Policy 5145.13: Response To Immigration Enforcement

Status: ADOPTED

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The West Contra Costa Unified School District Board of Education, hereinafter referred to as the Board, is committed to the success of all students and believes that every school site should be a safe and welcoming place for all students and their families irrespective of their citizenship or immigration status.

The Board prohibits District staff from soliciting or collecting information or documents regarding the citizenship or immigration status of students or their family members or provide assistance with immigration enforcement at district 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 district's programs and activities on the basis of his/her immigration status. (Education Code 200, 220, 234.1)

The Superintendent or designee shall notify parents/guardians regarding their children's right to a free public education regardless of immigration status or religious beliefs and their rights related to immigration enforcement. (Education Code 234.7)

Consistent with requirements of the California Office of the Attorney General, the Superintendent or designee shall develop procedures for addressing any requests by a law enforcement officer for access to district records, 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 immigration officer to visit a school site or to have access to a student.

The Superintendent 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 employee of a law enforcement agency for the purpose of enforcing the immigration laws. Such notification shall be provided in a manner that ensures the confidentiality and privacy of any potentially identifying information. (Education Code 234.7)

The Board provides the following guidelines to the Superintendent or designee related to issue of immigration enforcement.

1.Visitors/Outsiders

a. The district shall adopt measures for responding to outsiders that avoids classroom interruptions, and preserves the peaceful conduct of the school's activities, consistent with local circumstances and practices.

b. The district shall post signs at the entrance of its school grounds to notify outsiders of the hours and requirements for registration.

c. District personnel shall report entry by immigration-enforcement officers to any on-site school police or other appropriate administrator as would be required for any unexpected or unscheduled outside visitor coming on campus.

d. No visitor/outsider¬óincluding immigration-enforcement officers¬óshall enter or remain on school grounds of the district during school hours without having registered with the principal or designee.

e. If there are no exigent circumstances necessitating immediate action, and if the immigration officer does not possess a judicial warrant or court order that provides a basis for the visit, the officer must provide the information to the principal or designee:

- Name, address, occupation;
- Age, if less than 21;
- Purpose of entering school grounds;
- Proof of identity; and Any other information as required by law.

2. Student And Family Privacy Rights

a. The Superintendent or designee shall maintain in writing district policies and procedures for gathering and handling sensitive student information, and appropriate personnel shall receive training regarding those policies and procedures.

b. The district shall not allow school resources or data to be used to create a registry based on race, gender, sexual orientation, religion, ethnicity, or national origin.

c. The district shall avoid the disclosure of information that might indicate a student's or family's citizenship or immigration status if the disclosure is not authorized by Family Educational Rights and Privacy Act (FERPA).

d. Inquiries Regarding Immigration Status, Citizenship Status, and National Origin Information

i. District personnel shall not inquire specifically about a student's citizenship or immigration status or the citizenship or immigration status of a student's parents or guardians; nor shall personnel seek or require, to the exclusion of other permissible documentation or information, documentation or information that may indicate a student's immigration status, such as a green card, voter registration, a passport, or citizenship papers.

ii. Where any law contemplates submission of national origin related information to satisfy the requirements of a special program, district personnel shall solicit that documentation or information separately from the school enrollment process.

iii. Where permitted by law, the Superintendent or designee of the district shall enumerate alternative means to establish residency, age, or other eligibility criteria for enrollment or programs, and those alternative means shall include among them documentation or information that are available to persons regardless of immigration status, citizenship status, or national origin, and that do not reveal information related to citizenship or immigration status.

iv. Where residency, age, and other eligibility criteria for purposes of enrollment or any program may be established by alternative documents or information permitted by law or this policy, the district's procedures and forms shall describe to the applicant, and accommodate, all alternatives specified in law and all alternatives authorized under this policy.

v. District personnel shall take the following action steps upon receiving an information request related to a student's or family's immigration or citizenship status:

a) Notify a designated district official about the information request.

b) Provide students and families with appropriate notice and a description of the

immigration officer's request.

c) Document any verbal or written request for information by immigration authorities.

d) Unless prohibited, provide students and parents/guardians with any documents issued by the immigration- enforcement officer.

e. Inquiries about Social Security Numbers or Cards

i. The district shall not solicit or collect entire Social Security numbers or cards. The district shall solicit and collect the last four digits of an adult household member's Social Security number only if required to establish eligibility for federal benefit programs. When collecting the last four digits of an adult household member's Social Security number to establish eligibility for a federal benefit program, the district shall explain the limited purpose for which this information is collected, and clarify that a failure to provide this information will not bar the student from enrolling in or attending the school.

ii. The district shall treat all students equitably in the receipt of all school services, including, but, not limited to, the gathering of student and family information for the free and reduced lunch program, transportation and educational instruction.

