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## New Requirements for the Protection and Collection of Certain Student Records and Information

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**Written by:**

Sarah L. Kaatz  
Partner  
Monterey

Ruth E. Mendyk  
Partner  
Fresno

Eleanor M. Welke  
Senior Counsel  
Los Angeles

### Senate Bill 24 – Protective Orders Regarding Student Records

Senate Bill (SB) 24, signed into law on October 11, 2021, added section 6323.5 to the Family Code, which will allow courts, commencing January 1, 2023, to issue restraining orders prohibiting a party from accessing “records and information pertaining to the health care, education, daycare, recreational activities, or employment of a minor child of the parties.” Importantly, SB 24 authorizes courts to issue orders restraining an individual from accessing student records, even if that person is a parent who would otherwise be entitled to the records.

If such an order protecting a minor child’s records is issued, and the order is provided to a school district, SB 24 requires the school district to assist in protecting the information and records of that child.

To that end, SB 24 requires that school districts develop protocols by February 1, 2023, that ensure compliance with a restraining order that prohibits access to student information and records. At a minimum, these protocols must include:

- The development of a procedure for submission of a copy of any restraining order for student records issued under Family Code section 6323.5;
- The designation of a specific person at the school district who will receive the order;
- The development of a process that ensures that the individual who is restrained from obtaining the student records is not able to access those records; and
- The development of a process for providing the party who submits a copy of the order with documentation confirming when and to whom a copy of the order was provided.

Because school districts are accustomed to providing student records to parents and/or guardians upon request, it will be imperative that districts review their current protocols regarding the release of student records and update those procedures to reflect the requirements of SB 24.

## Assembly Bills 132 and 469 – Student Financial Aid Forms

Effective July 27, 2021 (as part of the Post-Secondary Education Budget Trailer Bill - Assembly Bill (AB) 132), section 51225.7 was added to the Education Code, requiring that school districts, county offices of education, and charter schools ensure that all students either: (1) complete and submit the Free Application for Federal Student Aid (FAFSA) or, (2) if the pupil is exempt from paying nonresident tuition, complete and submit the Student Aid Commission (Commission) form for the purposes of the California Dream Act. AB 132 also includes the following provisions:

- Allows a parent or guardian to opt out of the above requirements;
- Allows local educational agencies to exempt pupils who are unable to complete the required forms; and
- Requires local educational agencies to ensure that parents, legal guardians, and students are directed to assistance services necessary to comply with the requirements above (including but not limited to the Commission, postsecondary immigration resource centers, college readiness organizations, community-based organizations, and legal resource organizations).

Finally, AB 132 requires that, on or before July 1, 2022, the Commission adopt regulations that include (but are not limited to) model opt-out forms and acceptable use policies for providing guidance on the requirements set forth above.

On October 6, 2021, AB 469 amended the newly codified Education Code section 51225.7 to include an additional requirement that, on or before September 1, 2022, the California Department of Education (CDE) share the current school year's "roster of pupils" with the Commission to facilitate the completion of student financial aid applications. AB 469 further requires that the Commission match student data provided by the CDE with the student's application status. School districts continue to be obligated to treat the information obtained through the completion of those financial aid applications in a manner compliant with both state and federal student record privacy laws and to protect all pupil and parent data to the fullest extent possible. In addition, the data matching required by AB 469 will be linked through and conducted in accordance with California's Cradle-to-Career Data System to avoid duplicative data and ensure data privacy.

## Takeaways on SB 24 and AB 132 and 469

All of these new laws provide a good opportunity for school districts to check in and review student records protocols already in place and to modify current protocols to ensure compliance with SB 24 as well as other student record laws.

School districts should consider designating a specific person at the district level as the custodian of student records to serve as a gatekeeper for all student requests and subpoenas for student records (in addition to SB 24 restraining orders or record requests) to minimize miscommunications and ensure consistent practices across the District;



School districts should also consider designating a specific person to be responsible for ensuring completion of student aid forms and that the information contained in the forms is handled in a manner compliant with all state and federal student record privacy rules, even when transmitting information in order to comply with AB 469.

Finally, school districts should remember that, even when information is requested by parents or governmental agencies, there may still be reasons that the district is prohibited from turning that information over, and that additional steps must often be taken to protect that information. A best practice is to always stop and double check that there are not legal reasons why the information should not be turned over when requested.

If you have any questions about your obligations under SB 24, AB 132, AB 469 or how to implement them, please contact the authors of this Client News Brief or an attorney at one of our [eight offices](#) located statewide. You can also subscribe to our [podcasts](#), follow us on [Facebook](#), [Twitter](#) and [LinkedIn](#) or download our [mobile app](#).

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