

# **The Accelerated Schools Immigration and Enforcement Policy In accordance with AB 699**

The following guidance and model policies have been adopted from *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* By: Xavier Becerra, California Attorney General (April 2018)

## **Introduction**

Immigration enforcement threats have led immigrant families to ask whether it is safe to send their children to school. Although California cannot control the actions of federal immigration-enforcement agencies, federal and California laws empower schools to welcome all students and to reassure them of their educational rights and opportunities. Under the U.S. Constitution, all students have a right to receive an education without discrimination based on immigration status. In *Plyler v. Doe*, the U.S. Supreme Court recognized that undocumented immigrants are guaranteed due-process and equal-protection rights under the U.S. Constitution, and that children cannot be denied equal access to a public education on the basis of their immigration status. Therefore, schools must provide free public education to all students regardless of their immigration status and regardless of the citizenship status of the students' parents or guardians. *Plyler v. Doe* (1982) 457 U.S. 202, 210-214; see also *Matthews v. Diaz* (1976) 426 U.S. 67, 77 (Fifth Amendment protects undocumented immigrants from discrimination by the federal government).

## **A. Gathering and Handling Student and Family Information**

### **Purpose**

Provide school administrators with policies for collecting and retaining information to prevent unnecessary collection of information on the immigration status of students and their families.

### **1. Collecting and Retaining Student Information**

Policies and procedures for gathering and handling sensitive student information during enrollment or otherwise should be set out in writing. Staff should receive training on these policies and procedures.

#### *Document/Record Retention*

As discussed below, the local educational agency should avoid seeking or collecting information regarding students' or families' immigration status. However, if the local educational agency is required to collect national origin information because of federal reporting requirements, such information shall not be used to discriminate or prevent children from enrolling in or attending school; nor should parents' or guardians' decision to withhold such information be used to discriminate against students or prevent their enrollment. Moreover, the local educational agency shall not use such information to create a registry based on race, gender, sexual orientation, religion, ethnicity, or national origin.

### **2. Immigration Status, Citizenship Status, National Origin Information**

#### *Information on Immigration Status, Citizenship Status, and National Origin Generally*

Do not at any time seek information about a student's citizenship or immigration status specifically. Do not at any time seek or require, to the exclusion of other sufficient and permissible information, information regarding or probative of a student's or his/her parent's citizenship (U.S. citizenship or foreign citizenship) or immigration status (e.g., immigration number).

While agencies may be required to collect and provide information related to a student's national origin (i.e., information regarding a student's birthplace, entry date into the United States, date of first enrollment in a U.S.

school, or departure from the United States after entry) to satisfy certain federal reporting requirements for special programs, to avoid deterring initial school enrollment of immigrants or their children, agencies should collect this information separately from the school enrollment process.

#### *Proof of Residency in Attendance Zone and Proof of Age*

Notify students and families of the full range of documents that will be accepted as proof of residency in the relevant attendance zone and as proof of age.

Under Education Code section 48204.1, the following documents establish proof of residency in an attendance zone:

- Property tax payment receipts;
- Rental property contract, lease, or payment receipts;
- Utility service contract, statement, or payment receipts;
- Pay stubs;
- Voter registration;
- Correspondence from a government agency; or
- Declaration of residency executed by the parent or legal guardian of the pupil.

Under Education Code section 48002, the following documents establish age:

- Certified copy of a birth record;
- Statement by the local registrar or a county recorder certifying the date of birth;
- Baptism certificate;
- Passport; or
- Affidavit of the parent, guardian, or custodian of the minor.

Under both Education Code section 48204.1 and Education Code section 48002, a school district can choose to accept other documents to show residency in a zone and show age. On those matters and other matters where an agency has the discretion to add permissible alternatives, a local educational agency should ensure that alternatives for documentation include documents that are available regardless of citizenship or immigration status, and that do not reveal information related to citizenship or immigration status. Local educational agencies should review and adjust all student enrollment/application policies, practices, and forms, to ensure that they include and describe to the applicant all acceptable alternatives.

