

Confidential Medical Release:

Frequently Asked Questions from Schools and Districts

November 2015



National Center for Youth Law



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The National Center for Youth Law is a national, non-profit organization that uses the law to improve the lives of poor children. NCYL works to ensure that low-income children have the resources, support and opportunities they need for a healthy and productive future.

Disclaimer: This document provides information. It does not constitute legal advice or representation. For legal advice, readers should consult their own counsel. This document presents the state of the law and of policy as of September 2015. While we have attempted to assure the information included is accurate as of this date, laws do change, and we cannot guarantee the accuracy of the contents after publication.

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THE BASICS

1. What is confidential medical release?

Education Code section 48205 requires schools officials to excuse students from school to attend confidential medical appointments. The school cannot require that the student have parent or guardian consent in order to attend the appointment and cannot notify parents or guardians. Confidential appointments are appointments to receive services that minors can obtain on their own consent under state or federal law. A summary of these laws is available on www.teenhealthlaw.org.

Citations: Educ. Code § 48205; 87 Ops. Cal. Atty. Gen. 168, 172 (2004).

2. What is the school and district’s obligation to notify parents and students about the option of confidential medical release?

Education Code section 46010.1 requires school districts to “notify pupils in grades 7-12 inclusive and the parents or guardians of all pupils enrolled in the district, that school authorities may excuse any pupil from the school for the purpose of obtaining confidential medical services without the consent of the pupil’s parent or guardian.” Many schools provide this notice as part of their fall annual school notice packet and in their Parent and Student handbooks.

Citations: Educ. Code § 46010.1.

3. If state law requires a school to release students, why does Education Code 46010.1 state that the school “may” excuse students for the purpose of obtaining confidential medical services?

Education Code section 48205 requires schools officials to excuse students from school for confidential medical appointments without parent consent or notice according to the California Attorney General. That is the controlling law and the reason schools must release students confidentially.

Education Code section 46010.1 requires school districts to “notify pupils in grades 7-12 inclusive and the parents or guardians of all pupils enrolled in the district, that school authorities may excuse any pupil from the school for the purpose of obtaining confidential medical services without the consent of the pupil’s parent or guardian.”

According to the California Attorney General, Education Code section 46010.1 is a notification requirement only -- setting out language that schools must provide to parents and students at



the beginning of the year. The word “may” is used rather than “must” because not all students will avail themselves of this option. To the extent there is discretion in the law, it is the student’s discretion to choose whether or not to obtain confidential care; it is not the discretion of the school to decide whether or not to make that option available.

Citations: 87 Ops. Cal. Atty. Gen. 168, 172 (2004); Educ. Code §§ 46010.1, 48205.

4. Is confidential medical release an excused or unexcused absence?

An absence for confidential medical services is an “excused” absence. Education Code section 48205(a)(3), which defines which absences are considered excused, states that absences for “medical, dental, optometrical, or chiropractic services” are to be excused.

Citations: Educ. Code § 48205(a)(3).

5. Are school districts liable if something happens to a student while the student is off campus at a confidential medical appointment?

Under Education Code section 44808, school districts and their employees are not held liable for student injuries that occur outside of school property except in very limited circumstances. These limited circumstances include if a school district, board, or person has (1) provided a pupil with transportation to and from the school premises for a school-sponsored activity off of the school premises, or (2) has specifically assumed supervision of pupil activity off of the school premises and afterwards failed to exercise reasonable care in maintaining this supervision.

California courts have consistently upheld these narrow exceptions, protecting schools from liability for their students’ off-campus actions. There has never been a court case in which a school has been found liable for a youth’s safety after the school followed state law and excused the youth for a confidential medical appointment.

Citations: Educ. Code § 44808; Gov. Code § 815(a); See *Guerrero v. South Bay Union Sch. District*, 114 Cal. App. 4th 264, 269 (Ct. App. 4th 2003).

IMPLEMENTATION

6. Where do I find my school or district’s policy regarding confidential release?

Typically, your school or district policy and implementation plan can be found in School Board Policy and School Board Administrative Regulation. Often these are numbered Board Policy 5113 and Administrative Regulation 5113, because the California School Board Association models addressing confidential release are numbered BP 5113 and AR 5113.



In addition, state law requires districts to notify students and parents about confidential medical release. The district may choose different formats in which to distribute this notice, but often information about the law is in the notices sent to parents at the beginning of the year and in the Parent Student Handbook.

