



SAN DIEGO COMMUNITY COLLEGE DISTRICT

Board of Trustees Policy

Chapter 3 – General Institution

BP ____ – NON-PARTICIPATION IN IMMIGRATION ENFORCEMENT ACTIVITIES; IMMIGRATION STATUS SECURITY

DRAFT
Cabinet – 02/26/19

DGC – 03/06/19

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SSC – 05/16/19

A. Collecting and Retaining Student Information Potentially Related to Immigration Status or Enforcement

1. **Consistent with its Board Policies and so far as not prohibited by law**, the San Diego Community College District (District) shall treat all students equitably in the receipt of all school services **regardless of immigration status**, including, but not limited to, the gathering of student and family information for the institution's benefit programs.
2. The Vice Chancellor Student Services shall maintain in writing District policies and procedures for gathering and handling sensitive student information, and appropriate personnel shall receive training regarding those policies and procedures, including the protection of student records information in accordance with the Family Educational Rights and Privacy Act.
3. The District will provide students and families, on an annual basis **with written information** regarding institutional policies for student privacy and the abilities of parents or eligible students to inspect student information.
4. **Per Administrative Procedure 3100.1(g), the District does not identify or release any student record information as "directory information."**
5. Any sensitive information potentially related to immigration enforcement, such as a student's, parent's, or guardian's SSN, any AB 540 determinations, or citizenship status information collected by the District or disclosed by the student, will be maintained only for as long as **reasonably necessary, including a reasonable time to determine that such information is no longer needed and to dispose of it in accordance with District policy.**
6. If the District possesses information that could indicate immigration status or citizenship status, District personnel shall not consider the acquired information in admissions decisions or access to educational courses or degree programs.
7. Students may elect not to provide immigration or citizenship status information to the District, and this election shall not impede admissions or enrollment in educational

programs.

8. District personnel shall not **maintain** any **permanent** list, **compilation or other record** of student names linked with immigration status. **Any such list, compilation or record shall be created only when necessary for a legitimate business or educational purpose that cannot be accomplished without it, and shall be promptly destroyed as soon as practicable after such purpose is accomplished.**
9. College Police personnel, including but not limited to sworn peace officers, shall not:
 - a. inquire into an individual's immigration status **for immigration enforcement purposes**; or
 - b. aid any effort to create a registry containing individuals' country of birth or based on any other protected characteristics of victims, witnesses, or suspects of crimes unless required by law for specified purposes.

B. Responding to Inquiries of Immigration Status, Citizenship Status, and National Origin Information

1. Unless required by federal or state law, District 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.
2. Where any law contemplates submission of immigration status or citizenship status information to satisfy the requirements of a special program, District personnel shall not use that documentation or information for decisions related to admissions or enrollment in courses or degree programs.
3. The District shall not use immigration status, citizenship status, or national origin information in personal statements outside the application process, other than for legitimate educational **interests purposes**, including the provision of a service or benefit relating to the student, such as health care, counseling, job placement or financial aid.
4. If The District learns of a student's immigration status through its application process (including the students' personal statement or answers to personal insight questions), the District shall create procedures to protect such personal identifiable information and retain the information only to the extent it is necessary or required by law.
5. The District shall not disclose information that might indicate a student or family's

citizenship or immigration status if the disclosure is not authorized by the Family Educational Rights and Privacy Act (FERPA) or state law.

6. Where permitted by law, the District shall enumerate in one or more Administrative Procedures 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 or citizenship status, and that do not reveal information related to citizenship or immigration status. Examples of documents that can be used as proof of residency include but are not limited to:
 - a. Registering a motor vehicle operated in California;
 - b. Obtaining a California driver's license or California identification card;
 - c. Filing a resident or nonresident California state income tax return;
 - d. Listing a California address on a federal income tax return;
 - e. Listing a permanent military address or home of record in California;
 - f. A professional or vocational license obtained from a California state licensing agency (e.g., nursing, teaching credentials);
 - g. Maintaining active resident memberships in California based professional organizations (e.g., police union, teachers' union); and
 - h. Maintaining an active bank account at a California bank.
7. Where the District is permitted by law to request a minor student's parent's residency information in order to determine tuition or aid, the District shall only require documentation or information that is available to persons regardless of immigration status (as noted above).
8. 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 District's procedures and forms shall describe to the applicant, and accommodate, all alternatives specified in law and all alternatives authorized under this policy.
9. Specifically, where the District must determine a student's residency for purposes of in-state tuition, the District shall not inquire about a parent/guardian's citizenship or immigration status, and shall enumerate alternative means of establishing a parent/guardian's residency. If the student is considered a minor dependent of a California resident, the District shall only require documents to determine whether the parent has resided in California for one year (e.g. vehicle registration, lease agreements,