### **3. Requests for Social Security Numbers or Other Personal Information**

#### *Social Security Numbers or Cards*

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 local educational agency should 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.

#### *"Free and Reduced-Price Meals" Forms*

When a family is completing the "Free and Reduced-Price Meals" form, the local educational agency should notify parents or guardians that:

- If any household member participates in CalFresh, CalWORKs (California Work Opportunity and Responsibility for Kids), or FDPIR (Food Distribution Program on Indian Reservations), no adult household member needs to provide the last four digits of his or her Social Security number; and
- If no householder member of a student's family participates in CalFresh, CalWORKs, or FDPIR, and no adult household member has a Social Security number, the student still can qualify for free or reduced

price meals, if the family meets the income eligibility requirements. The “No SSN” box on the form must be checked for the application to be considered complete.

#### *Gathering Information from Parent Volunteers*

To the extent permissible, the local educational agency should communicate to families the available volunteer positions and whether such positions require completion for live scan or other fingerprinting. The local educational agency should provide this notice to all students and families, regardless of immigration status.

#### ***Model Policies for Collecting and Retaining Student Information***

- The Chief Academic Office and Chief Executive Officer shall maintain in writing The Accelerated Schools’ (Accelerated Charter Elementary School, the Accelerated School and/or Wallis Annenberg High School) policies and procedures for gathering and handling sensitive student information, and appropriate personnel shall receive training regarding those policies and procedures.
- If The Accelerated Schools possess information that could indicate immigration status, citizenship status, or national origin information, The Accelerated Schools shall not use the acquired information to discriminate against any students or families or bar children from enrolling in or attending school.
- 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 Accelerated Schools shall not use such actions as a basis to discriminate against any students or families or bar children from enrolling or attending school.
- The Accelerated Schools 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.

#### ***Model Policies for Inquiries Regarding Immigration Status, Citizenship Status, and National Origin Information***

- The Accelerated Schools’ 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.
- Where any law contemplates submission of national origin related information to satisfy the requirements of a special program, The Accelerated Schools’ personnel shall solicit that documentation or information separately from the school enrollment process.
- Where permitted by law, the Chief Academic Office and Chief Executive Officer of The Accelerated Schools 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.
- 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 [resolution/policy], The Accelerated Schools’ procedures and forms shall describe to the applicant, and accommodate, all alternatives specified in law and all alternatives authorized under this [resolution/policy].

#### ***Model Policies for Inquiries About Social Security Numbers or Cards***

- The Accelerated Schools shall not solicit or collect entire Social Security numbers or cards.
- The Accelerated Schools 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 Accelerated Schools 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.

- The Accelerated Schools 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.

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## B. Sharing Student and Family Information

### Purpose

Identify categories of student information not subject to release by local educational agencies and provide model policies instructing students and families on ways to protect against the release of student information, to the extent permitted under the law.

### 1. Policies and Procedures Regarding Information Sharing

As noted below, the model policies must seek to avoid unauthorized disclosure of a student's or family's immigration information. Local educational agencies must develop policies for notification of local educational agency officials and families when receiving inquiries regarding a students' or family's immigration or citizenship status. The local educational agency shall develop focused policies regarding disclosure of information for individuals participating in programs serving immigrant families. And the local educational agency must require written consent from the parent, guardian, or eligible student for release of student information, unless that information is relevant for a legitimate educational interest or includes directory information, both of which are described below:

#### Examples of information relevant to legitimate educational interests

- Record of student's attendance;
- Student transfers;
- Audit of federally-supported educational programs;
- Truancy mediation; and
- Criminal investigation

#### Examples of directory information

- Name
- Address
- Telephone number
- Weight and height of athletic team members
- Date of birth
- E-mail address
- Major field of study
- Dates of attendance
- Most recent previous school attended
- Participation in officially recognized activities and sports
- Degrees and awards received

#### *Requirements for Written Consent for Release of Student Information*

Parents, guardians, and eligible students are not required to provide written consent for the release of information. If they decline to give written consent, and the information is not otherwise subject to release (because it is not relevant to a legitimate educational purpose, directory information, or subject to a judicial order or lawfully issued and effective subpoena), the local educational agency shall not release the information.