Citations: Educ. Code § 46010.1; California School Board Association (CSBA) model Board Policy 5113 and model Administrative Regulation 5113.

7. May the school ask what services the student is seeking to obtain when a student asks to leave confidentially?

No. The California Attorney General has said that a school may not ask a student what services the student is seeking to obtain when a student asks to leave confidentially. As the Attorney General stated in a 1983 Opinion, the school's concern is limited to confirming the medical appointment itself, and does not extend to the nature of the medical services being sought.

The medical services that can be accessed confidentially are particularly sensitive, such as treatment relating to mental health, pregnancy, sexual assault, rape, substance abuse, and HIV testing. Allowing schools to ask students about the type of medical services they are seeking to obtain would undermine the legislative intent of encouraging minors to access these kinds of medical services. If students are pressed to disclose the reason for their confidential medical appointments, they may be less likely to continue pursuing these kinds of services due to embarrassment or shame. *See Question 14 for more information regarding the importance of confidential medical appointments for adolescent health care.*

Citations: 66 Ops. Cal. Atty. Gen. 244, 246-47 n.5 (1983).

8. May the school ask the student to confirm the student attended an appointment when the student returns from a confidential appointment?

Yes, a school may ask for confirmation that a medical appointment occurred when a student returns from a confidential medical appointment. The next question addresses what a verification policy may look like. Examples of how some districts handle verification are provided at the end of this document starting on page 12.

Citation: 66 Ops. Cal. Atty. Gen. 244, 246-47 n.5 (1983).

9. What should an absence verification policy look like?

Verification of excused absences is relevant for purposes of enforcing compulsory education laws as well as determining whether or not a student is truant. According to Education Code sections 48260-48273, a student that is absent from school in excess of 30 minutes during a school day is considered "truant;" however, if the student has a valid excused absence, then he or she is not



truant. Confidential medical appointments are excused absences, as under Education Code section 48205(a)(3), absences for “medical, dental, optometrical, or chiropractic services” are to be excused.

There are no statutes, regulations, cases, or Attorney General opinions that mandate a certain protocol for verifying absences for confidential medical services. In an 1983 Opinion, the Attorney General emphasized that the school’s concern in verifying a confidential medical appointment is limited to “ascertaining that the student did in fact have a medical appointment”, not inquiring into the nature of the medical services. The Attorney General suggested that schools could verify appointments in a number of ways, noting that it would be sufficient to rely upon the student’s statement that he or she had an appointment if the student is known to be reliable.

In creating a verification policy, schools should keep in mind that the intent of medical emancipation laws are to protect and encourage minors to seek certain kinds of needed medical services. Without the assurance that their information will be kept confidential, students are less likely to seek these services and their health is likely to be negatively impacted as a result (*as discussed in Question 14*). Each school district or school should consult with its school legal counsel to design its verification policy. *See also Question 10 regarding documenting confidential appointments in a pupil file.*

Citations: 66 Ops. Cal. Atty. Gen. 244, 246-47 n.5 (1983); Educ. Code § 48205.

DOCUMENTATION, COMMUNICATION and CONFIDENTIALITY

10. What information should the school put in the pupil file when a student is excused for a confidential medical appointment?

Verification of excused absences is relevant for purposes of enforcing compulsory education laws as well as determining whether or not a student is truant. Schools are required to record attendance. Education Code section 44809(b) states that teachers must record the absence and attendance of each pupil enrolled in their class in the state school register. All teachers are mandated to take attendance daily by Education Code section 44809, the California Commission on Teacher Credentialing, and usually district policy. Every school typically has an official, daily attendance-reporting time, usually during the first fifteen minutes of each class period.

According to Education Code sections 48260-48273, a student that is absent from school in excess of 30 minutes during a school day is considered “truant;” however, if the student has a valid excused absence (listed under Educ. Code §48260), then he or she is not truant. Confidential medical appointments are excused absences, as under Education Code section 48205(a)(3), absences for “medical, dental, optometrical, or chiropractic services” are to be excused. As the regulations defining which absences are considered “excused” are very strict, schools often record the reason (or “cause”) of the excused absence in the record when taking attendance.



