Policy: IMMIGRATION

Section: Community

California Assembly Bill 699 (2017-2018) requires all public schools to adopt policies that conform to the Attorney General's model policies "limiting assistance with immigration enforcement at public schools, to the fullest extent possible consistent with federal and state law, and ensuring that public schools remain safe and accessible to all California residents regardless of immigration status." The following policies conform to these requirements.

Collecting and Retaining Student Information

Excelsior Charter Schools ("Excelsior") shall maintain in writing policies and procedures for gathering and handling sensitive student information, and appropriate personnel shall receive training regarding those policies and procedures.

If Excelsior Charter Schools possess information that could indicate immigration status, citizenship status, or national origin information, Excelsior 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, Excelsior shall not use such actions as a basis to discriminate against any students or families or bar children from enrolling or attending school.

Excelsior 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.

Inquiries Regarding Immigration Status, Citizenship Status, and National Origin Information

Excelsior 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, Excelsior personnel shall solicit that documentation or information separately from the school enrollment process.

Where permitted by law, Excelsior 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 policy, the Excelsior's procedures and forms shall describe to the applicant, and accommodate, all alternatives specified in law and all alternatives authorized under this policy.

Inquiries About Social Security Numbers or Cards
Excelsior shall not solicit or collect entire Social Security numbers or cards.

Excelsior 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, Excelsior 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.

Excelsior 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.

Policies and Procedures Regarding Information Sharing
Excelsior 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).

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

1. Notify a designated Excelsior official about the information request.
2. Provide students and families with appropriate notice and a description of the immigration officer's request.
3. Document any verbal or written request for information by immigration authorities.
4. 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 a subpoena served on the local educational agency prohibits disclosure, Excelsior shall provide parental or guardian notification of any court orders, warrants, or subpoenas before responding to such requests.

Excelsior 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.

Excelsior's 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. Excelsior 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 is not otherwise subject to release, Excelsior shall not release the information.

Annual Information Notice to Parents and Guardians General Information Policy
Excelsior must provide an annual notice to parents and guardians of the school's general information policies that includes:

- Assurances that Excelsior 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 Excelsior.
- A list of the circumstances or conditions under which Excelsior might release student information to outside people or entities.
- A statement that, unless Excelsior is providing information for a legitimate educational purpose under FERPA and the California Education Code or directory information, Excelsior shall notify parents or guardians and eligible students—and receive their written consent—before it releases a student's personally identifiable information.

If Excelsior decides to release directory information, Excelsior shall provide an annual notice to parents and guardians, and "eligible students" in attendance, of Excelsior directory information policy that includes:

- The categories of information that Excelsior 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 Excelsior receives 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.

Monitoring and Receiving Visitors onto Campus
No outsider, which would include immigration-enforcement officers, shall enter or remain on school grounds of Excelsior 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.

Excelsior 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.

Excelsior shall post signs at the entrance of its school grounds to notify outsiders of the hours and requirements for registration.

Excelsior 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.

Responding to On-Campus Immigration Enforcement
As early as possible, Excelsior personnel shall notify the 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 designated administrator, Excelsior 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 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, [SCHOOL] personnel should comply with the officer's orders and immediately contact the 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:

    a. an ICE (Immigrations and Customs Enforcement) administrative warrant, Excelsior personnel shall inform the agent that he or she cannot consent to any request without first consulting with Excelsior counsel or other designated administrative official;

    b. 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 Excelsior legal counsel or designated administrator before providing the agent access to the person or materials specified in the warrant;

    c. a subpoena for production of documents or other evidence, immediate compliance is not required. Therefore, [SCHOOL] personnel shall inform the [SCHOOL] legal counsel or other designated administrator of the subpoena and await further instructions on how to proceed.

8. While Excelsior 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, Excelsior personnel shall document his or her actions while on campus.

9. After the encounter with the officer, Excelsior personnel shall promptly take written notes of all interactions with the officer. The notes shall include the following items:

    a. List or copy of the officer's credentials and contact information;

    b. 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/subpoena, and whether the warrant/subpoena was signed by a judge;

e. Excelsior personnel's response to the officer's request;

f. Any further action taken by the agent; and

g. Photo or copy of any documents presented by the agent.

10. Excelsior personnel shall provide a copy of those notes, and associated documents collected from the officer, to the Excelsior legal counsel or other designated administrator.

11. In turn, Excelsior legal counsel or other administrator shall submit a timely report to the Excelsior's governing board regarding the officer's requests and actions and Excelsior'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.

Parental Notification of Immigration-Enforcement Actions
Excelsior 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.

Excelsior 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.

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

Excelsior 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.

Excelsior 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.

Excelsior 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, Excelsior shall use the student's emergency card contact information and release the student to the person(s) designated as emergency contacts. Alternatively, Excelsior shall release the student into the custody of any individual who presents a Caregiver's Authorization Affidavit on behalf of the student. Excelsior shall only contact Child Protective Services if Excelsior 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.

Responding to Hate Crimes and Bullying Adopting and Publicizing Anti-Bullying and Anti-Harassment Policy

Excelsior 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.

Excelsior 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 included as an Appendix to this policy.
- Excelsior shall inform students who are victims of hate crimes of their right to report such crimes.

Processing Complaints of Harassment and Bullying

Excelsior 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:

1. 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;
2. 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 Excelsior; and
3. An appeal process afforded to the complainant should he or she disagree with the resolution of a complaint.
4. Excelsior shall ensure that complaint procedures contain confidentiality safeguards for immigration status information.
5. Excelsior 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
Excelsior 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.

Excelsior 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.

KNOW YOUR 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.

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