The local educational agency's policy for written consent of student information—excluding information relevant for a legitimate educational interest, directory information, or subject to a judicial order or lawfully issued and effective subpoena—must include the following requirements:

- The parent, guardian, or eligible student must sign and date the consent form before disclosure of the information.
- The consent form must include the following:
  - Description of the records to be disclosed;
  - Reason for disclosure;
  - Party or class of parties to whom disclosure may be made; and

- (If desired by the parents, guardian, or eligible student) a copy of the records to be released.
- The local educational agency must notify the recipient of the information that transmission to others without the written consent of the parent is prohibited.
- The consent notice must be permanently kept in the record file.

## **2. Annual Notice to Parents and Guardians Regarding Information Policy**

At the start of every school year, all local educational agencies must provide students and families a statement of the school's privacy policies regarding student information, including, but not limited to:

### *General Information Policies*

- The local educational agency must provide an annual notice to parents and guardians of the school's general information policies that includes:
  - Assurances that the local educational agency will not release information to third parties for immigration-enforcement purposes, except as required by law or court order.
  - A description of the types of student records maintained by the local educational agency.
  - A list of the circumstances or conditions under which the school might release student information to outside people or entities.
  - A statement that, unless the local educational agency is providing information for a legitimate educational purpose under FERPA and the California Education Code or directory information, the local educational agency shall notify parents or guardians and eligible students—and receive their written consent—before it releases a student's personally identifiable information.
  - Policies regarding the retention and destruction of personally identifiable information.

### *Directory Information Policies*

The law does not require that local educational agencies release directory information. If the local educational agency decides not to release directory information, its policy need not include any statement on directory information.

If a school within the local educational agency releases directory information, it must notify parents/guardians and adult students in its annual notification of the directory information policy that they can opt out of the release of directory information. The annual notification must clearly note the deadline for parent(s)/guardian(s) and adult students to submit their request to opt out.

### ***Model Policies and Procedures Regarding Information Sharing***

The Accelerated Schools 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).

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

- Notify a designated The Accelerated Schools official about the information request.
  - Provide students and families with appropriate notice and a description of the immigration officer's request.
  - Document any verbal or written request for information by immigration authorities.
  - Unless prohibited, provide students and parents/guardians with any documents issued by the immigration-enforcement officer.
- Except for investigations of child abuse, child neglect, or child dependency, or when the subpoena served on the local educational agency prohibits disclosure, The Accelerated Schools shall provide parental or guardian notification of any court orders, warrants, or subpoenas before responding to such requests.
- The Accelerated Schools shall require written parental or guardian consent for release of student information, unless the information is relevant for a legitimate educational interest or includes directory information only. Neither 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.

- The Accelerated Schools request for written or 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 Accelerated Schools shall permanently keep the consent notice with the record file.
- 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 Accelerated Schools shall not release the information.

### ***Model Policies for Annual Information Notice to Parents and Guardians***

#### *General Information Policy*

- The Accelerated Schools must provide an annual notice to parents and guardians of the school's general information policies that includes: Assurances that the [local educational agency] will not release information to third parties for immigration-enforcement purposes, except as required by law or court order.
- A description of the types of student records maintained by The Accelerated Schools.
- A list of the circumstances or conditions under which the [local educational agency] might release student information to outside people or entities.
- A statement that, unless The Accelerated Schools are providing information for a legitimate educational purpose under FERPA and the California Education Code or directory information, The Accelerated Schools shall notify parents or guardians and eligible students—and receive their written consent—before it releases a student's personally identifiable information.

