

Superintendent Policy 5145.13: Response To Immigration Enforcement

Status: ADOPTED

Original Adopted Date: 12/04/2020 | **Last Reviewed Date:** 12/04/2020

The County Superintendent of Schools is committed to the success of all students and believes that every school site should be a safe and welcoming place for all students regardless of immigration status.

County Office of Education (COE) staff shall not solicit or collect information or documents regarding the citizenship or immigration status of students or their family at COE schools, except as may be required by state and federal law. (Education Code 234.7)

No student shall be denied equal rights and opportunities nor be subjected to unlawful discrimination, harassment, intimidation, or bullying in the COE's programs and activities. (Education Code 200, 220, 234.1)

The County Superintendent of Schools or designee shall notify parents/guardians regarding their children's right to a free public education regardless of immigration status. (Education Code 234.7)

Consistent with requirements of the California Office of the Attorney General, the County Superintendent of Schools or designee shall develop procedures for addressing requests for information, school sites, or students for the purpose of immigration enforcement.

Teachers, school administrators, and other school staff shall receive training regarding immigration issues, including information on responding to a request from an individual regarding immigration status.

The County Superintendent of Schools or designee shall report to the Board in a timely manner any requests for information or access to a school site by an officer or agent enforcing the immigration laws. Such notification shall be provided in a manner that ensures the confidentiality and privacy of any potentially identifying information.

Federal References

20 USC 1232g

Description

Family Educational Rights and Privacy Act (FERPA) of 1974

Management Resources References

CA Office of the Attorney General Publication

Description

Promoting Safe & Secure Learning Environment for All: Guidance & Model Policies to Assist CA K-12 Schools in Responding to Immigration Issues, 4/2018

Court Decision

Plyler v. Doe, 457 U.S. 202 (1982)

CSBA Publication

Legal Guidance on Providing All Children Equal Access to Education, Regardless of Immigration Status, February 2017

Website

U.S. Immigration and Customs Enforcement, Online Detainee Locator System - <https://simbli.eboardsolutions.com/SU/FNB9AAYpCuslshG7kqoiZFzaQ==>

Website

U.S. Immigration and Customs Enforcement - <https://simbli.eboardsolutions.com/SU/ONz9WLLpv8e2iQ9yrwtEjw==>

Website

U.S. Department of Education, Office for Civil Rights - <https://simbli.eboardsolutions.com/SU/HrN4mDOsAx53TBZ2HPwBvQ==>

Website

CSBA - <https://simbli.eboardsolutions.com/SU/W3QxkK2FPsDsQBnMIENxGg==>

Website

California Office of the Attorney General - <https://simbli.eboardsolutions.com/SU/5qNslsh5DoKuytasYcv9khGiA==>

Website

California Department of Fair Employment and Housing - <https://simbli.eboardsolutions.com/SU/RRvNseNogmlnMLyl8K40jw==>

Website

California Department of Education - <https://simbli.eboardsolutions.com/SU/os2jq5DcA2RawmY2VZ5FZQ==>

Website

California Attorney General's Office - <https://simbli.eboardsolutions.com/SU/5qNslsh5DoKuytasYcv9khGiA==>

State References

Ed. Code 200

Description

Equal rights and opportunities in state educational institutions

Ed. Code 220

Prohibition of discrimination

Ed. Code 234.1

Prohibition of discrimination, harassment, intimidation, and bullying

Ed. Code 234.7

Student protections related to immigration and citizenship status

Ed. Code 48204.4

Evidence of residency for school enrollment

Ed. Code 48980

Parent/Guardian notifications

Ed. Code 48985

Notices to parents in language other than English

Gov. Code 8310.3

California Religious Freedom Act

Pen. Code 422.55

Definition of hate crime

Pen. Code 627.1-627.6

Access to school premises, outsiders

County Office Regulation 5145.13: Response To Immigration Enforcement

Status: ADOPTED

Original Adopted Date: 12/04/2020 | **Last Revised Date:** 03/25/2022 | **Last Reviewed Date:** 03/25/2022

Responding to Requests for Information

Unless authorized by the Family Educational Rights and Privacy Act pursuant to 20 USC 1232g, student information shall not be disclosed to immigration law enforcement authorities without parental consent, a court order, or judicial subpoena. The County Superintendent or designee shall annually notify parents/guardians that the district will not release student information to third parties for immigration enforcement purposes, unless the parent/guardian consents or as required to do so by a court order or judicial subpoena.

Upon receiving any verbal or written request for information related to a student's or family's immigration or citizenship status, COE staff shall:

1. Notify the County Superintendent or designee about the information request
2. Provide students and families with appropriate notice and a description of the immigration officer's request
3. Document any request for information by immigration authorities
4. Provide students and parents/guardians with any documents provided by the immigration enforcement officer, unless such disclosure is prohibited by a subpoena served on the COE or in cases involving investigations of child abuse, neglect, or dependency

Resources and data collected by the COE shall not be used, directly or by others, to compile a list, registry, or database of individuals based on national origin, immigration status, religion, or other category of individual characteristics protected against unlawful discrimination. (Government Code 8310.3)

Responding to Requests for Access to Students or School Grounds

COE staff shall receive parent/guardian consent before a student is interviewed or searched by any officer seeking to enforce civil immigration laws at the school, unless the officer presents a valid, effective warrant signed by a judge or a valid, effective court order. A student's parent/guardian shall be immediately notified if a law enforcement officer requests or gains access to the student for immigration enforcement purposes, unless the judicial warrant or subpoena restricts disclosure to the parent/guardian.

