, without the prior written consent of the student's parent/guardian.

School personnel who share such disciplinary and attendance information are immune from civil and criminal liability if they acted in good faith compliance with state law on sharing of student information with state agencies.

Emergency health or safety concern

School districts may share student education records with appropriate persons in connection with an emergency situation, if the knowledge of such information is necessary to protect the health or safety of the student or others.

Personal knowledge or information

Nothing in state or federal law prevents school administrators, teachers or staff from disclosing information derived from personal knowledge or observation and not derived from student's education records.

INFORMATION HELD BY OTHER AGENCIES

Mandatory Reporting by State Agencies

Prosecuting attorney must share juvenile delinquency records

Whenever a petition is filed in juvenile court involving any of the offenses described in C.R.S. 19-1-304(5.5), the prosecuting attorney, within 3 working days after the petition is filed, is required to make good faith reasonable efforts to notify the principal of the student's school and provide the principal with arrest and criminal records information as defined in state law. In the event the prosecuting attorney is not able to either identify the student's school or contact the principal of the student's school, then the prosecuting attorney must contact the superintendent of the student's school district.

Court must share unlawful sexual behavior and crime of violence records when a petition is filed

When a petition is filed in juvenile court or district court that alleges a student between the ages of 12 to 18 years has committed an offense that would constitute unlawful sexual behavior or a crime of violence if committed by an adult, basic identification information, as defined in state law, along with the details of the alleged delinquent act or offense, must be provided immediately to the school district in which the juvenile is enrolled.

The information is used by the Board of Education to determine whether the student has exhibited behavior that is detrimental to the safety, welfare, and morals of the other students or school personnel and whether educating the student in the school may disrupt the learning environment in the school, provide a negative example for other students, or create a dangerous and unsafe environment for students, teachers, and other school personnel.

Court must share unlawful sexual behavior, controlled substance offense and crime of violence records when the student is adjudicated or convicted

Upon adjudication or conviction of a student under the age of 18 for an offense that constitutes a crime of violence or an offense involving controlled substances, or of a student between the age of 12 and 18 for an offense that would constitute unlawful sexual behavior if committed by an adult, the adjudicating or convicting court is required to notify the school district in which the student is enrolled of the adjudication or conviction.

Court must share sentencing records related to school attendance

Any municipal court judge who sentences a juvenile who is younger than 18 years of age to attend school is required by state law to notify the school district in which the juvenile is enrolled of such requirement.

DISCRETIONARY REPORTING BY STATE AGENCY

Criminal justice agency or assessment center may share information

At its discretion, any criminal justice agency or assessment center may share information or records concerning a specific student who is or will be enrolled as a student in the district with the superintendent or designee if the agency determines that the information or records indicate a public safety concern. Such information or records may include threats made by the student, arrest or charging information and information regarding municipal ordinance violations.

Records of incidents that do not rise to the level of a public safety concern, but that relate to adjudication or conviction of a student for a municipal ordinance violation or that relate to the charging, adjudication, deferred prosecution, deferred judgment or diversion of a child for an act that if committed by an adult would have constituted a misdemeanor or a felony, may also be shared.

ADDITIONAL AVENUES FOR SCHOOL DISTRICTS TO OBTAIN INFORMATION

State law authorizes school district personnel to obtain such information regarding students as is required to perform their legal duties and responsibilities, including to protect public safety and the safety of the student. Such information may be obtained from the judicial department or any agency that performs duties and functions under the Colorado Children's Code.

School district's access to juvenile delinquency records without court order

The superintendent or designee may obtain, without court order, access to the following juvenile delinquency records of a student who is or will be enrolled in the district:

- court records, including certain arrest and criminal records, in juvenile delinquency proceedings or proceedings concerning a juvenile charged with the violation of any municipal ordinance except a traffic ordinance;
- juvenile probation officers' records;
- law enforcement officers' records; or
- parole records.

School district's access to unlawful sexual behavior and crime of violence records without court order

The superintendent or designee may obtain, without court order, access to the arrest and criminal records (except investigation records) of a student who is or will be enrolled in the school district when a petition is filed in juvenile court or district court that alleges a student between the ages of 12 to 18 years has committed an offense that would constitute unlawful sexual behavior or a crime of violence if committed by an adult. The records may only be obtained from the investigative law enforcement agency, the agency responsible for filing the petition and the court where the petition was filed.

School district's use of information

School district personnel receiving such information may use it only in the performance of their legal duties and responsibilities and must otherwise maintain the confidentiality of all information obtained. School personnel who knowingly violate this provision are subject to a civil penalty of up to \$1,000.

If such information is shared with another school or school district to which a student may be transferring, it shall only be shared in compliance with the requirements of federal law, including the Family Educational Rights and Privacy Act of 1974 ("FERPA").

Mental health and medical records

Agencies are not permitted to share mental health or medical records with the school district, unless a valid release of information is in place or it is otherwise permitted by applicable law.

LEGAL REFERENCES

20 U.S.C. 1232g (*Family Educational Rights and Privacy Act*)

34 C.F.R. 99.1 *et seq.* (*FERPA Regulations*)

C.R.S. 12-43-218 (*concerning an exception to the prohibition against disclosing confidential communications with a mental health professional when school safety is at risk*)

C.R.S. 13-10-113(8) (*duty of municipal court to notify school district of order for student to attend school*)

C.R.S. 19-1-303 and 304 (*records and information sharing under Colorado Children's Code*)

C.R.S. 19-1-304(5.5) (*duty of prosecuting attorney to provide juvenile delinquency records*)

C.R.S. 22-1-123 (*school district shall comply with FERPA*)

C.R.S. 22-32-109.1(6) (*duty to establish policy on sharing information consistent with state and federal law in the interest of making schools safer*)

C.R.S. 22-32-109.3 (2) and (3) (*duty of school district to share disciplinary and attendance information after receipt of court order or request from criminal justice agencies*)

C.R.S. 22-33-106.5 (*duty of court to notify of conviction involving crime of violence, controlled substance offense, or unlawful sexual behavior*)

C.R.S. 22-33-105(5) (*duty to provide information to student's school district when petition has been filed alleging specific offenses by the student*)

C.R.S. 22-33-107.5 (*duty of school district to notify of failure to attend school*)

C.R.S. 24-72-204 (3)(e)(I) (*certain FERPA provisions enacted into Colorado law*)

C.R.S. 24-72-204(3)(e)(II) (*disclosure by staff of information gained through personal knowledge or observation*)

COLORADO ASSOCIATION OF SCHOOL BOARDS
1200 Grant Street Denver, CO 80203
303-832-1000 or 1-800-530-8430

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