

Quick Tips: WIC 827 Privacy Protections at School



This quick tips sheet is a reminder to education advocates to look out for issues related to WIC 827 privacy protections whenever you're working with children and youth involved with the delinquency and dependency systems. Sometimes, confidential information can incorrectly find its way into youth's education records; improper sharing of this information can negatively impact a youth's ongoing case and/or school experience--and, it's against the law!

1) All documents and information in juvenile case files are confidential.

A juvenile case file is dependency or delinquency records that include all documents filed in a juvenile court proceeding, probation officer and social worker reports, and all other documents filed in the case or made available to the probation officer or social worker in order to write a report, or to the judge, referee, or other hearing officer. California Rules of Court 5.552 further defines records included in a juvenile case file. Information contained within the juvenile case file documents is also confidential.

As a general matter, if you see any document from the probation department or child welfare agency, or anything that resembles an official court document, it is likely included in the juvenile case file and protected by California Welfare and Institutions Code § 827 (WIC 827). Information about a youth's case, for example, history of abuse allegations, prior placements, referring incidents, competency proceedings, or charges against a young person is likely also protected by WIC 827, and should not be shared with unauthorized individuals (such as school staff) by a probation officer or child welfare worker, or other actor.

2) Only a very limited set of actors are authorized to inspect a case file without a court order; teachers, principals, and other school staff are not on that list of actors.

A limited set of individuals are authorized to inspect the case file, such as a youth's dependency or delinquency attorney, social worker, probation officer, or multidisciplinary team. Note that Individualized Education Program (IEP) teams are not multidisciplinary teams within the meaning of this statute, and thus are not permitted to access the juvenile case file without a court order. A full list of authorized individuals is described in WIC 827. The only school official on that list is the superintendent or designee of the district in which the student is enrolled. Individuals who are authorized to inspect the case file are *still* prohibited from copying the records without filing a petition with the juvenile court, or further disseminating any portion of the file or any information related to its content.

Unauthorized individuals must be granted permission by court order to be able to inspect the case file. If you are not an authorized individual and receive case file documents, you should destroy them.

3) Delinquency and dependency records cannot be shared with school officials, outside of one very limited exception for school district notification of delinquency records.

Generally, dependency records are never shared with school officials, and there is only one provision for school district notification of delinquency records. When a student has committed certain felonies or misdemeanors, the superintendent or designee of the school district receives written notice from the court of the youth's offense and disposition when the student enrolls. This is the **only** information that is included in the notice. Each notice sent by the court will be stamped with the instruction: "Unlawful Dissemination Of This Information Is A Misdemeanor." Any information received should be kept in a separate confidential file at the current school of attendance, which is transferred to the minor's subsequent schools of attendance. Procedures for the destruction of these records is described in WIC 827(b)(2)(C).

The superintendent must pass this information to the principal of the school the student attends, and the principal may share this information with limited faculty members, as outlined in WIC 827(b)(2)(B). **The information must be received in confidence and should not be further disseminated.** Sharing the information with an entire IEP team, or other student success/study team, is certainly beyond the scope of the sending notification.

4) If you see a confidential document or hear confidential information shared in an education context, ask for that information to be removed from the student's educational records.

First, you should ask that the documents not be included in the youth's education records and that any information related to the content of these records be removed from the IEP or other meeting notes. Then, if necessary, you can file an Education Code 49070 request to have the information removed from the youth's written records. An example request from Legal Services for Children is attached to this quick tips form. Then, contact the youth's dependency or delinquency attorney and notify them that confidential records and information were shared in an unauthorized manner.

Common situations where WIC 827 might come into play:

- 1) A youth's probation officer or child welfare worker is attending a school meeting, and shares information about a youth's case.
- 2) A COE or school refers to a probation officer's notes about probation violations or behavior in the juvenile hall or camp as part of a youth's disciplinary record.
- 3) A COE or school is relying on information in court-ordered evaluations (for instance, competency proceedings) as part of its special education evaluation.
- 4) You receive authorization to view documents or hear information protected by WIC 827, and you want to make sure that you're following the appropriate procedures for continuing to protect that information.



REQUEST TO REMOVE/CORRECT INFORMATION/DOCUMENTS IN STUDENT'S SCHOOL RECORDS

Date

[Superintendent Name], superintendent@schooldistrict.edu

[School District Name]

[Address]

Phone: [Phone Number]

Fax: [Fax Number]

Sent via email/fax/U.S. Mail

Re: Request to Remove/Rescind Information in Student's School Records

Student Name: [STUDENT NAME] D.O.B: [Student's Birthdate]

Dear Superintendent,

I am writing to demand the correction or removal of documents/records in the school file of the above-named student, pursuant to Cal. Educ. Code Section 49070(a), which orders the removal or correction of student records that are:

- (1) inaccurate;
- (2) based on an unsubstantiated personal conclusion or inference;
- (3) based on conclusions and not on fact;
- (4) misleading;
- (5) not based on personal observation; or
- (6) in violation of the privacy or other rights of the pupil.

I am requesting the removal or correction of the following records, which I have attached to this letter:

- Student Suspension Notice, dated 12/2/2019
- Notice of Extension of Suspension, dated 12/2/2019

I am making this request for the following reasons:

[redacted]
[redacted]
(see attached documentation, if appropriate)

For the reasons above, I request that these records be immediately corrected or removed from the student's school files. **Please send me confirmation in writing to tell me that the records have been erased.**

If the District decides not to remove or correct the records in my child's school file, please contact me to schedule an appeal conference. As you know, the law requires that a conference to discuss these issues be held within 30 days from the date I give this request to you. See Cal. Educ. Code Section 49070(b).

If the Superintendent still decides not to remove the records from my child's file, I am putting you on notice that **I am also requesting an appeal to the governing board of the school district.** As you know, the law further states that I can have a hearing with the school board to request that they erase the records from my child's school file. The meeting for this appeal must be made in a timely manner. *Id.*

While I wait for these meetings to be held, I request that this document be included in the student's permanent school files, as I have a right under state law to include a statement or response concerning any disciplinary actions taken by the school in my student's file. See Cal. Educ. Code Section 49072.

I look forward to hearing from you. I can be reached at [redacted] (*phone number*).

Sincerely,

Parent/Guardian Signature [redacted]
Relationship to Student