Recording an excused absence as a “Confidential Medical Appointment” in the official record, though, could lead to disclosure to the parents or guardians of the student, as attendance records are typically part of a student’s academic file, available to parents or guardians upon request. As discussed in *Questions 7, 12 and 14*, the purpose of confidential medical appointments is to allow adolescents to access health resources without their parent’s notification or consent. If teens are not guaranteed privacy, they are less likely to seek these medical services and obtain the treatment that they need. Some schools have developed verification policies that minimize the risk of disclosure. Examples can be found at the end of this document. Each school district should consult with its school legal counsel to design its absence recording policy to comply with state law.

Citations: Educ. Code §§ 48205(a)(3), 48260, 48273, 44809(b).

11. Who else on campus may know about the student’s release?

It is appropriate to share information with staff members who need to know the location of students; however, to respect student confidentiality, procedures should be designed to share a minimal amount of information with a minimal number of staff members.

For example, schools may wish to inform a teacher that a student has a medical appointment so that the teacher is aware that the student will not be in class and that the student has an excused absence. Ensuring attendance information is submitted appropriately can help ensure administration, officers, or other staff do not call students’ parents or visit students’ homes to find them. Even if the information is shared, the specific reason for a student’s absence should not be shared with the attendance office, teachers, or administrator. It is sufficient to state that the student has been excused. Each school district should consult with its school legal counsel to discuss the members of the school staff that need to know about students’ confidential medical appointments.

12. Our school has a phone system that automatically dials parents when a student misses a class. It will call if a student is off campus for a confidential appointment. Is that okay?

In an Opinion issued in 2004, the Attorney General specifically stated that a school district cannot adopt a policy that will notify parents when a student leaves school to obtain confidential medical services. Such a policy would be inconsistent with the intent of encouraging minors to obtain medical treatment by protecting the confidentiality of their medical information. A system that automatically phones parents when a student misses a class while on an excused confidential medical appointment could violate the notice restriction because the call is de facto notification that their child left school.

Allowing schools to notify parents regarding their child’s absence from school would also undermine the legislative intent of encouraging minors to access confidential medical services.



While research suggests that almost 80% of adolescent Californians discuss their health concerns with their parents, not all minors can. Surveys show that making parental involvement or notification mandatory would drastically affect adolescent decision-making and reduce the likelihood that teens will obtain timely treatment. For example, in one study, youth were asked if they would have sought care if parental notification were mandated; only 45% of teens surveyed would have sought care for depression, and less than 20% would have sought care related to birth control, sexually transmitted diseases, or drug use. If teens are not guaranteed privacy, they are less likely to seek these medical services and obtain the treatment that they need. Each school district should consult with its school legal counsel to design their absence notification policy.

Citations: 87 *Ops. Cal. Atty. Gen.* 168, 172 (2004); Marks A, Malizio J. Hoch J. et al., “Assessment of health needs and willingness to utilize health care resources of adolescents in a suburban population,” *J Pediatr.* 1983;102:456-460.

PARENTS and COMMUNICATION

13. What can administration say to parents if they call to ask where a student is?

The Attorney General stated that minors have the right both to receive confidential medical services without the consent of their parents, and to “to keep the existence of such medical services confidential, even from parents.” The Attorney General also stated that section 132115(a)(1) of the Health and Safety Code indicates a legislative intent to protect minors from the necessity of revealing that the minor has used the confidential medical services in the first place. In some districts, the staff answer these phone calls by stating that the student has an excused absence; in others, staff say the student is at a “school-related activity.” However, each school district should consult with its school legal counsel to discuss the best way for school staff to respond to these phone calls.

Citations: 87 *Ops. Cal. Atty. Gen.* 168, 173 (2004); Health & Saf. Code § 132115(a)(1).

14. Aren’t we getting in between parents and students if we let students leave campus without their parents?

The opportunity to obtain confidential medical care is vital to students’ safety and well-being. It is best, of course, if minors can consult loving and supportive parents before seeking medical care, but not all minors are able to do so. There are many reasons why adolescents may be reticent to speak with their parents about needed medical services. Minors may need to seek medical attention for injuries and abuse inflicted by their parents. In other cases, minors may fear retaliation for seeking services related to contraception, or a parent is unwilling to recognize the need for care and purposely withholds access.

