

COMMUNITY RELATIONS

RESPONSE TO IMMIGRATION ENFORCEMENT

Responding to Requests for Information or Documents

Upon receiving any request by an officer or employee of an agency conducting immigration enforcement for information about a student, a student's family or household, or San Joaquin County Office of Education (SJCOE) employee as described in the accompanying Superintendent policy, the request shall be denied, to the extent practicable, unless any of the following apply: (Education Code Section 234.7; 34 CFR 99.30, 34 CFR 99.31)

1. The request is for student directory information

The response to the request shall be in accordance with Superintendent Policy/Administrative Regulation 5125.1 - Release of Directory Information.

2. The records or information are required to be released by state or federal law, in order to administer a state or federally supported educational program, or due to a valid judicial subpoena, judicial warrant, or court order.
3. For records or information about a student or a student's family or household, the parent/guardian has provided written consent unless prohibited by a valid judicial subpoena, judicial warrant, or court order, or in cases involving investigation of child abuse, neglect, or dependency or, if the student is at least 18 years of age, the student has provided written consent

Such written consent shall include all of the following: (34 CFR 99.30)

- a. The signature and signature date of the parent/guardian, or student if the student is at least 18 years of age.
 - b. A description of the records to be disclosed.
 - c. The reason for the release of information.
 - d. The parties or class of parties receiving the information.
 - e. A copy of the records to be released, if requested by the parent/guardian or student.
4. For records or information about an SJCOE employee, the employee has provided written consent and the human resource department or equivalent has been consulted.

Such written consent shall include all of the following:

- a. The signature and signature date of the employee.
- b. A description of the records to be disclosed.
- c. The reason for the release of information.
- d. The parties or class of parties receiving the information.
- e. A copy of the records to be released, if requested by the employee.

Regardless of whether the requested records or information are disclosed, all of the following shall occur when such a request has been received:

1. Make a copy of the request and notify the County Superintendent of Schools or designee.
2. For requests regarding student information, provide the student's parent/guardian, or the student, if the student is at least 18 years of age, with notice, a description of the request, and any documentation describing the request, unless prohibited by a valid judicial subpoena, judicial warrant, or court order, or in cases involving investigation of child abuse, neglect, or dependency.

Responding to Requests for Access to Students or for Access to COE-Provided Transportation, Nonpublic Area of COE Property or Facility, or Nonpublic Area in which COE-Sponsored Activity is Occurring

If an officer or employee of an agency conducting immigration enforcement requests access to a student, such as for purposes of interviewing, searching, or detaining the student, or permission to enter a school bus, any other transportation provided by the SJCOE, a nonpublic area of any SJCOE property or facility, or a nonpublic area where any SJCOE-sponsored program or activity is occurring, the following actions shall be taken:

1. Advise the officer or employee that no response to the request is permitted until first receiving notification and direction from the County Superintendent, program administrator, or designee.
2. Request to see and record or otherwise document the officer's or employee's valid identification, including the officer's or employee's name and, if applicable, badge number, the phone number of the officer's or employee's supervisor.
3. Request that the officer or employee produce any documentation that authorizes the officer's or employee's request, make copies of all such documentation, and retain at least one copy for SJCOE records.
4. Contact and consult with legal counsel or County Superintendent or designee.

5. Follow the direction from legal counsel or County Superintendent or designee.

For a request to access a student, the request shall be denied unless any of the following apply: (Education Code Section 234.7)

1. The officer or employee provides a valid judicial warrant or court order.
2. The student's parent/guardian consent or, if the student is at least 18 years of age, the student's consent, unless the officer or employee presents a valid judicial warrant or court order that authorizes and directs the SJCOE to give such permission without parent/guardian consent or, if the student is at least 18 years of age, the student's consent.