3.Admission

a. If the district possesses information that could indicate immigration status, citizenship status, or national origin information, the district shall not use the acquired information to discriminate against any students or families or bar children from enrolling in or attending school.

b. If parents or guardians choose not to provide information that could indicate their or their children's immigration status, citizenship status, or national origin information, the district shall not use such actions as a basis to discriminate against any students or families or bar children from enrolling or attending school.

4. Student Records

a. The district shall require written parental or guardian consent for release of student information, unless the information may be released without parental consent or includes directory information only. No exception permits disclosing information to immigration authorities for immigration-enforcement purposes; no student information shall be disclosed to immigration authorities for immigration-enforcement purposes without a court order or judicial subpoena.

b. The district's request for written parental or guardian consent for release of student information must include the following information: (1) the signature and date of the parent, guardian, or eligible student providing consent; (2) a description of the records to be disclosed; (3) the reason for release of information; (4) the parties or class of parties receiving the information; and (5) if requested by the parents, guardians or eligible student, a copy of the records to be released. The district shall permanently keep the consent notice with the record file.

c. The parent, guardian, or eligible student is not required to sign the consent form. If the parent, guardian or eligible student refuses to provide written consent for the release of student information that this not otherwise subject to release, the district shall not release the information.

d. Except for investigations of child abuse, child neglect, or child dependency, or when the subpoena served on the local educational agency prohibits disclosure, the district

shall provide parental or guardian notification of any court orders, warrants, or subpoenas before responding to such requests.

5.Bullying

a. The district shall adopt and publicize policies that prohibit discrimination, harassment, intimidation, and bullying on the basis of a student's actual or perceived nationality, ethnicity, or immigration status. Those policies must be translated in the student's primary language if at least 15 percent of the students enrolled in the school speak a single primary language other than English.

b. The district shall notify parents and guardians of their children's right to a free public education, regardless of immigration status or religious beliefs. This information shall include information related to the "Know Your Rights" immigration enforcement established by the Attorney General.

c. The district shall inform students who are victims of hate crimes of their right to report such crimes.
d. The district shall educate students about the negative impact of bullying other students based on their actual or perceived immigration status or their religious beliefs or customs.

e. The district shall also train teachers, staff, and personnel to ensure that they are aware of their legal duty to take reasonable steps to eliminate a hostile environment and respond to any incidents of harassment based on the actual or perceived characteristics noted above. Such training should, at minimum, provide agency personnel with the skills to do the following:

i. Discuss the varying immigration experiences among members of the student body and school community;

ii. Discuss bullying-prevention strategies with students, and teach students to recognize the behavior and characteristics of bullying perpetrators and victims;

iii. Identify the signs of bullying or harassing behavior;

iv. Take immediate corrective action when bullying is observed; and

v. Report incidents to the appropriate authorities, including law

enforcement in instances of criminal behavior.

Complaints and Investigation Reporting and Filing of Complaints

The district shall adopt a process for receiving complaints of and investigating complaints of discrimination, harassment, intimidation, and bullying based on any of the following actual or perceived characteristics

- disability
- gender
- gender identity
- gender expression
- nationality
- race or ethnicity
- religion

- sexual orientation
- association with a person or group with one or more of the aforementioned characteristics
- Immigration status

The complaint process must include, but is not limited to, the following steps:

1. A requirement that, if school personnel witness an act of discrimination, harassment, intimidation, or bullying, they shall take immediate steps to intervene when safe to do so;

2. A timeline to investigate and resolve complaints of discrimination, harassment, intimidation, or bullying that shall be followed by all schools under the jurisdiction of the local educational agency; and

3. An appeal process afforded to the complainant should he or she disagree with the resolution of a complaint.

4. The district shall ensure that complaint procedures contain confidentiality safeguards for immigration status information.

