

## California Department of Education Issues Updated Guidance on Gender Identity and Student Records; Attorney General Initiates Related Litigation

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On February 11, 2026, the California Department of Education (CDE) issued a [letter entitled “Further Update Regarding FERPA”](#) to all school district and county office of education superintendents. The guidance expands on the previously issued guidance relative to implementation of Assembly Bill (AB) 1955, entitled “[Protections for LGBTQ+ Students: AB 1955,](#)” which has been in effect since 2024.

CDE’s most recent letter reminds school officials that “[AB] 1955 does not contradict parents’ rights to request to inspect and review their students’ education records under FERPA, even if they contain information related to a student’s sexual orientation, gender identity, or gender expression.’ (See [[Facts to Consider Regarding FERPA and AB 1955, dated April 1, 2025](#)]; [[Further Update Regarding FERPA and AB 1955, dated April 11, 2025](#)]; and [[Third Update Regarding FERPA, dated April 24, 2025](#)].)”

CDE also reiterates that no provisions of California law override or contradict FERPA.

In addition, CDE clarifies that the location or method of maintaining student records, such as a student's gender support plan, does not affect the student’s parents’ right to inspect or review the records under FERPA.

In a related development, as a result of the [United States Department of Education’s January 28, 2026 finding](#) that the CDE has violated federal law under FERPA by “hiding students’ ‘gender transitions’ from parents,” and faced with the threat of loss of federal fundings absent corrective measures (See [United States Department of Education’s March 27, 2025 letter](#)), the [California Attorney General initiated a lawsuit against the US Department of Education](#) challenging the finding that the CDE has violated the law. In the [lawsuit](#), pending in the U.S. District Court, Northern District of California, the California Attorney General filed a motion to enjoin the U.S. Department of Education from withholding any of the State’s \$4.9 billion in federal education funding “until the court has an opportunity to weigh in, or the parties stipulate that no such action is forthcoming.” Shortly after the motion’s filing, the parties reached a [stipulated order](#) to stay the motion unless or until the U.S. Department of Education determines to withhold Federal funding to the State.

## Takeaways

California school district and county offices of education should consider closely the CDE's most recent guidance issued on February 11, 2026, as compared with their own practices and policies related to parental access to student records containing gender-identity related information, including student gender support plans. Otherwise, the ultimate impact of the State's new lawsuit is likely to interact with a wide range of other pending litigation within California and around the country involving issues of parental rights and student records and privacy vis-à-vis gender identity.

For previous coverage of these cases challenging so-termed parental exclusion policies, see our [2025 Client News Brief Number 61](#), and listen to our [Podcast Episode Number 98](#).

If you have any questions about this case, or for any questions related to FERPA, 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 [podcast](#), follow us on [Facebook](#) and [LinkedIn](#), or download our [mobile app](#).

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