#### *Directory Information Policy*

- If The Accelerated Schools decide to release directory information, The Accelerated Schools shall provide an annual notice to parents and guardians, and "eligible students" in attendance, of the [local educational agency's] directory information policy that includes: The categories of information that the [local educational agency] 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).
- 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 Accelerated Schools receive consent as required under state law).
- The recipients of the directory information.
- A description of the parent's or guardian's abilities to refuse release of the student's directory information, and how to refuse release.
- 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.

## C. Responding to Requests for Access to School Grounds for Immigration-Enforcement Purposes

### Purpose

Inform school administrators on policies and practices for responding to immigration agents requesting access to school facilities, student information, or contact with a student.

### 1. Establish “Safe Haven” Policies for Students and Families

In December 2016, California’s State Superintendent of Public Instruction Tom Torlakson released a letter encouraging California public schools to become “safe havens” for students and their families. If a local educational agency decides to adopt a safe haven policy, such a policy should include, but is not limited to, the following provisions:

*Safe Haven Policies: Recommended provisions:*

- The Accelerated Schools shall provide a safe, secure, and peaceful learning environment for all students and staff.
- The Accelerated Schools define sensitive or safe locations to include its schools, official activities of its schools, including those occurring in public places and adjacent areas, and all of The Accelerated Schools’ property, including but not limited to, facilities owned, controlled by, or leased by The Accelerated Schools.
- Where outside contractors or service providers (particularly school resource officers) are regularly present at sensitive or safe locations or have access to student information, The Accelerated Schools shall seek commitments from those parties not to facilitate immigration enforcement at any of the [local educational agency’s] sensitive or safe locations unless required by law.

### 2. Establish Procedure for Monitoring and Receiving Visitors onto Campus

Local educational agencies should have in place policies for receiving visitors to the school campus, and those policies should apply to immigration-enforcement officers.

### 3. Develop Policies for Responding to Immigration Officer’s Presence on Campus

When the circumstances allow, local educational agency personnel shall immediately notify the Superintendent or other designated administrator 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.). Also, local educational agency personnel shall direct the immigration-enforcement officer to the Superintendent or other designated administrator when immigration-enforcement officers request access to a school site or student, including to obtain information about a student or his/her family. The Superintendent or administrator shall, in turn, contact the agency’s legal counsel or designated administrator and inform the immigration-enforcement agent to direct requests and questions to the agency’s legal office.

In addition, the Superintendent or administrator should e-mail 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-enforcement purposes.

The policy language below provides specific action steps local educational agency personnel should follow in responding to an officer present on the school campus specifically for immigration-enforcement purposes (see also Appendix A and the Quick Reference for School Officials).

**Please note:** An ICE administrative warrant does not allow a law-enforcement officer to enter or to search any area he/she could not otherwise enter as a member of the public. The officer may ask for permission, or “consent,” to access non-public areas of the school, even without a judicial warrant giving the officer the power to do so. Absent exigent circumstances or a judicial warrant, local educational agency personnel are not required to give an immigration-enforcement officer permission or consent to enter a non-public area of the school or conduct a search of any kind. Nor is that employee required to provide information or records about a student or his or her family without a judicial warrant or order.



#### **4. Develop Policies Regarding Parental Notification of Immigration-Enforcement Actions**

Local educational agency personnel shall require 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.

Local educational agency 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.

#### **5. Develop Training Programs for School Staff**

The local educational agency shall establish training regarding immigration issues for teachers, school administrators, and school staff, including information on responding to a request from an officer enforcing immigration law to visit a school site or to have access to a student.

If feasible, the local educational agency should also designate an immigrant affairs liaison, to facilitate training programs for staff, help provide non-legal advice to families, and assist in communications with the local educational agencies and other stakeholders in local and state government.

