

PROTECTION OF IMMIGRANT STUDENTS

1. All students have the right to attend public school and enjoy access to equitable educational and programmatic services regardless of the immigration or citizenship status of the student or of the student's family members.
2. For the purposes of this policy, "District personnel" includes all District employees, counsel for the District, and any agencies contracting with the District.
3. District personnel shall not take any steps that would deny students access to education based on their immigration status or any steps that would impede the rights of any students to public education under the U.S. Supreme Court's 1982 ruling in Plyler v. Doe, the Family Educational Rights and Privacy Act (FERPA), the California Education Code, and any other law enforcement officers, including federal immigration enforcement (including Customs and Border Patrol and other agencies under the U.S. Department of Homeland Security) who request access for non-school related purpose, applicable state and federal law.
4. Absent any applicable federal, state, local law or regulation or local ordinance or court decision, District personnel shall abide by the following conduct:
 - a. District personnel shall not treat students disparately for BUSD residency determination purposes on the basis of their immigration status (include here or refer to the BUSD Discrimination Policy) that is more expansive and includes 17 categories or hyperlink policy. **Nondiscrimination In District Programs And Activities** The Governing Board is committed to equal opportunity for all individuals in education. District programs and activities shall be free from discrimination based on gender, sex, race, color, religion, ancestry, national origin, ethnic group, marital or parental status, physical or mental disability, sexual orientation or the perception of one or more of such characteristics. The Board shall promote programs which ensure that discriminatory practices are eliminated in all district activities.
5. All District students who meet the relevant programmatic criteria are entitled to receive all school services, including free lunch, free breakfast, transportation, and educational services, regardless of the immigration or citizenship status of the student or of the student's family members. This entitlement exists whether or not the student or the student's family members have social security numbers.
6. District personnel shall not adopt enrollment or registration procedures that have a disparate impact on students based on their immigration status. District personnel may not require proof of social security number from the student or the student's family members in order to access school services. Nor will District personnel inquire about, or record in any way, a student's immigration status, nor shall District personnel require documentation of any student's legal status, such as asking for a

Natasha Beery 5/1/18 6:37 PM

Comment [1]: what about undocumented/immigrant staff? What if agents want access to an employee?

Natasha Beery 5/1/18 5:27 PM

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Natasha Beery 5/1/18 6:28 PM

Comment [2]: I numbered the paragraphs just for now for ease of reference

Beatriz 3/6/18 9:23 PM

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Beatriz 4/6/18 8:11 PM

Comment [3]: Policies on discrimination should all read the same

Tammy Rose 5/1/18 3:26 AM

Comment [4]: +beatrizleyvacutler@berkeley.net
Is this the discrimination reference wanted here?
Assigned to Beatriz Leyva-Cutler

Beatriz Leyva-Cutler 5/4/18 10:37 PM

Comment [5]: I looked at both documents -- ready for agenda for 5/10

Beatriz Leyva-Cutler
Berkeley School Board Member
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<beatrizleyvacutler@berkeley.net>*

*Office Hours /Horas de Oficina *
January to June
*4:30PM - 6:00PM *
Next office hours Monday, May 14 June 4
1st Monday of the month - if it is holiday - postpone to the following Monday.
El primer lunes de cada mes si es dia festivo se pospone al Jueves de esa misma semana
Casa Latina on San Pablo and Delaware

Beatriz Leyva-Cutler 5/4/18 10:32 PM

Comment [6]: add or parent/guardian immigration status

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“green card” or citizenship papers, at initial registration or at any other time, for any purpose.

- a. ~~District personnel shall not require students to apply for Social Security numbers nor shall the District require students to supply a Social Security number for any purpose.~~

7. If any member of the BUSD community (including students, families, or staff) has questions about their immigration status, District personnel shall not refer them directly to the Immigration and Customs Enforcement Office (“ICE”) or any other law enforcement officers, including federal law enforcement or other government agency. Instead, District personnel shall refer them first to local non-profit immigration law organizations. A list of such organizations shall be compiled by the Superintendent or designee and widely disseminated at school sites and on the District’s website. The Superintendent is also encouraged to increase and enhance partnerships with community-based organizations, legal services organizations, and other educational institutions (such as community colleges and universities) to provide resources for families of students or District employees who are facing deportation or other adverse immigration consequences.

8. The following are considerations that the Superintendent and legal counsel must take into account when determining whether and how to allow law enforcement officers, including federal immigration enforcement, access to a student or to student records.

