

PROCESSING SUBPOENAS FOR STUDENT RECORDS

1. Put the signed Affidavit of Custodian of Record on top. If this form was not provided with the subpoena, please use the attached template form.
2. Put a copy of the subpoena under the signed Affidavit.
3. Put copies of the responsive records next.
4. Make a complete set of copies to keep at the school.
5. Put the signed Affidavit and copies in a sealed envelope marked "Confidential—Contains Student Records" with the Case Name and Number (e.g., The People v. John Doe, Case Number FJ 12345; or Kramer v. Kramer, Case Number BC 12345).
6. Put this envelope inside of the mailing envelope, which should be addressed to the court. Be sure to send to the court or address noted on the subpoena (for example, if the subpoena is for records for a deposition, the location may be different from the court). **DO NOT SEND A COPY** to the subpoenaing attorney unless there is separate authorization, such as parent consent. Send so that you can track receipt (certified mail, return receipt or other method) and so that the envelope arrives by the date and time noted on the subpoena.
7. In addition, Education Code section 49077 requires schools to make a reasonable attempt to contact the parent/guardian of a student whose records are requested via subpoena to let the parent/guardian know we have a subpoena and must comply. This reasonable attempt should happen prior to sending the documents (if you don't have good phone numbers, document the attempt to contact).

This **LAUSD Legal Brief** is for information only and does not constitute legal advice. Please contact the Office of the General Counsel to determine how this information may apply to your school's specific facts and circumstances.

**AFFIDAVIT OF CUSTODIAN OF RECORDS
(EVIDENCE CODE SECTIONS 1560 AND 1561)**

CASE NAME: _____

CASE NO.: _____

TRIAL DATE: _____

CUSTODIAN OF RECORDS

Say as follows:

That I am the duly authorized Custodian of these records and have authority to certify said records.

_____ That the copy is a true copy of all the records described in the subpoena that are available at the school and that the records were prepared by the personnel of the office staff, or persons acting under the control of either, in the ordinary course of business at or near the time of the act, condition or event.

_____ That the records described in the subpoena are not available at the school.

I declare under penalty of perjury that the foregoing is true and correct.

Dated this _____ day of _____, 2011.

Authorized Signature