The California Legislature and California Supreme Court have recognized the importance of providing teenagers with the opportunity to confidentially access medical care in certain



situations. In *American Academy of Pediatrics v. Lungren*, the Court stated that forcing teens to disclose sensitive information related to confidential medical services to parents “would not serve – but rather would impede – the state’s interests in protecting the health of minors and enhancing the parent-child relationship.” 16 Cal. 4th 307, 356 (1997). The Court concluded that adolescents “who do not voluntarily consult their parents have good reason to fear that informing their parents will result in physical or psychological abuse” and that mandatory disclosure “would endanger the minor by leading her to place herself at physical or mental risk and would exacerbate the instability and dysfunctional nature of the family relationship. *Id.* at 355-356.

Research suggests that almost 80 percent of adolescent Californians discuss this type of care with their parents even though state law does not require them to do so. In one state-wide survey conducted by UCLA, over 50% of adolescents aged 13 to 18 indicated that their parents knew “a lot” about their current level of sexual activity, and nearly 70% of adolescents indicated that their parents knew “a lot” about their alcohol use. However, while the majority of adolescents may feel comfortable discussing these kinds of issues with their parents, these laws were enacted to protect the adolescents that do not feel comfortable doing so.

In 2004, the Society for Adolescent Medicine published a position paper supporting confidentiality in adolescent health care. The Society cited clinical practice, research findings, principles of medical ethics and law in their position, stating that protecting confidentiality is an “essential component” of health care for adolescents because without it they are likely to forego care for sensitive services and provide incomplete information to health care providers. Over the past few decades, research has confirmed that concerns about privacy can prevent many adolescents from seeking health care. In a large national survey, approximately 35% of students that did not seek care reported one reason was “not wanting to tell their parents.” Research suggests that while over 20% of adolescents aged 13 to 18 recognize that they need help to cope with emotional or mental issues, only 12% receive psychological counseling or access other resources. If teens are not guaranteed privacy, they are less likely to seek these sensitive medical services and obtain the treatment that they need.

The state Legislature and state Supreme Court have clearly outlined an adolescent’s right to seek confidential medical services in certain areas, and schools are charged with enforcing and implementing these rights. In upholding students’ rights to confidential medical appointments, schools are protecting their students and following the law.

Citations: *American Academy of Pediatrics v. Lungren*, 16 Cal. 4th 307, 356 (1997); UCLA Center for Health Policy Research, *California Health Interview Survey* [online], 2001, 2005, 2007; Ford, et al. “Confidential Health Care for Adolescents: Position Paper of the Society for Adolescent Medicine,” *J Adolesc. Health* 2004;35:1-8; Klein J, Wilson K, McNulty M, et al., “Access to medical care for adolescents: Results from the 1997 Commonwealth Fund Survey of the Health of Adolescent Girls,” *J Adolesc. Health* 1999;25:120-30.



EXAMPLES of CMR POLICIES, PROTOCOLS and TOOLS

Many districts and schools have created policies, protocols and tools for implementing confidential medical release in ways that work for them given their staffing, schools and community resources. Below are a few examples. Each school and district should consult with its legal counsel before adopting or adapting any of the below materials:

i. Los Angeles Unified School District

- **Documenting Absences in Record**

LAUSD provides codes that schools should use to document different kinds of absences in the attendance system. All medical appointments, including regular appointments and confidential ones, are coded as excused absences using the same code. *“Secondary Absence/Tardy Reason Codes”*¹

- **Confidential Medical Release Protocol**

10.10.1 Confidential Medical Services

School officials may (release) excuse a student from school for the purpose of obtaining confidential medical services without the knowledge or consent of a parent/guardian for students in grades 7-12 (E.C. 46010.1). Medical-care related to pregnancy prevention/treatment, treatment of an infectious, contagious or communicable disease, or diagnose/treat rape/sexual assault; drug or alcohol related, mental health treatment, counseling or residential shelter services or HIV testing qualifies. A student’s absence, when released from school, shall be recorded on LAUSDMAX as “1” (excused) on their attendance record for the period of absence, in coordination with the School Nurse or designated staff granting the release from school. The absence shall be cleared upon student leaving campus to avoid parent receiving a call from Blackboard Connect.

Any written verification regarding confidential medical services shall not appear in students’ school records and shall be kept in a separate confidential file in the health office or designated location.