- a. When law enforcement officers, including federal immigration enforcement agents request access to a school site or request to interview a student for a non-school related purpose, the Principal or designee shall ask for the officers credentials, ask why the officers are requiring access, and ask to see a warrant signed by a federal or state judge, and then contact the Superintendent’s Office for further instructions. The officers must provide written authorization from their employing agency instructing them to enter District property and the purpose of such entry, as well as a warrant signed by a federal or state judge which specifies the name of the person under arrest or area to be searched. If the officers are not able to provide such written authority and warrant, the Superintendent and/or General Counsel shall deny their request for access to District property, unless otherwise required by law as determined by the General Counsel. The District shall not use its resources to facilitate access to students, including any law enforcement interview that is disruptive of the educational environment.
- b. If the law enforcement officers are granted access to a student and/or site, the school site principal or his/her designee shall monitor the officers investigation and ensure that officers are not given access to information, records, and areas beyond that specified in the warrant. For student interviews, a private location out of sight and hearing of other students should be arranged, where practicable, that will help avoid invading the student’s privacy, jeopardizing the safety and welfare of other students, and further disrupting the school campus. The principal or designee shall discourage law enforcement officers from interviewing or escorting students through school

Beatriz 3/6/18 9:36 PM

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Natasha Beery 5/4/18 4:24 PM

Comment [7]: Please note we have a draft protocol, which will need to be aligned with this policy, and vice versa https://docs.google.com/document/d/1mBDEJbhCRS6lBcHyt-ITA-aZMix4J5_s8iWnosjvQ/edit

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Natasha Beery 5/1/18 5:42 PM

Comment [8]: they first come to the school - our protocol assumes that principal deals with this first - see the latest protocol here:
https://docs.google.com/document/d/1mBDEJbhCRS6lBcHyt-ITA-aZMix4J5_s8iWnosjvQ/edit?usp=sharing

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hallways in view of students. The district expects that law enforcement officers will provide the principal or designee the opportunity to be present during any interview of a student.

9. The district shall not disclose student records to non-school officials for any purpose that is not education-related unless there is parental consent or a valid court order for the records. This prohibition includes requests from law enforcement to access student directory information and information that may be disclosed to law enforcement under the Family Education Rights and Privacy Act ("FERPA"). If presented with any subpoena for students records, including an ICE Administrative Subpoena, the Districts General Counsel shall make a determination whether the request is education related and if not, refuse access to the records based on the /district's general policy against sharing student records for any purpose that is not education-related and the District's need to ensure its resources are effectively allocated. In the event the law enforcement agency seeks to enforce the subpoena for the records in court, the District will oppose that motion and may appeal a court order enforcing the subpoena for access to records.
10. If any law enforcement agency, including any federal immigration enforcement agency, requests or gains access to District student or their records for a non-school-related purpose, District staff shall immediately notify the student's parent or guardian that the law enforcement agency sought access to the student. The District shall remind the parent that they have the right to authorize and send a designee to pick up their child on the parent's behalf. The District shall allow the child to wait in the office until the parent or his or her designee pick up the student. District personnel who provide parental notice are prohibited from inquiring into the parent or guardian's immigration status. Efforts to contact parents by the principal or designee must include calling all numbers listed on the student's emergency card, including work numbers, cell phone numbers, and all numbers supplied by the student. The principal or designee shall record the time(s) of contact or attempted contact with the parent/guardian.
11. It is the general policy of the District not to allow any individual or organization to enter a school site if the educational setting would be disrupted by that visit. Because the Governing Board believes that ICE and law enforcement officers' activities in and around schools, early education centers, and adult school facilities would constitute a severe disruption to the learning environment and educational setting for students, any request by ICE, law enforcement officers, including federal immigration enforcement agency to any District personnel to visit a school site shall be immediately forwarded to the Superintendent for review and consultation with legal counsel, to ensure the safety of all students, as well as compliance with Plyler v. Doe and other applicable state and federal laws.
12. All requests for documents by ICE, law enforcement officers, including federal immigration enforcement for a non-school-related
13. purpose to the District or any District personnel shall be immediately forwarded to the Superintendent for review and consultation with legal counsel and the Governing Board (in closed session if necessary), to ensure the safety of all students, as well as compliance with Plyler v. Doe and other applicable state and federal laws.

Natasha Beery 5/1/18 6:24 PM

Comment [9]: Has this been reviewed and approved by District Counsel? Is this ACLU recommendation?

Natasha Beery 5/1/18 6:34 PM

Comment [10]: Move this up in front of #8?

Beatriz 3/6/18 10:43 PM

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14. The Superintendent or designee shall ensure that copies of this Policy are distributed annually to all District and school sites. The Superintendent or designee shall ensure all teachers, school administrators, and other staff are trained on how to implement this policy and shall ensure that notification with required translation be distributed to families to fully inform them of their rights in the District.
15. The Superintendent shall forward a copy of this policy to the office of the U.S. Representative for California's 13th congressional district, as well as the office of each of California's representatives in the United States Senate and to local law enforcement agencies.

Natasha Beery 5/1/18 5:56 PM

Comment [11]: what will "training" consist of? Is "informed" enough for "all staff" and "trained" for Principals/Secretaries?

Beatriz 5/1/18 3:09 AM

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Policy

adopted: December 7, 2016

Revised: Date

BERKELEY UNIFIED SCHOOL DISTRICT

Berkeley, California