5. The district shall prohibit retaliation against a person who submits a complaint of discrimination, harassment, intimidation, or bullying.

6. Responding To The Detention Or Deportation Of A Student's Family Member

a. The district shall encourage that families and students have and know their emergency phone numbers and know where to find important documentation, including birth certificates, passports, Social Security cards, doctors' contact information, medication lists, lists of allergies, etc., which will allow them to be prepared in the event that a family member is detained or deported.

b. The district shall permit students and families to update students' emergency contact information as needed throughout the school year, and provide alternative contacts if no parent or guardian is available. The district shall ensure that families may include the information of an identified trusted adult guardian as a secondary emergency contact in case a student's parent or guardian is detained. The district shall communicate to families that information provided within the emergency cards will only be used in response to specified emergency situations, and not for any other purpose.

c. In the event a student's parent/guardian has been detained or deported by federal immigration authorities, the district shall use the student's emergency card contact information and release the student to the person(s) designated as emergency contacts. Alternatively, the district shall release the student into the custody of any individual who presents a Caregiver's Authorization Affidavit on behalf of the student. The district shall only contact Child Protective Services if the district personnel are unsuccessful in arranging for the timely care of the child through the emergency contact information that the school has, a Caregiver's Authorization Affidavit, or other information or instructions conveyed by the parent or guardian.

7.Parental Notifications

a. The district must provide an annual notice to parents and guardians of the school's general information policies that includes:

i.Assurances that the district will not release information to third parties for immigration enforcement purposes except as required by law or court order.

ii. A description of the types of student records maintained by the district.

iii. A list of the circumstances or conditions under which the district might release student information to outside people or entities.

iv. A statement that, unless the district is providing information for a legitimate educational purpose under FERPA and the California Education Code or directory information, the district shall notify parents or guardians and eligible students¬óand receive their written consent¬óbefore it releases a student's personally identifiable information.

b. If the district decides to release directory information, the district shall provide an annual notice to parents and guardians, and "eligible students" in attendance, of the district's directory information policy that includes:

i. The categories of information that the district has classified as public directory information that may be disclosed without parental consent and which should only include the information specifically identified in Education Code section 49061, subdivision (c).

ii. A statement that directory information does not include citizenship status, immigration status, place of birth, or any other information indicating national origin (except where the district receives consent as required under state law).

iii. The recipients of the directory information.

iv. A description of the parent's or guardian's abilities to refuse release of the student's directory information, and how to refuse release.

v. The deadline in which the parent, guardian or student must notify the school in writing that he or she does not want the information designated as directory information.

8.Questioning And Apprehension By Law Enforcement

a) Responding to On-Campus Immigration Enforcement

i. As early as possible, district personnel shall notify the Superintendent or designee of any request by an immigration-enforcement officer for school or student access, or any requests for review of school documents (including for the services of lawful subpoenas, petitions, complaints, warrants, etc.).

ii. In addition to notifying the Superintendent or designee, district personnel shall take the following action steps in response to an officer present on the school campus specifically for immigration-enforcement purposes:

a) Advise the officer that before proceeding with his or her request, and absent exigent circumstances, school personnel must first receive notification and direction from the Superintendent or designee.

b) Ask to see, and make a copy of or note, the officer's credentials (name and badge number). Also ask for and copy or note the phone number of the officer's supervisor.

c) Ask the officer for his/her reason for being on school grounds and document it.

d) Ask the officer to produce any documentation that authorizes school access.

e) Make a copy of all documents provided by the officer. Retain one copy of the documents for school records.

f) If the officer declares that exigent circumstances exist and demands

immediate access to the campus, district personnel should comply with the officer's orders and immediately contact the Superintendent or designee.

g) If the officer does not declare that exigent circumstances exist, respond according to the requirements of the officer's documentation. If the immigration-enforcement officer has:

1. An ICE (Immigrations and Customs Enforcement) administrative warrant, district personnel shall inform the agent that he or she cannot consent to any request without first consulting with the district's counsel or other designated agency official.