All visitors and outsiders, including immigration enforcement officers, shall register with the principal or designee upon entering school grounds during school hours. Each visitor or outsider shall provide the principal or designee with his/her name, address, occupation, age if less than 21, purpose in entering school grounds, proof of identity, and any other information required by law. (Penal Code 627.2, 627.3)

COE staff shall report the presence of any immigration enforcement officers to on-site district police and other appropriate administrators.

As early as possible, COE staff shall notify the County Superintendent or designee of any request by an immigration enforcement officer for access to the school or a student or for review of school documents, including service of lawful subpoenas, petitions, complaints, warrants, or other such documents.

In addition, COE staff shall take the following actions in response to an officer present on the school campus specifically for immigration enforcement purposes:

1. Advise the officer that before school personnel can respond to the officer's request, they must first receive notification and direction from the County Superintendent or designee, except under exigent circumstances that necessitate immediate action

2. Request to see the officer's credentials, including his/her name and badge number, and the phone number of the officer's supervisor, and note or make a copy of all such information
3. Ask the officer for his/her reason for being on school grounds and document the response
4. Request that the officer produce any documentation that authorizes his/her school access
5. Make a copy of all documents produced by the officer and retain one copy for school records
6. If the officer declares that exigent circumstances exist and demands immediate access to the campus, comply with the officer's orders and immediately contact the County Superintendent or designee
7. If the officer does not declare that exigent circumstances exist, respond according to the requirements of the officer's documentation, as follows:
 - a. If the officer has an Immigrations and Customs Enforcement (ICE) administrative warrant, COE staff shall inform the agent that they cannot consent to any request without first consulting with the COE's legal counsel or other designated district official.
 - b. If the officer has a federal judicial warrant, such as a search and seizure warrant or an arrest warrant signed by a federal judge or magistrate, COE staff shall promptly comply with the warrant. If feasible, COE staff shall consult with the COE's legal counsel or designated administrator before providing the officer with access to the person or materials specified in the warrant.
 - c. If the officer has a subpoena for production of documents or other evidence, COE staff shall inform the COE's legal counsel or other designated official of the subpoena and await further instructions as to how to proceed.
8. Do not attempt to physically impede the officer, even if the officer appears to be exceeding the authorization given under a warrant or other document. If an officer enters the premises without consent, COE staff shall document the officer's actions while on campus.
9. After the encounter with the officer, promptly make written notes of all interactions with the officer, including:
 - a. A list or copy of the officer's credentials and contact information
 - b. The identity of all school personnel who communicated with the officer
 - c. Details of the officer's request
 - d. Whether the officer presented a warrant or subpoena to accompany his/her request, what was requested in the warrant or subpoena, and whether the warrant or subpoena was signed by a judge
 - e. COE's staff's response to the officer's request
 - f. Any further action taken by the officer
 - g. A photo or copy of any documents presented by the officer
10. Provide a copy of these notes and associated documents collected from the officer to the COE's legal counsel or other designated COE official

The COE's legal counsel or other designated official shall submit a timely report to the County Board regarding the officer's requests and actions and the COE's responses. (Education Code 234.7)

The County Superintendent or designee shall also email the Bureau of Children's Justice in the California Department of Justice (BCJ@doj.ca.gov) regarding any attempt by a law enforcement officer to access a school site or a student for immigration enforcement purposes.

Responding to the Detention or Deportation of Student's Family Member

The County Superintendent or designee shall encourage students and their families to update their emergency contact information as needed throughout the school year and to provide alternative contacts, including an identified

trusted adult guardian, in case a student's parent/guardian is detained or is otherwise unavailable. The County Superintendent or designee shall notify students' families that information provided on the emergency cards will only be used in response to specific emergency situations and not for any other purpose.

The County Superintendent or designee shall also encourage all students and families to learn their emergency phone numbers and be aware of the location of important documentation, including birth certificates, passports, social security cards, physicians' contact information, medication lists, lists of allergies, and other such information that would allow the students and families to be prepared in the event that a family member is detained or deported.

In the event that a student's parent/guardian is detained or deported by federal immigration authorities, the County Superintendent or designee shall release the student to the person(s) designated in the student's emergency contact information or to any individual who presents a caregiver's authorization affidavit on behalf of the student. The County Superintendent or designee shall only contact child protective services if COE personnel are unable to arrange for the timely care of the student by the person(s) designated in the emergency contact information maintained by the school or identified on a caregiver's authorization affidavit.

The County Superintendent or designee shall notify a student whose parent/guardian was detained or deported that the student continues to meet the residency requirements for attendance in a COE school, provided that the parent/guardian was a resident of California and the student lived in California immediately before he/she moved out of state as a result of the parent/guardian's departure. (Education Code 48204.4)

The County Superintendent or designee may refer a student or his/her family members to other resources for assistance, including, but not limited to, an ICE detainee locator, legal assistance, or the consulate or embassy of the parent/guardian's country of origin.

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Website	U.S. Department of Education, Office for Civil Rights - https://simbli.eboardsolutions.com/SU/HrN4mDOsAx53TBZ2HPwBvQ==
Website	CSBA - https://simbli.eboardsolutions.com/SU/W3QxkK2FPsDsQBnMIENxGg==
Website	California Office of the Attorney General - https://simbli.eboardsolutions.com/SU/5qNslsh5DoKuytasYcv9khGiA==
Website	California Department of Fair Employment and Housing - https://simbli.eboardsolutions.com/SU/RRvNseNogmlnMLyl8K40jw==
Website	California Department of Education - https://simbli.eboardsolutions.com/SU/os2jq5DcA2RawmY2VZ5FZQ==
Website	California Attorney General's Office - https://simbli.eboardsolutions.com/SU/5qNslsh5DoKuytasYcv9khGiA==

State References

Ed. Code 200
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