etc.). Where the immigration status of a parent or guardian is a legal prerequisite to participation in a program or receipt of benefits (such as federal financial aid), students and their parents/guardians shall have the option to withhold such information and thus forgo participation in such program(s) or benefits.

C. Responding to Requests for Access for Immigration Enforcement Purposes

1. The District shall provide guidance and offer to campus employees training addressing law enforcement access to District property and facilities ~~and student residences~~. This guide shall include the following required topics:
 - a. Instructions that law enforcement officers cannot enter District ~~facilities or portions thereof that are not open to the public living quarters~~ to make arrests without a judicial warrant, valid consent, or exigent circumstances. ~~Wherever this policy refers to “District facilities or portions thereof that are not open to the public,” this includes any facilities or portions thereof where only enrolled students and District staff are allowed, such as classrooms, private offices, or restricted access areas.~~
 - b. Instructions that District, including College Police, cannot consent to the entry into District ~~facilities or portions thereof that are not open to the public—a residence or dormitory~~ for the purpose of a search or arrest, but a judicial warrant or exigent circumstances may authorize officer entry without consent.
 - c. ~~Campus police~~ Contact information to report concerns about the presence of officers engaged in immigration enforcement on any District property. ~~The Vice Chancellor, Student Services, will be the Designated District Official (DDO) to whom such concerns may be reported.~~
 - d. Samples of warrant and subpoena documents that could be used for access onto District property ~~or portions thereof that are not open to the public~~, or to seize or arrest students or other individuals on campus (see Appendices A to G).
 - e. Sample responses for District personnel to use in response to officers seeking access for immigration enforcement purposes, ~~when otherwise allowed by this policy~~, that avoids classroom interruptions, and that preserves the peaceful conduct of the school’s activities.
2. District personnel shall advise all students, faculty, and staff to immediately notify the ~~office of the Chancellor or President~~ DDO if they are advised that an officer engaged in immigration enforcement is expected to enter, will enter, or has entered any campus ~~or other District property~~ for immigration enforcement purposes. College Police should also

be notified as soon as possible.

3. No District employee may consent to entry of District facilities or portions thereof **that are not open to the public.**
4. District personnel shall advise all students, faculty, and staff responding to or having contact with an officer engaged in immigration enforcement executing an immigration order, to refer the entity or individual to the **office-of-the-Chancellor-or-President DDO** for purposes of verifying the legality of any warrant, court order, or subpoena.
5. If the **immigration enforcement** officer declares that exigent circumstances exist and demands immediate access to the campus, District personnel should not refuse the officer's orders, but **should must** immediately, **or as soon as reasonably possible under the circumstances**, contact the **designated-administrator-or-campus-police-liaison DDO**.
6. The **office-or-designee-of-the-chancellor's-or-president's-office DDO** shall determine what type of authorization is being provided to support the officer's request for access:
 - a. A U.S. Immigrations and Customs Enforcement (ICE) "warrant" (see Appendices A and B): Immediate compliance is not required. District personnel shall inform the officer that they cannot consent to any request without first consulting with the **designated-campus-official DDO**. **The District personnel who are contacted will provide a copy of the warrant to the designated-campus-official DDO (where possible, in consultation with legal counsel) as soon as possible. When deemed advisable, the DDO will consult with the District's legal counsel as soon as reasonably practicable.**
 - b. A federal judicial warrant (search-and-seizure warrant or arrest warrant; see Appendices C and D): Prompt compliance with such a warrant is usually legally required; but, where feasible, **District personnel should** consult with the **designated-campus-official DDO** before responding.
 - c. A subpoena for production of documents or other evidence (see Appendices E and F): Immediate compliance is not required. Inform the officer that the **[college-or-university] District** cannot respond to the subpoena until after it has been reviewed by **a-designated-administrator the DDO**. **District personnel shall provide a copy of the subpoena to a-designated-administrator or-legal-counsel the DDO as soon as possible. When deemed advisable, the DDO will consult with the District's legal counsel as soon as reasonably practicable.**
 - d. A notice to appear (see Appendix G): This document is not directed at the District. District personnel are under no obligation to deliver or facilitate service of this