#### ***Model Policies for Monitoring and Receiving Visitors onto Campus***

- No outsider—which would include immigration-enforcement officers—shall enter or remain on school grounds of The Accelerated Schools during school hours without having registered with the principal or designee. 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 following information to the principal or designee:
  - Name, address, occupation;
  - Age, if less than 21;
  - Purpose in entering school grounds;
  - Proof of identity; and
  - Any other information as required by law.
- The Accelerated Schools 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.
- The Accelerated Schools shall post signs at the entrance of its school grounds to notify outsiders of the hours and requirements for registration.
- The Accelerated Schools 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.

#### ***Model Policies for Responding to On-Campus Immigration Enforcement***

- As early as possible, The Accelerated Schools personnel shall notify the [CEO, CAO or designated administrator] 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.).
- In addition to notifying the [CEO, CAO, or designated administrator], The Accelerated Schools personnel shall take the following action steps in response to an officer present on the school campus specifically for immigration-enforcement purposes:
  1. 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 [CEO, CAO, or administrator].
  2. 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.

3. Ask the officer for his/her reason for being on school grounds and document it.
4. Ask the officer to produce any documentation that authorizes school access.
5. Make a copy of all documents provided by the officer. Retain one copy of the documents for school records.
6. If the officer declares that exigent circumstances exist and demands immediate access to the campus, The Accelerated Schools personnel should comply with the officer's orders and immediately contact the [CEO, CAO, or other administrator].
7. 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:
  - **an ICE (Immigrations and Customs Enforcement) administrative warrant**, The Accelerated Schools' personnel shall inform the agent that he or she cannot consent to any request without first consulting with the [The Accelerated Schools' counsel or other designated agency official].
  - **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 Accelerated Schools' legal counsel or designated administrator] before providing the agent access to the person or materials specified in the warrant.
  - **a subpoena for production of documents or other evidence**, immediate compliance is not required. Therefore, The Accelerated Schools' personnel shall inform The Accelerated Schools' legal counsel or other designated official of the subpoena and await further instructions on how to proceed.
8. While The Accelerated Schools' 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, The Accelerated Schools' personnel shall document his or her actions while on campus.
9. After the encounter with the officer, The Accelerated Schools' personnel shall promptly take written notes of all interactions with the officer. The notes shall include the following items: List or copy of the officer's credentials and contact information;
  - Identity of all school personnel who communicated with the officer;
  - Details of the officer's request;
  - 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;
  - The Accelerated Schools' personnel's response to the officer's request;
  - Any further action taken by the agent; and
  - Photo or copy of any documents presented by the agent.
10. The Accelerated Schools' personnel shall provide a copy of those notes, and associated documents collected from the officer, to The Accelerated Schools' legal counsel or other designated agency official].
11. In turn, The Accelerated Schools legal counsel or other designated official shall submit a timely report to The Accelerated Schools' governing board regarding the officer's requests and actions and the [local educational agency's] response(s).
12. 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.

### **Model Policies for Parental Notification of Immigration-Enforcement Actions**

- The Accelerated Schools' 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.
- The Accelerated Schools' 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.

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## D. Model Policies: Responding to the Detention or Deportation of a Student's Family Member

### Purpose

Provide school administrators with policies for responding to the detention or possible deportation of a member of a student's family.

### 1. Developing Family Safety Plan and Completing Emergency Contact Information

#### *Development of a Family Safety Plan and Caregiver's Authorization Affidavit*

To the extent possible, the local educational agency should facilitate a family's development of a *Family Safety Plan* to be stored at a location known by the student. Such plans may identify a trusted adult who can care for the student if no parent or guardian can do so. Students should know that the trusted adult is the person who the student should contact if his or her parents and/or guardians are detained or deported, and how to reach the trusted adult.

- ✓ For example of a Family Safety Plan, see: [https://www.lirs.org/assets/2474/bna\\_beinformed\\_safetyplanningtoolkit.pdf](https://www.lirs.org/assets/2474/bna_beinformed_safetyplanningtoolkit.pdf).
- ✓ While families should maintain customary emergency contact information at the school, they should consider carefully before storing a Family Safety Plan at the school, as some plans may include confidential information.