Regardless of whether the officer or employee is given access to the student, the student's parent/guardian shall be immediately notified, unless prohibited by a valid judicial warrant or court order, or in cases involving investigations of child abuse, neglect, or dependency. (Education Code Section 48906)

Additionally, the County Superintendent or designee shall be notified as early as possible of any request by an officer or employee of an agency conducting immigration enforcement for access to a student. (Education Code Section 234.7)

For a request for permission to enter a school bus, any other transportation provided by the SJCOE, a nonpublic area of any SJCOE property or facility, or a nonpublic area where any SJCOE-sponsored program or activity is occurring, the request shall be denied unless any of the following apply: (Education Code Section 234.7)

1. The officer or employee provides a valid judicial warrant or court order.
2. Permission is required to be granted by state or federal law or in order to administer a state or federally supported educational program.
3. The officer or employee is a sworn law enforcement officer, declares that exigent circumstances exist, and demands immediate access.

In this situation, the officer's or employee's orders shall be complied with and then the County Superintendent or designee shall be immediately contacted, and then legal counsel shall be contacted.

An officer or employee of an agency conducting immigration enforcement who, pursuant to this administrative regulation, is granted permission to enter SJCOE property or facilities which are not open to all visitors shall first register in, except in cases where the officer or employee is a sworn law enforcement officer and states that exigent circumstances exist. (Penal Code 627.2, 627.3)

Responding to Immigration Enforcement Activity on COE Property

When any officer or employee of an agency conducting immigration enforcement is actually or imminently present on SJCOE property, staff working at the property shall be notified and, if the SJCOE property is a school, the parents/guardians of students at the school.

The presence of any officer or employee of an agency conducting immigration enforcement on SJCOE property shall be reported to appropriate program administrators or designees.

However, an officer or employee of an agency conducting immigration enforcement who nonetheless enters SJCOE-provided transportation, a nonpublic area of any SJCOE property or facility, or a nonpublic area where any SJCOE-sponsored program or activity is occurring shall not be obstructed, interfered with, or otherwise impeded.

After all officers and employees of an agency conducting immigration enforcement leave, legal counsel or other designated SJCOE officials shall be provided with relevant information related to observations and interactions.

Responding to the Detention or Deportation of Student's Parent/Guardian

Parents/guardians are encouraged to update their emergency contact information as needed at any time. Parents/guardians shall be notified that the SJCOE will only use information provided on the emergency cards in response to specific emergency situations and not for any other purpose. (Education Code Section 234.7)

Additionally, all students and families are encouraged 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 student's parent/guardian is detained or deported.

In the event that a student's parent/guardian is detained or deported, the student shall be released 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. Child protective services shall only be contacted if SJCOE 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. (Education Code Section 234.7)

A student or the student's family members may be referred to other resources for assistance, including, but not limited to, an U.S. Immigrant and Customs Enforcement detainee locator, legal assistance, or the consulate or embassy of the parent/guardian's country of origin.

- cf. 0410 Nondiscrimination in County Office Programs and Activities
1312.3 Uniform Complaint Procedures
1340 Access to County Office Records
3555 Nutrition Program Compliance
5125 Student Records
5125.1 Release of Directory Information
5131.2 Bullying
5141 Health Care and Emergencies
5145.3 Nondiscrimination/Harassment

Legal Reference:

EDUCATION CODE

- 200 Equal rights and opportunities in state educational institutions
220 Prohibition of discrimination
234.1 Student protections relating to discrimination, harassment, intimidation, and bullying
234.7 Student protections related to immigration and citizenship status
32282 Comprehensive school safety plans
48204.4 Evidence of residency for school enrollment
48906 Exception to parent/guardian notifications
48980 Parent/Guardian notifications
48985 Notices to parents/guardians in language other than English

GOVERNMENT CODE

- 7285-7285.3 Prohibitions on Employer Cooperation with Immigration Enforcement Agents
8310.3 California Religious Freedom Act

PENAL CODE

- 422.55 Definition of hate crime
627-627.10 Access to school premises

CODE OF REGULATION, TITLE 34

- 99.30 - 99.31 FERPA Regulations

COMMUNITY RELATIONS

RESPONSE TO IMMIGRATION ENFORCEMENT

Response to Immigration Enforcement

The County Superintendent of Schools is committed to the success of all students and to providing a safe and welcoming place for students, their families, and staff irrespective of their citizenship or immigration status.

