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AB-711 Pupil records: name and gender changes. (2019-2020)

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Assembly Bill No. 711

CHAPTER 179

An act to amend Section 49070 of, and to add Section 49062.5 to, the Education Code, relating to pupil records.

[Approved by Governor August 30, 2019. Filed with Secretary of State August 30, 2019.]

LEGISLATIVE COUNSEL'S DIGEST

AB 711, Chiu. Pupil records: name and gender changes.

Existing law requires school districts to establish, maintain, and destroy pupil records according to regulations adopted by the State Board of Education, and requires those regulations to establish state policy concerning pupil records. Existing law authorizes the parent or guardian of a pupil or former pupil to challenge the content of a pupil record by filing a written request with the superintendent of the school district to correct or remove any information the parent or guardian alleges to be, among other things, inaccurate or misleading. If the superintendent refuses to correct or remove the information, existing law authorizes the parent or guardian to appeal that decision to the governing board of the school district. Existing law requires the governing board to hold, within 30 days of the appeal, a closed session with the parent or guardian and the employee who recorded the information in question, and sustain or deny the appeal. If the governing board sustains a parent's or guardian's request, existing law requires the governing board to order the superintendent to correct, remove, or destroy the information at issue, as provided. Existing law requires records of the administrative appeal proceedings to be maintained in a confidential manner and destroyed one year following the final decision of the governing board of the school district, unless the parent or guardian initiates legal proceedings relative to the disputed information within the prescribed period.

This bill would require a school district, charter school, or county office of education to update a former pupil's records to include the pupil's updated legal name or gender if the school district, charter school, or county office of education receives government-issued documentation, as described, demonstrating that the former pupil's legal name or gender has been changed.

This bill would require the school district, charter school, or county office of education to reissue specified documents conferred upon, or issued to, the former pupil with the former pupil's updated legal name or gender, if requested by the former pupil. The bill would also require the school district, charter school, or county office of education to add a new document to the former pupil's file documenting specified details of the request and reissuance, as provided.

This bill would specify that a former pupil without government-issued documentation demonstrating the former pupil's legal name or gender change may use the process to correct or remove any information recorded in a pupil's record, as described above, to correct records in the former pupil's record with the former pupil's updated name or gender. The bill would require the school district to add a new document to the pupil's or former pupil's record documenting specified details of a sustained name or gender request, as provided. The bill would also require the school district to indefinitely maintain the new document in a confidential manner.

By imposing a new duty on school districts, charter schools, and county offices of education, the bill would create a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 49062.5 is added to the Education Code, to read:

49062.5. (a) If a school district, charter school, or county office of education receives government-issued documentation, as described in subdivision (b), demonstrating that a former pupil's legal name or gender has been changed, the school district, charter school, or county office of education shall update the former pupil's records to include the updated legal name or gender. If requested by the former pupil, the school district, charter school, or county office of education shall reissue any documents conferred upon the former pupil with the former pupil's updated legal name or gender. Documents that may be reissued by the school district, charter school, or county office of education include, but are not limited to, a transcript, a high school diploma conferred pursuant to Section 51410, a high school equivalency certificate issued pursuant to Section 51420, or other similar documents conferred upon the former pupil. This section does not require the school district, charter school, or county office of education to modify records that the former pupil has not requested for modification or reissuance.

(b) The documentation provided by a former pupil demonstrating legal name or gender change may include, but need not be limited to, any of the following:

- (1) State-issued driver's license.
- (2) Birth certificate.
- (3) Passport.
- (4) Social security card.
- (5) Court order indicating a name change or a gender change, or both.

(c) If a former pupil requests that the former pupil's name or gender be changed and the requested records are reissued, the school district, charter school, or county office of education shall add a new document to the former pupil's file that includes all of the following:

- (1) The date of the request.
- (2) The date the requested records were reissued to the former pupil.
- (3) A list of the records that were requested by, and reissued to, the former pupil.
- (4) The type of documentation provided by the former pupil in order to demonstrate the legal name or gender change.
- (5) The name of the school district, charter school, or county office of education staff person that completed the request.
- (6) The current and former name or gender of the former pupil.