The local educational agency should also educate students and families about completing a Caregiver's Authorization Affidavit or a Petition for Appointment of Temporary Guardian of the Person, which would give the above-described trusted adult the authority to make educational and medical decisions for the student.

- ✓ **A Caregiver's Authorization Affidavit** (<http://www.courts.ca.gov/documents/caregiver.pdf>) permits certain people who have familial relationships with the student to authorize school enrollment and medical care for the student, but does not provide for legal custody. Schools, doctors, and dentists are required to accept this form. More information about this affidavit is available from the state courts at [www.courts.ca.gov/partners/documents/GAPcaregiveraff.doc](http://www.courts.ca.gov/partners/documents/GAPcaregiveraff.doc).
- ✓ **A Petition for Appointment of Temporary Guardian of the Person** (<http://www.courts.ca.gov/documents/gc110p.pdf>), along with other forms, are required if the trusted adult does not have a qualifying familial relationship with the student, or if legal custody is required. More information about this petition is available from the state courts at <http://www.courts.ca.gov/1212.htm>.

#### *Completion of Students' Emergency Contact Information*

In addition to the above steps, local educational agencies must implement policies that ensure that a student's emergency contact information (including the listing of secondary contacts) is complete. This enables the agency to exhaust all available contacts if it needs to arrange for the care of a child in the event that a parent or guardian is detained or deported.

### 2. Additional Resources

In the event that a student's family member is detained, the local educational agency should refer the student and his or her family members to other resources for assistance, including, but not limited to the following.

#### *ICE Detainee Locator*

The ICE detainee locator (<https://locator.ice.gov/odls/homePage.do>) can help people determine if their family member has been detained and where the family member is being held. In using the ICE detainee locator, it is helpful to know the family member's date of birth and 'A-Number' (Alien Registration Number), if there is one.

**[Please Note:** the ICE detainee locator is intended only for locating individuals who are already detained. If students, parents, or guardians have general questions about their immigration status, local educational agency personnel shall never refer them to ICE or other immigration enforcement.]

### *Legal Assistance*

Immigration lawyers in private practice, accredited representatives (who assist immigrants in immigration proceedings), or legal-aid organizations may be able to provide legal assistance to secure the release of a student's detained parent, or to help arrange for the student to visit the parent.

- ✓ Make sure that the lawyers are licensed by and in good standing with the State Bar of California, by checking online at <http://www.calbar.ca.gov/Attorneys>.
- ✓ A list of California organizations accredited by Board of Immigration Appeals (BIA) to represent immigrants before the Department of Homeland Security (DHS) and Executive Office of Immigration Review (EOIR) can be found here: <https://www.justice.gov/eoir/page/file/942306/download#CALIFORNIA>.
- ✓ California courts operate Self-Help Centers that may also be able to provide family-law assistance to a student or his or her proposed guardian. A list of these centers across the state is available at <http://www.courts.ca.gov/selfhelp-selfhelpcenters.htm>.
- ✓ A student or his or her family member may be able to find legal assistance from legal-aid offices and lawyer-referral services here: <http://www.courts.ca.gov/1001.htm>.

### *Consulate or Embassy*

The consulate or embassy of the parent's or guardian's country of origin may be able to offer additional information and assistance.

### ***Model Policies for Responding to the Detention or Deportation of a Student's Family Member***

- The Accelerated Schools 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.
- The Accelerated Schools 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 Accelerated Schools 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 Accelerated Schools 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.
- In the event a student's parent/guardian has been detained or deported by federal immigration authorities, The Accelerated Schools shall use the student's emergency card contact information and release the student to the person(s) designated as emergency contacts. Alternatively, The Accelerated Schools shall release the student into the custody of any individual who presents a Caregiver's Authorization Affidavit on behalf of the student. The Accelerated Schools shall only contact Child Protective Services if The Accelerated Schools' 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.

## E. Model Policies: Responding to Hate Crimes and Bullying

### Purpose

Provide local educational agency administrators with policies to prevent and respond to incidents of hate crimes and bullying related to victims' immigration status.