Schools may NOT require that students obtain written parental permission prior to releasing them from school to receive confidential medical services and may NOT notify parents/guardians when students leave school to obtain such services. This policy also appears in the District’s “Parent-Student Handbook” and the information about the right to be excused from school for confidential medical services is provided to parents/guardians on the “Student Emergency Information Form” signed at the time of enrollment. The student shall meet with the School Nurse or designated staff member to request approval to leave campus for confidential medical care. The staff member shall confirm the appointment and complete and issue a Permit to Release

¹ LAUSD Secondary Absence/Tardy Reason Codes, http://notebook.lausd.net/pls/ptl/docs/PAGE/CA_LAUSD/FLDR_ORGANIZATIONS/STUDENT_HEALTH_HUMAN_SERVICES/ATTENDANCE%20MANUAL%20POLICY%20AND%20PROCEDUR



Child during School Hours (blue form). The student shall sign out at the time of departure and sign in upon his/her return. The student shall be informed of their responsibility to obtain and provide proof of treatment or appointment. It is recommended that the designated staff member follow up with the student as necessary.”²

ii. San Diego Unified School District

- **SDUSD Administrative Procedure 6156**

“Students seeking confidential medical services (as defined by District Policy H-3500) shall be referred to the school nurse or counselor. The school nurse or counselor will provide authorization for the student to be excused from school for confidential medical services. The school nurse or counselor will provide the attendance office with the information necessary to record the absence as excused, except the fact that the student sought confidential medical services shall not be included in the pupil record. If the school nurse or counselor chooses to verify the confidential medical appointment did in fact occur, the school nurse or counselor must verify using a method that safeguards the student’s privacy as much as possible. This may include confirming with the student orally, requesting written confirmation of the time and date of the medical appointment from the medical provider, or any other appropriate method the school nurse or counselor wishes to employ.

If there is no school nurse or counselor on campus, the attendance office will authorize the absence as excused. The appointment can be verified with the student orally or by requesting that the student provide written confirmation of the time and date of the appointment. When excusing students for confidential medical services or verifying their appointments, District staff shall not ask the purpose of such appointments.

When students volunteer confidential medical information to a District staff member, the staff member should suggest that the student consult their parent/guardian or another trusted adult. Information obtained shall be handled in the manner prescribed by Board Policy F-2600(a).”³

² LA Attendance Manual at page 61.



³ SDUSD Admin. Proc. 6156(D)(2)(d), revised 4-26-10, available at https://www.sandiegounified.org/sites/default/files_link/district/files/procedures/pp6156.pdf



iii. Santa Cruz Public Health Department Teen Health Outreach Program

- **Confidential Medical Services Verification forms**

The Santa Cruz County Public Health Department’s Teen Health Outreach Program developed these forms in order to help schools and students document and verify appointments in a confidential way.

 Confidential Medical Services	 Servicios Médicos Confidenciales
Self Sign-Out Sheet	Autoregistro para salir
<p>I, _____, am signing myself out of school for confidential medical services.*</p> <p>My date of birth: _____</p> <p>Time I’m leaving: _____</p> <p>Estimated time I’ll be back: _____</p> <p>I will be:</p> <p><input type="checkbox"/> Alone/with a friend/with a family member</p> <p><input type="checkbox"/> With a Teen Health Outreach staff person: XXX-XXX-XXXX</p> <p style="text-align: right;">Staff initials _____</p>	<p>Yo, _____, me estoy anotando para salirme de la escuela a fin de recibir servicios médicos confidenciales.*</p> <p>Mi fecha de nacimiento: _____</p> <p>Hora de salida: _____</p> <p>Hora de regreso aproximada: _____</p> <p>Yo estaré:</p> <p><input type="checkbox"/> Solo(a)/con un(a) amigo(a)/con un pariente.</p> <p><input type="checkbox"/> Con un(a) trabajador(a) del Teen Health Outreach: XXX-XXX-XXXX</p> <p style="text-align: right;">Iniciales del trabajador _____</p>
<p>Signature _____ Date _____</p> <p>*CA state law says that if I am at least 12 years old, I have the right to access confidential medical services without my parent(s)/guardian(s) being notified.</p>	<p>Firma _____ Fecha _____</p> <p>*La ley estatal de CA establece que si tengo al menos 12 años de edad, tengo el derecho a acceder servicios médicos confidenciales sin que mi(s) padre(s) o tutor(es) sea(n) notificado(s).</p>

iv. San Francisco Unified School District

This procedure is current as of August 2015. Please contact SFUSD for additional information.

- **San Francisco Unified Procedure for Release Students for Confidential Medical Services**

“Note: To respect student confidentiality, this procedure is designed to share a minimal amount of information with a minimal number of staff members.



