

BP 5111.3(a)

## **PROTECTION OF STUDENTS FROM IMMIGRANT FAMILIES**

### Guiding Principles and Definitions

1. The District is committed to providing a safe, welcoming, and inclusive learning environment for all students, including immigrant students and their families. All students have the right to attend public school and enjoy access to equitable educational and programmatic services regardless of the citizenship or immigration status of the student or of the student's family members. "Citizenship or immigration status" refers to all matters regarding citizenship; the authority to reside in or otherwise be present in the United States; the time or manner of a person's entry into the United States; or any other immigration matter within the purview of the Department of Homeland Security ("DHS") or other federal agency charged with the enforcement of immigration law.
2. The District is also committed to protecting the confidentiality of sensitive information about students and their families through policies that prohibit information-sharing with federal immigration authorities to the fullest extent possible under the law.
3. For the purposes of this policy, "District personnel" includes all District employees, counsel for the District, and any agencies contracting with the District.
4. For the purposes of this policy, "immigration enforcement officer" includes any federal, state, or local law enforcement officer engaged, in any way, in federal immigration enforcement, including but not limited to any officer, employee, or person otherwise paid by or acting as an agent of United States Immigration and Customs Enforcement ("ICE") or any division thereof, an officer, employee, or person otherwise paid by or acting as an agent of Customs and Border Protection ("CBP") or any other officer, employee, or person otherwise paid by or acting as an agent of the DHS who is charged with the enforcement of immigration law.
5. 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 applicable state and federal law.
6. District personnel shall not treat students disparately for BUSD residency determination purposes on the basis of their immigration status or that of their family members or guardians.
7. 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 status of the student or of the

student's family members or guardians. This entitlement exists whether or not the student or the student's family members have social security numbers.

#### Student Informational Privacy

8. District personnel shall not inquire about, or record in any way, a student's citizenship or immigration status at initial registration or at any other time, for any purpose, nor shall District personnel require, under any circumstances, documentation or information that may indicate a student's citizenship or immigration status, such as a green card, voter registration, passport, or citizenship papers,
9. As mandated by Board Policy 1405, District personnel 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. The District shall not enter into agreements with state or local law enforcement agencies, or any federal agency, to use District resources, including personnel, to conduct or support immigration enforcement activities.
10. 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.
11. If any member of the BUSD community (including students, families, or staff) has questions about their immigration status, District personnel shall not refer them to any immigration enforcement officer or any other government agency. Instead, District personnel shall refer them first to local non-profit immigration law organizations. A list of such organizations shall annually be compiled by the Superintendent or designee and widely disseminated at school sites and on the District's website. The Superintendent or designee shall also partner 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.

#### Requests for Information For Purposes of Immigration Enforcement

12. The District shall not disclose any information that might indicate a student's or family's citizenship or immigration status if the disclosure is not authorized by the Family Educational Rights and Privacy Act (FERPA).
13. Upon receiving an information request related to a student's or family's immigration or citizenship status, District personnel shall immediately document the request and notify the Superintendent or designee 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. In the event the immigration enforcement agency seeks to enforce a subpoena for the records in court, the District shall oppose that motion and may appeal a court order enforcing the subpoena. The District will comply with any final court order enforcing a subpoena for access to records. Absent a final court order or the express, written consent of the parent or guardian, student information shall never be disclosed to immigration enforcement authorities.

14. Except for investigations of child abuse, child neglect, or child dependency, or when the subpoena served on the District prohibits disclosure, the District shall provide parental or guardian notification of any court orders, warrants, or subpoenas before responding to such requests. Unless prohibited, District personnel shall provide students and parents/guardians with any documents issued by the immigration-enforcement officer.

Requests for Access to School Facilities for Immigration Enforcement

15. 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. The Governing Board believes that immigration enforcement activities in and around schools, early education centers, and adult school facilities constitute a severe disruption to the learning environment and educational setting for students. Accordingly, District personnel shall deny all requests by immigration enforcement officers for school or student access, or any requests from immigration enforcement officers for review of school documents (including for the services of lawful subpoenas, petitions, complaints, and warrants). Instead, District personnel shall immediately report to the Superintendent or designee any such request 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.
16. In addition to notifying the Superintendent or designee, site personnel shall follow the District's protocol for responding to a request from immigration enforcement officers, which includes the following steps (and, as noted below, shall be revised if necessary to remain consistent with this policy):
  - a. Immediately notify the student's caregiver;
  - b. 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;
  - c. Provide a copy of this policy to the officer;
  - d. Direct the officer to the District office at 2020 Bonar Street;
  - e. Request and make copy of the officer's identification, credentials, and any documentation regarding the request (such as a subpoena, search warrant, or bench warrant);
  - f. Request the phone number of the officer's supervisor; and
  - g. Await further direction from District staff.

17. 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.
18. 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 immigration laws at the school, unless the officer presents a valid, effective warrant signed by a judge, or presents a valid, effective court order. 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 expressly restricts the disclosure of the information to the parent or guardian.
19. 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.
20. After the encounter with the officer, District personnel shall promptly take written notes of all interactions with the officer. District personnel shall provide a copy of those notes, and associated documents collected from the officer, to the Superintendent and District's legal counsel. In turn, the Superintendent shall submit a timely report to the governing board regarding the officer's requests and actions and the District's response(s). In addition, the Superintendent or Student services should email the Bureau of Children's Justice in the California Department of Justice at [BCJ@doj.ca.gov](mailto:BCJ@doj.ca.gov), regarding any attempt by a law enforcement agent to access a school site or a student for immigration purposes.

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

21. The Superintendent or designee shall encourage families and students to 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.
22. 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.
23. 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.
24. In the event a student's parent/guardian has been detained or deported by federal

immigration authorities, District personnel shall use the student's emergency card contact information and release the student to the person(s) designated as emergency contacts.

25. The Superintendent or designee shall develop a protocol for District personnel to follow in the event of a rumored or confirmed immigration enforcement raid that may affect District students, staff, and/or families, and shall ensure that relevant staff are properly trained on executing such a protocol.

Training and Distribution of This Policy

26. The Superintendent or designee shall ensure that all District protocols and policies are consistent with this Policy, and that any necessary revisions to such protocols or policies be made expeditiously.
27. 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 that all relevant 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.

Policy  
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**BERKELEY UNIFIED SCHOOL DISTRICT**

Berkeley, California