### ***Model Policies for Responding to Hate Crimes and Bullying***

#### *Adopting and Publicizing Anti-Bullying and Anti-Harassment Policy*

- The Accelerated Schools 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.
  - The Accelerated Schools 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 (see Appendix G).
  - The Accelerated Schools shall inform students who are victims of hate crimes of their right to report such crimes.

#### *Processing Complaints of Harassment and Bullying*

- The Accelerated Schools 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:
  - 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;
  - 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
  - An appeal process afforded to the complainant should he or she disagree with the resolution of a complaint.<sup>101</sup>
  - The Accelerated Schools shall ensure that complaint procedures contain confidentiality safeguards for immigration status information.
  - The Accelerated Schools shall prohibit retaliation against a person who submits a complaint of discrimination, harassment, intimidation, or bullying.

#### *Training Students, Teachers, and Staff on Anti-Bullying and Anti-Harassment Policy*

- The Accelerated Schools 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.
  - The Accelerated Schools 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: Discuss the varying immigration experiences among members of the student body and school community;

- Discuss bullying-prevention strategies with students, and teach students to recognize the behavior and characteristics of bullying perpetrators and victims;
- Identify the signs of bullying or harassing behavior;
- Take immediate corrective action when bullying is observed; and
- Report incidents to the appropriate authorities, including law enforcement in instances of criminal behavior.

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## Quick Reference for School Officials

### What to do if an immigration-enforcement officer comes to your school?

1. Notify the designated local educational agency administrator of the request.
2. Advise the immigration officer that, before proceeding with the request, and absent exigent circumstances, you must first receive direction from the local educational agency administrator.
3. Ask to see, and make a copy of or note, the officer's credentials (name and badge number), and the phone number of his/her supervisor.
4. Ask the officer for his/her reason for being on school grounds and document it.
5. Ask the officer to produce any documentation that authorizes school access.
6. Make a copy of all documents provided by the officer.
7. If the officer declares that exigent circumstances exist and demands immediate access to the school, comply with his/her orders and immediately alert the local educational agency administrator.
8. 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:
  - **an ICE (Immigrations and Customs Enforcement) administrative warrant or a subpoena for production of documents or other evidence**, inform the officer that you cannot consent to any request without first consulting with the local educational agency's legal counsel or other designated administrator.
  - **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 your legal counsel or designated local educational agency administrator before providing the officer access to is the person or materials specified in the warrant.
9. While you should not consent to access by an immigration-enforcement officer unless he/ she declares exigent circumstances or has a federal judicial warrant, do not attempt to physically impede an officer, even if he/she appears to lack authorization to enter. If an officer enters the premises without consent, document his/her actions while on campus.
10. After the encounter with the officer, promptly take written notes, including the following: List or copy of the officer's credentials and contact information;
  - Identity of all school personnel who communicated with the officer;
  - Details of the officer's request;
  - 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;
  - Your response to the officer's request;
  - Any further action taken by the officer; and
  - Photo or copy of any documents presented by the officer.
11. Notify parents or guardians as soon as possible (unless prevented by a judicial warrant or subpoena), and do so before an officer questions or removes a student for immigration-enforcement purposes (unless a judicial warrant has been presented).
12. Provide a copy of those notes, and associated documents collected from the officer, to the local educational agency's legal counsel, Superintendent, or other designated administrator.
13. 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.



## What to do if an immigration-enforcement officer requests personal information about a student or his/her family members?

**Avoiding unauthorized information disclosure:** Do not disclose information that might indicate a student's or family's citizenship or immigration status without consent of the parents, guardians, or students (if the student is 18 years of age or over), unless the information is for a legitimate educational purpose or is in response to a court order or subpoena. Providing information about a student's or family's citizenship or immigration status to immigration authorities for immigration-enforcement purposes is not for a legitimate educational purpose under federal or state law.

