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Superintendent of Schools

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Board of Education Informational Item
June 27, 2018

Topic:
Superintendent Policy SP 5145.13: Response to Immigration Enforcement

Background:
Assembly bill 699 requires school districts and county offices of education to adopt a policy by July 1, 2018, that is consistent with the Attorney General's model policy regarding immigration enforcement at public schools.

Fiscal Impact:
None

Recommendation:
Information only

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5100 – ADMISSIONS AND ATTENDANCE

Response to Immigration Enforcement SP 5145.13

The Madera County Superintendent of Schools (MCSOS) and Madera County Board of Education are committed to the success of all students and believe that every school site should be a safe and welcoming place for all students and their families irrespective of their citizenship or immigration status. For those programs and/or school sites under the jurisdiction of the Madera County Board of Education, MCSOS shall implement the procedures described in this policy on behalf of the Madera County Board of Education.

MCSOS staff shall not solicit or collect information or documents regarding the citizenship or immigration status of students or their family members, except as may be required by state and federal law. (Education Code 234.7)

No student shall be denied equal rights and opportunities nor be subjected to unlawful discrimination, harassment, intimidation, or bullying in the programs and activities administered by MCSOS on the basis of his/her immigration status. (Education Code 200, 220, 234.1)

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

Consistent with requirements of the California Office of the Attorney General and applicable law, MCSOS shall develop procedures for addressing any requests by a law enforcement officer for access to MCSOS records, school sites, or students for the purpose of immigration enforcement.

Teachers, school administrators, and other school staff shall receive training regarding immigration issues, including information on responding to a request from an immigration officer to visit a school site or to have access to a student.

MCSOS shall report to the Madera County Board of Education 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 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)

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 lawfully issued subpoena. MCSOS shall annually notify parents/guardians that MCSOS 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 lawfully issued subpoena.

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

1. Notify the County 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 MCSOS or in cases involving investigation of child abuse, neglect, or dependency.

Resources and data collected by MCSOS 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

MCSOS staff must 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.

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)

MCSOS staff shall report the presence of any immigration enforcement officers to appropriate administrators.

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

of the subpoena and await further instructions as to how to proceed.

8. MCSOS staff shall 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, MCSOS staff shall document the officer's actions while on campus.

9. After the encounter with the officer, MCSOS staff shall 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. MCSOS 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. MCSOS staff shall provide a copy of these notes and associated documents collected from the officer to MCSOS legal counsel or other designated MCSOS official

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

    MCSOS 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

MCSOS staff 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. MCSOS 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.

MCSOS staff 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 information that would allow the students and families to be prepared in the event a family member is detained or deported.

In the event that a student's parent/guardian is detained or deported by federal immigration authorities, MCSOS staff 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. MCSOS staff shall only contact child protective services if MCSOS 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, or as otherwise required by law or pursuant to mandated reporting obligations.

MCSOS staff shall notify a student whose parent/guardian was detained or deported that the student continues to meet the residency requirements for attendance in a MCSOS 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)

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) **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

Adopted: June 19, 2018