Confidential medical services could include family planning services, contraception, pregnancy, STD testing and treatment, HIV/AIDS testing and treatment, substance abuse services, sexual assault treatment, and mental health treatment and counseling if (1) the minor, in the opinion of the attending professional person, is mature enough to participate intelligently in the services, and (2) the minor would present a danger of serious physical or mental harm to self or others without the services, or is the alleged victim of incest or child abuse. When a student notifies a school staff member of the need to obtain confidential medical services, the staff person should:

1. Speak with the student if he or she feels comfortable discussing the issue, and provide resources to medical services available in the community. In schools with Wellness Programs, refer the student to the Wellness Coordinator or School District Nurse.
2. If the student is not referred to the Wellness Program, assess whether there is reason *not* to excuse the student. School officials releasing students for medical services must assess whether or not the student's request for release is reasonable. For example, it may not be reasonable to release a student for services if the student has requested this kind of release on multiple occasions and did not access the services and/or there is reasonable suspicion that the student is not actually going to access the services. The standard of care is whether a person of ordinary prudence, charged with the same duties, would release the student for services (see Attachment B, 4.b.)
3. Unless the appointment is already made, you may assist the student in identifying an appropriate clinic or health care provider if they request your help and you feel comfortable doing so. If appropriate, assist the student in calling the clinic and confirming the appointment. If it is possible for the student, it is preferable to schedule appointments for after school hours.
4. Complete the District Permit to Leave form with the student. Indicate "**appointment**" as the reason for leaving and sign on the "authorized signature" line. See attachment "A" for a sample permit to leave. Some sites may use different forms. Leave the line for the telephone number blank.
 - Give the student the white copy of the form,
 - Give the pink copy to the attendance clerk,
 - Give the blue copy to the teacher, if appropriate.
 - Inform the student that it is usual for an administrator to be informed of confidential medical services absences. Assure the student that no other information will be shared with anyone at the school.
5. Ask the student to bring back verification of the appointment to you (such as a clinic appointment slip) when he/she returns to school.

Note: Apart from **administration**, the following staff can be authorized to release students for confidential medical services: academic counselor, Wellness Coordinator, School



District Nurse. If appropriate, and after consultation and clearance with the principal, a classified staff person (e.g. Community Health Outreach Worker), may be authorized to sign District Permit to Leave Form.

6. Notify the one designated school administrator of the student's release, mentioning ONLY that the student has been granted an excuse in order to obtain confidential medical services, according to Education Code 46010.1.
7. When the student returns from the appointment, ask the student to show you the appointment verification slip. **DO NOT file the appointment slip.** The appointment slip may be given back to the student or discarded.
8. If appropriate, seek permission from the student to release this information to the school nurse, Wellness Coordinator, or other appropriate staff member in order to provide the necessary education and follow-up services.

DO NOT:

- Provide transportation for the student to the medical appointment: School officials MAY NOT provide or arrange for transportation for the student to the services or accompany the student to the medical services (Attachment B.1).
 - Assume any responsibility for the student once he/she leaves the school grounds.”
- **SFUSD Procedure for Admitting Students who are tardy/or released in the middle of the day due to Confidential Medical Services**
 1. Ask the student for a note from the health care provider or clinic indicating that he/she attended appointment. The attendance clerk only needs to verify the appointment and should not discuss the reason for the appointment.
 2. Provide student with an excused absence note in order to be admitted to class. *Return the appointment verification note to the student; DO NOT file the clinic/medical/appointment slip*

- **Attachment A to SFUSD Procedure– District Permit to Leave School**

**SAN FRANCISCO UNIFIED SCHOOL DISTRICT
PERMIT TO LEAVE SCHOOL**

Name _____ Reg. Room _____
 Last Name First Name

Time _____ Permission by _____ Date _____

Reason _____ **Tel** _____

Time of departure from school _____ **o'clock**

Signature of authorized staff _____

White copy to student

Pink copy to attendance clerk

Blue copy to teacher

13-1590

**SAN FRANCISCO UNIFIED SCHOOL DISTRICT
PERMIT TO LEAVE SCHOOL**

Name _____ Reg. Room _____
 Last Name First Name

Time _____ Permission by _____ Date _____

Reason _____ **Tel** _____

Time of departure from school _____ **o'clock**

- **Attachment B to SFUSD Procedure– Legal Background and District Liability**

California Education Code

According to California Education Code 46010.1 “school authorities may excuse any pupil in grades 7 through 12 from the school for the purpose of obtaining confidential medical services *without the consent of the pupil’s parent or guardian.*” The SFUSD Student and Parent/Guardian Handbook Supplement, 2007-2008 cites this section on page 109.