**Procedure for responding to all information requests:** Take the following action steps if you receive any information request related to a student's or family's immigration or citizenship status that is not supported by a judicial warrant or court order:

- Notify a designated local educational agency administrator about the information request.
- Provide students and families with appropriate notice and a description of the immigration officer's request.
- Document any verbal or written request for information by immigration authorities.
- Provide students and parents/guardians with any documents issued by the immigration-enforcement officer.

**Responding to court documents requesting student or family information:** Notify the parents or guardians if you receive a court order, subpoena, or warrant requesting information regarding a student or family member, unless: (1) the warrant or subpoena concerns an investigation of child abuse, child neglect, or child dependency, or (2) the subpoena prohibits disclosure.

**Secure written consent from the parent/guardian/adult student before releasing information:** You must get written parental or guardian consent for release of student information, unless the information is relevant for a legitimate educational interest or includes directory information only. Because neither 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 written consent from a parent, guardian, or student (if over 18 years of age or in a postsecondary institution), or a court order or judicial subpoena.

The written consent for release of student information must include the following:

1. A description of the information to be released;
2. The reason for release of information;
3. The parties or type of parties receiving the information;
4. If requested by the parents, guardians or student (if the student is 18 years of age or older or in a postsecondary institution), a copy of the records to be released; and
5. Date and signature of the parent, guardian, or student (if 18 years of age or older or in a postsecondary institution) consenting to the release of information.

**Please Note:** The parent, guardian, or student (if over 18 years of age or in a postsecondary institution) is not required to sign the consent form. Therefore, you cannot release the information if the parent, guardian, or student (if over 18 years of age or in a postsecondary institution) refuses to provide written consent for its release.

Once the parent, guardian, or adult student signs and dates the consent form, keep the consent notice with the record file. Also, notify the recipient of the student/family information that further transmission of the information to other individuals is prohibited, without the written consent of the parent/guardian/student (if 18 years of age or older).

## **Know Your Educational Rights**

### **Your Child has the Right to a Free Public Education**

- All children in the United States have a Constitutional right to equal access to free public education, regardless of immigration status and regardless of the immigration status of the students' parents or guardians.
- In California:
  - All children have the right to a free public education.
  - All children ages 6 to 18 years must be enrolled in school.
  - All students and staff have the right to attend safe, secure, and peaceful schools.
  - All students have a right to be in a public school learning environment free from discrimination, harassment, bullying, violence, and intimidation.
  - All students have equal opportunity to participate in any program or activity offered by the school, and cannot be discriminated against based on their race, nationality, gender, religion, or immigration status, among other characteristics.

### **Information Required for School Enrollment**

- When enrolling a child, schools must accept a variety of documents from the student's parent or guardian to demonstrate proof of child's age or residency.
- You never have to provide information about citizenship/immigration status to have your child enrolled in school. Also, you never have to provide a Social Security number to have your child enrolled in school.

### **Confidentiality of Personal Information**

- Federal and state laws protect student education records and personal information. These laws generally require that schools get written consent from parents or guardians before releasing student information, unless the release of information is for educational purposes, is already public, or is in response to a court order or subpoena.
- Some schools collect and provide publicly basic student "directory information." If they do, then each year, your child's school district must provide parents/guardians with written notice of the school's directory information policy, and let you know of your option to refuse release of your child's information in the directory.

### **Family Safety Plans if You Are Detained or Deported**

- You have the option to provide your child's school with emergency contact information, including the information of secondary contacts, to identify a trusted adult guardian who can care for your child in the event you are detained or deported.
- You have the option to complete a Caregiver's Authorization Affidavit or a Petition for Appointment of Temporary Guardian of the Person, which may enable a trusted adult the authority to make educational and medical decisions for your child.

### **Right to File a Complaint**

- Your child has the right to report a hate crime or file a complaint to the school district if he or she is discriminated against, harassed, intimidated, or bullied on the basis of his or her actual or perceived nationality, ethnicity, or immigration status.