

Response To Immigration Enforcement

BP 5145.13

Students

The Governing 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.

District staff shall not solicit or collect 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)

(cf. 5111 - Admission)

(cf. 5111.1 - District Residency)

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)

(cf. 0410 - Nondiscrimination in District Programs and Activities)

(cf. 5131.2 - Bullying)

(cf. 5145.3 - Nondiscrimination/Harassment)

(cf. 5145.9 - Hate-Motivated Behavior)

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)

(cf. 5145.6 - Parental Notifications)

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.

(cf. 1340 - Access to District Records)

(cf. 3580 - District Records)

(cf. 5125 - Student Records)

(cf. 5125.1 - Release of Directory Information)

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.

(cf. 4131 - Staff Development)
(cf. 4231 - Staff Development)
(cf. 4331 - Staff Development)

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)

Legal Reference:

EDUCATION CODE

200 Educational equity
220 Prohibition of discrimination
234.1 Safe Place to Learn Act
234.7 Student protections relating to immigration and citizenship status
48204.4 Evidence of residency for school enrollment
48980 Parental notifications
48985 Notices to parents in language other than English

GOVERNMENT CODE

8310.3 California Religious Freedom Act

PENAL CODE

422.55 Definition of hate crime
627.1-627.6 Access to school premises, outsiders

UNITED STATES CODE, TITLE 20

1232g Family Educational Rights and Privacy Act

COURT DECISIONS

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

Management Resources:

CSBA PUBLICATIONS

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

CALIFORNIA OFFICE OF THE ATTORNEY GENERAL PUBLICATIONS

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

WEB SITES

CSBA: <http://www.csba.org>

California Office of the Attorney General: <http://oag.ca.gov>

California Department of Education: <http://www.cde.ca.gov>

California Department of Fair Employment and Housing: <http://www.dfeh.ca.gov>

California Department of Justice: <http://www.justice.gov>

U.S. Department of Education, Office for Civil Rights: <http://www.ed.gov/about/offices/list/ocr>

U.S. Immigration and Customs Enforcement: <http://www.ice.gov>
U.S. Immigration and Customs Enforcement, Online Detainee Locator System:
<http://locator.ice.gov/odls>

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Policy
Adopted: June 13, 2018

FORTUNA UNION HIGH SCHOOL DISTRICT
Fortuna, California

Response To Immigration Enforcement

AR 5145.13

Students

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 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.

(cf. 1340 - Access to District Records)

(cf. 3580 - District Records)

(cf. 5125 - Student Records)

(cf. 5125.1 - Release of Directory Information)

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

1. Notify the 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 district or in cases involving investigations of child abuse, neglect, or dependency

(cf. 5141.4 - Child Abuse Prevention and Reporting)

Resources and data collected by the district 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

District 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.

(cf. 5145.12 - Search and Seizure)

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)

(cf. 1250 - Visitors/Outsiders)

As early as possible, district staff shall notify the 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, district 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 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 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, district staff shall inform the agent that they cannot consent to any request without first consulting with the district'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, district staff shall promptly comply with the warrant. If feasible, district staff shall consult with the district'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, district staff shall inform the district'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, district 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. District 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 district's legal counsel or other designated district official

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

The 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 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 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.

(cf. 5141 - Health Care and Emergencies)

The 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 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 Superintendent or designee shall only contact child protective services if district 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 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 district 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)

(cf. 5111.1 - District Residency)

The 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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Regulation
Adopted: June 13, 2018

FORTUNA UNION HIGH SCHOOL DISTRICT
Fortuna, California