Notes:

1. Confidential medical services could include family planning services; contraception; pregnancy; STD testing and treatment; HIV/AIDS testing and treatment; substance abuse services; sexual assault treatment; or mental health treatment and counseling



if (1) the minor, in the opinion of the attending professional person, is mature enough to participate intelligently in the mental health services, and (2) the minor would present a danger of serious physical or mental harm to self or others without the mental health services or is the alleged victim of incest or child abuse.

2. The student has the privilege, not the right, to be excused for accessing services. A school authority is responsible for granting the student's release for appropriate reasons (refer to 4.b. below).

District Liability

According to Education Code section 44808, the District is not liable for student conduct or safety when students are off of school property, unless:

1. District is providing student with transportation to and from school

Therefore, in excusing students, school officials MAY NOT provide or arrange for transportation for the student to the services or accompany the student to the medical services.

2. District has undertaken a school-sponsored activity off campus

Confidential medical services provided by outside medical professionals do not qualify as school-sponsored activities.

3. District has specifically assumed such responsibility

School authorities should not assume any responsibility for the student once the student leaves the school grounds. For example, school officials should not walk the student from the school to a bus stop.

4. District failed to exercise reasonable care when releasing student from school

- a. Under state common law, a District may be liable for student injuries that occur off campus if such injuries are proximately caused by the school's failure to reasonably supervise students when they were on school premises. For example, a school could be liable for off-campus injuries sustained by a truant student if the school failed to exercise reasonable care in its supervision of students to prevent truancy.

Note: If a school does not allow a student to be excused to receive services, it is possible that he/she will cut class in order to access the services. If the student leaves school property without being detected, the school may be liable for injuries sustained by the student while away from school grounds if the school failed to provide reasonable supervision to prevent this truancy.



- b. The District may also be liable for off-campus injuries if the school has specific knowledge that release of the student for confidential medical services would not be reasonable.

School officials releasing students for confidential medical services must assess whether or not the student's request for release is reasonable. For example, it may not be reasonable to release a student for services if the student has requested this kind of release on multiple occasions and did not access the services and/or there is reasonable suspicion that the student is not actually going to access the services. The standard of care is whether a person of ordinary prudence, charged with the same duties, would release the student for services.

- **Attachment C to SFUSD Procedure- Communication Guidelines When Working With Students Seeking Confidential Medical Services**

Talking with Students

- Let the student know that your conversation is confidential unless there is danger to self or others. The school records will indicate "appointment."
- Inform the student that certain school officials will need to know that he/she is being excused for confidential medical services (the attendance clerk and one administrator). Assure the student that no other information will be shared with these individuals.
- Assure the student that every effort will be made not to call his/her parent or guardian to inform them about the appointment. If a parent/guardian contacts the school to inquire, school officials will follow the protocol listed below.
- In advance of allowing the student to leave, inform the student if a parent/guardian does call, the parent may be referred back to the student to ask questions regarding the absence. Inform the student that you will assist in this discussion with the parent.

Considerations Regarding Communication with Parents/Guardians

If the Wellness Program has been involved with the student's referral to Confidential Medical Services, inform the Wellness Coordinator if a parent/guardian has contacted you regarding the appointment. Do not refer the parent to the Wellness Program without informing the Wellness Coordinator first.

In the case of a parent/guardian of a student contacting a school official to inquire about his/her child's release from school without parental/guardian notification, we suggest the following talking points:

- Refer to the Permit to Leave Form and inform the parent/guardian that you only have "appointment" indicated on the form. There may not be a Permit to Leave Form, and the parent/guardian may be referring to an "excused" absence as noted on the report card. Inform the parent/guardian that you will have to get back to



them. This will allow time to consider all of the issues regarding the student's rights to receive confidential medical services.

- Refer the parent/guardian to California Education Code 46010.1 and the Student and Parent/Guardian Handbook Supplement, 2012-2012, page 99, which states: "school authorities may excuse any pupil in grades 7 through 12 from the school for the purpose of obtaining confidential medical services without the consent of the pupil's parent/guardian/caregiver."
- Invite the parent/guardian to speak directly with the student.