

LEGAL ALERT

Education Alert

Opinion of the Attorney General

No. 04-112

School Districts May Not Require Written Parental Consent Prior to Releasing Students from School to Receive Confidential Medical Services

[Issued: December 3, 2004]

The California Attorney General has issued an opinion concluding (1) a school district may not require that a student obtain written parental consent prior to releasing the student from school to receive confidential medical services, and (2) a school district may not adopt a policy pursuant to which the district notifies a parent when a student leaves school to obtain confidential medical services. Confidential medical services “refers to those services which, by statute, a minor is authorized to obtain without the consent of or disclosure to a parent or guardian.” Such services include: care related to the prevention or termination of pregnancy; treatment of an infectious, contagious, or communicable disease; care related to the diagnosis or treatment of rape; treatment or diagnosis of drug-related or alcohol-related problems; mental health treatment; and HIV testing.

According to the Attorney General opinion, a school district may not require that a student obtain written parental consent prior to releasing the student from school to receive confidential medical services. The opinion referred to Education Code section 42805 and noted that while Section 42805(a)(7) explicitly requires parental consent to excuse non-medical related absences, subdivision (a)(3) does not include requiring parental consent to excuse absences for the purpose of having medical, dental, optometrical, or chiropractic services. The Attorney General concluded that the failure to include such language in subdivision (a)(3) indicates a legislative intent not to require parental consent before excusing a student for the purpose of obtaining medical services.

Also, a school district may not adopt a policy of notifying a parent when a student leaves school to receive confidential medical services. The Attorney General’s opinion stressed the “confidential nature” of the medical treatment and notes a clear legislative intent to shield minors “not just from the possibility that parental consent might be withheld for certain medical services, but also to the necessity of revealing that the minor has resorted to those services at all.” Notifying a parent when a student seeks confidential medical services would “destroy the confidentiality of the medical services – contrary to the intent and purposes of the medical emancipating statutes.”

What This Means to You:

Pursuant to the Attorney General’s opinion, school districts do not have the authority to notify a parent when a student leaves school to receive confidential medical services. Furthermore, a school district should not require written parental consent prior to releasing the student from school to receive confidential medical services.

For further information, please contact Deanna Mouser in Walnut Creek or Michelle Cannon in Sacramento. We invite you to visit our website at www.gandv.com.

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