Unless required by state or federal law, required to administer a state or federally supported educational program, or presented with a valid judicial subpoena, judicial warrant, or court order, it is prohibited to do any of the following:

1. Solicit or collect information or documents regarding the citizenship or immigration status of a student or the student's family members. (Education Code Section 234.7)
2. Seek or require information or documents, to the exclusion of other permissible information or documents, regarding the citizenship or immigration status of a student or the student's family members. (Education Code Section 234.7)
3. To the extent practicable, disclose or provide in writing, verbally, or in any other manner to an officer or employee of an agency conducting immigration enforcement:
 - a. The education records of or any information about a student or a student's family or household such as personal information as defined in Civil Code 1798.3, information about a student's home, or information about a student's travel schedule without parent/guardian written consent. (Education Code Section 234.7)
 - b. The personnel records of any San Joaquin County Office of Education (SJCOE) employee, personal information of any SJCOE employee as defined in Civil Code 1798.3, or any other confidential employee information. (Education Code Section 234.7; Government Code Section 7285.2)
4. Grant permission to an officer or employee of an agency conducting immigration enforcement to enter a school bus, any other transportation provided by the SJCOE, a nonpublic area of any SJCOE property or facility, or a nonpublic area where any SJCOE-sponsored program or activity is occurring. (Education Code Section 234.7; Government Code Section 7285.1)

However, an officer or employee of an agency conducting immigration enforcement who nonetheless enters SJCOE-provided transportation, a nonpublic area of any SJCOE property or facility, or a nonpublic area where any SJCOE-sponsored program or activity is occurring shall not be obstructed, interfered with, or otherwise impeded.

The program administrators or designees shall report to the County Superintendent of Schools in a timely manner any requests by an officer or employee of an agency conducting immigration enforcement for any of the following: (Education Code Section 234.7)

1. Education records of or any information about a student or a student's family or household.
2. Personnel records of any SJCOE employee, personal information of any SJCOE employee as defined in Civil Code 1798.3, or any other confidential employee information.
3. Permission to enter a school bus, any other transportation provided by the SJCOE, a nonpublic area of any SJCOE property or facility, or a nonpublic area where any SJCOE - sponsored program or activity is occurring.

Such reports shall be provided in a manner that ensures the confidentiality and privacy of any potentially identifying information. (Education Code Section 234.7)

In accordance with law, Superintendent Policy 0410 - Nondiscrimination in County Office Programs and Activities, and Superintendent Policy 5145.3 - Nondiscrimination/Harassment, no student shall be denied equal rights and opportunities, nor be subjected to unlawful discrimination, harassment, intimidation, or bullying in the SJCOE's programs and activities on the basis of the student's or family's immigration status or for the refusal to provide information related to the student's or family's immigration status. (Education Code sections 200, 220, 234.1)

Resources and data collected by the SJCOE 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 Section 8310.3)

Parents/guardians shall be provided with information and notifications as specified in Education Code Section 234.7, including information regarding their children's right to a free public education regardless of immigration status or religious beliefs and their rights related to immigration enforcement.

Complaints alleging discrimination, harassment, intimidation, and bullying based on actual or perceived immigration status shall be filed in accordance with Superintendent Policy/Administrative Regulation 1312.3 - Uniform Complaint Procedures.

The California Department of Education shall be provided, upon request and in the manner requested, copies of this policy, any associated administrative regulation, and any other superintendent policies and administrative regulations required by Education Code Section 234.7.

- cf. 0410 Nondiscrimination in County Office Programs and Activities
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