2. A federal judicial warrant (search-and-seizure warrant or arrest warrant), prompt compliance with such a warrant is usually legally required. If feasible, consult with the district's legal counsel or designated administrator before providing the agent access to the person or materials specified in the warrant.

3. A subpoena for production of documents or other evidence, immediate compliance is not required. Therefore, district personnel shall inform the district's legal counsel or other designated official of the subpoena, and await further instructions on how to proceed.

iii. While district personnel should not consent to access by an immigration-enforcement officer, except as described above, he/she should 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, district personnel shall document his or her actions while on campus.

a) After the encounter with the officer, district personnel shall promptly take written notes of all interactions with the officer. The notes shall include the following items:

1. List or copy of the officer's credentials and contact information;
2. Identity of all school personnel who communicated with the officer;

3. Details of the officer's request;

4. Whether the officer presented a warrant or subpoena to accompany his/her request, what was requested in the warrant/subpoena, and whether the warrant/subpoena was signed by a judge;

5. District personnel's response to the officer's request;

6. Any further action taken by the agent; and

7. Photo or copy of any documents presented by the agent. b)District personnel shall provide a copy of those notes, and associated documents collected from the officer, to the [local educational agency's legal counsel or other designated agency official].

c) In turn, the district's legal counsel or other designated official shall submit a timely report to the District's governing board regarding the officer's requests and actions and the district's response(s).

d) E-mail the Bureau of Children's Justice in the California Department of Justice, at BCJ@doj.ca.gov, regarding any attempt by a law-enforcement officer to

access a school site or a student for immigration-enforcement purposes.

e) The District upholds California Attorney General guidance on immigration enforcement by ensuring that all administrative staff receive yearly training on handling judicial and administrative warrants. This training clarifies the legal distinctions between the two types of warrants, emphasizing that staff must not allow immigration enforcement officers to access school grounds or student records without a valid judicial warrant signed by a judge. Administrative staff are instructed to refer any such requests to the Superintendent or designated district official to ensure compliance with state law and the protection of students' rights.

9.Parental Notification Of Immigration-Enforcement Actions

a. District personnel must receive consent from the student's parent or guardian before a student can be interviewed or searched by any officer seeking to enforce the civil immigration laws at the school, unless the officer presents a valid, effective warrant signed by a judge, or presents a valid, effective court order.

b. District personnel shall immediately notify the student's parents or guardians if a law-enforcement officer requests or gains access to a student for immigration-enforcement purposes, unless such access was in compliance with a judicial warrant or subpoena that restricts the disclosure of the information to the parent or guardian.

Policy Reference Disclaimer:These references are not intended to be part of the policy itself, nor do they indicate the basis or authority for the board to enact this policy. Instead, they are provided as additional resources for those interested in the subject matter of the policy.

State Description

Ed. Code 200 Equal rights and opportunities in state educational institutions Ed. Code 220 Prohibition of discrimination

Ed. Code 234.1 Student protections relating to discrimination, harassment, intimidation, and

Ed. Code 234.7 Student protections relating to immigration and citizenship status Ed. Code 48204.4 Evidence of residency for school enrollmen

State Description

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 627-627.10 Access to school premises

Federal Description

20 USC 1232g Family Educational Rights and Privacy Act (FERPA) of 1974

Management Resources Description

CA Office of the Attorney General Publication Promoting a Safe and Secure Learning Environment for All: Guidance and Model Policies to Assist California's K-12 Schools in Responding to Immigration Issues, April 2018

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

Website CSBA District and County Office of Education Legal Services Website U.S. Immigration and Customs Enforcement, Online Detainee Locator Website California Attorney General's Office

Website California Office of the Attorney General

Website CSBA

Website U.S. Department of Education, Office for Civil Rights Website U.S. Immigration and Customs Enforcement

Website California Department of Education

Website California Civil Rights Department

Cross References Description

0410 Nondiscrimination In District Programs And Activities 1340 Access To District Records

1340 Access To District Records

5111 Admission

5125 Student Records

5125 Student Records

5125.1 Release Of Directory Information

5141 Health Care And Emergencies

5141 Health Care And Emergencies

5141.4 Child Abuse Prevention And Reporting

5142 Safety

5145.12 Search And Seizure

6142.3 Civic Education

6143 Courses Of Study