(d) The process to request a change to pupil records described in Section 49070 is separate from the process described in this section. Former pupils who are unable to provide the government-issued documentation described in subdivision (b) may request a name or gender change, or both, to the former pupil's records through the process described in Section 49070.

SEC. 2. Section 49070 of the Education Code is amended to read:

49070. Following an inspection and review of a pupil's records, the parent or guardian of a pupil or former pupil of a school district may challenge the content of any pupil record.

(a) The parent or guardian of a pupil may file a written request with the superintendent of the school district to correct or remove any information recorded in the pupil's written records that the parent or guardian alleges to be any of the following:

(1) Inaccurate.

(2) An unsubstantiated personal conclusion or inference.

(3) A conclusion or inference outside of the observer's area of competence.

(4) Not based on the personal observation of a named person with the time and place of the observation noted.

(5) Misleading.

(6) In violation of the privacy or other rights of the pupil.

(b) (1) Within 30 days of receipt of a request pursuant to subdivision (a), the superintendent or the superintendent's designee shall meet with the parent or guardian and the certificated employee who recorded the information in question, if any, and if the employee is presently employed by the school district. The superintendent shall then sustain or deny the allegations.

(2) If the superintendent sustains any or all of the allegations, the superintendent shall order the correction or the removal and destruction of the information. However, in accordance with Section 49066, the superintendent shall not order a pupil's grade to be changed unless the teacher who determined the grade is, to the extent practicable, given an opportunity to state orally, in writing, or both, the reasons for which the grade was given and is, to the extent practicable, included in all discussions relating to the changing of the grade.

(3) If the superintendent denies any or all of the allegations and refuses to order the correction or the removal of the information, the parent or guardian may, within 30 days of the refusal, appeal the decision in writing to the governing board of the school district.

(c) (1) Within 30 days of receipt of an appeal pursuant to subdivision (b), the governing board shall, in closed session with the parent or guardian and the certificated employee who recorded the information in question, if any, and if the employee is presently employed by the school district, determine whether or not to sustain or deny the allegations.

(2) If the governing board sustains any or all of the allegations, it shall order the superintendent to immediately correct or remove and destroy the information from the written records of the pupil, and inform the parent or guardian in writing. However, in accordance with Section 49066, the governing board shall not order a pupil's grade to be changed unless the teacher who determined the grade is, to the extent practicable, given an opportunity to state orally, in writing, or both, the reasons for which the grade was given and is, to the extent practicable, included in all discussions relating to the changing of the grade.

(3) The decision of the governing board shall be final.

(4) Records of these administrative proceedings shall be maintained in a confidential manner and shall be destroyed one year after the decision of the governing board, unless the parent or guardian initiates legal proceedings relative to the disputed information within the prescribed period.

(5) (A) If the superintendent or governing board of the school district sustains the parent's or guardian's request to change the name, gender, or both, of a pupil or former pupil, the school district shall add a new document to the pupil's or former pupil's record that includes all of the following information:

(i) The date of the request.

(ii) The date the requested records were corrected.

(iii) A list of the records that the parent or guardian of the pupil or former pupil requested to be corrected.

(iv) The type of documentation, if any, provided by the parent or guardian of the pupil or former pupil to demonstrate a legal change to the pupil's or former pupil's name, gender, or both. The parent or guardian of the pupil or former pupil is not required to provide documentation of a legal change to the pupil's or former pupil's name, gender, or both.

(v) The name of the employee that completed the request.

(vi) The corrected and former names, genders, or both, of the pupil or former pupil.

(B) Notwithstanding paragraph (4), the document generated pursuant to subparagraph (A) regarding a parent's or guardian's request to change a pupil's or former pupil's name, gender, or both, shall be indefinitely maintained in a confidential manner.

(d) If the final decision of the governing board is unfavorable to the parent or guardian, or if the parent or guardian accepts an unfavorable decision by the superintendent of the school district, the parent or guardian shall be informed and shall have the right

to submit a written statement of the parent's or guardian's objections to the information. This statement shall become a part of the pupil's school record until the information objected to is corrected or removed.

SEC. 3. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.