document to the person named in the document. ~~If you get a copy of the document, give it to the~~ District personnel shall provide a copy of the document to ~~the designated administrator~~ DDO as soon as possible.

7. District personnel should not attempt to physically interfere with an officer, even if the officer appears to be acting without consent or exceeding the authorization given under a warrant or other document. If an officer enters the premises without consent, District personnel shall make a record of the contact and forward the information to the ~~office of the president or chancellor~~ DDO.
8. In making record of the contact with an immigration enforcement officer, District personnel shall ~~endeavor to collect and report~~ ~~provide~~ the following information:
 - a. Name of the officer, and, if available, the officer's credentials and contact information;
 - b. Identity of all District personnel who communicated with the officer;
 - c. Details of the officer's request;
 - d. Whether the officer presented a warrant, subpoena, or court order to accompany ~~his/her~~ the request, what was requested in the warrant/subpoena/court order, and whether the warrant/subpoena/court order was signed by a judge;
 - e. District personnel's response to the officer's request;
 - f. Any further action taken by the immigration officer; and
 - g. Photo or copy of any documents presented by the ~~immigration officer~~ agent.
9. District personnel shall provide a copy of those notes, and associated documents collected from the ~~immigration enforcement~~ officer, to the ~~general counsel or other designated campus official~~ DDO. In turn, the ~~general counsel or designated campus official~~ DDO shall submit a timely report to the Chancellor, which the Chancellor will promptly provide to the District's Board of Trustees and ~~the campus public safety office to College Police~~ regarding the immigration officer's requests and actions and the District's response(s).

D. Responding to Request for Access to Student Records for Immigration Enforcement Purposes

1. The District ~~must~~ shall obtain a student's written consent before disclosing educational records, unless the information is relevant for a legitimate educational ~~purpose or includes directory information only~~. Neither exception permits disclosing information for immigration enforcement purposes; no student information shall be disclosed for

immigration enforcement purposes without a court order or judicial warrant. Without a court order or a judicial warrant, written consent must be signed and dated by the student, or (if the student is a minor) by the student's parent(s) or guardian(s), before disclosure of the information, and must specify the records that may be disclosed, the purpose of the disclosure, and the party or class of parties to whom the disclosure may be made. If desired by the student, the District ~~must shall~~ provide a copy of the records to be released. The party to whom the information is disclosed ~~will be advised that they~~ may not redisclose the information to any other party without the prior consent of the student or subsequent court order.

2. ~~The Chancellor college personnel~~ shall ~~develop~~ adopt a written ~~policy administrative procedure~~ for interactions with immigration authorities seeking to review student records. At a minimum, such procedures shall include the following information:
 - a. Contact information [name, title, e-mail addresses, and phone numbers] for the correct person to review and respond to a request for student records.
 - b. Access to sample warrant and subpoena documents that could be used for access onto District property ~~or portions thereof not open to the public~~, or to seize or arrest students or other individuals on District property (see Appendices A to G).
 - c. ~~[College and university personnel] shall provide~~ A set of responses for District personnel to use in response to officers seeking access to records for immigration enforcement purposes.
3. In addition to notifying the ~~designated campus official DDO~~, District personnel shall take the following action steps in response to an officer other than College Police requesting access to student records:
 - a. Ask for the officer's name, identification number, and agency affiliation;
 - b. Record or copy this information;
 - c. Ask for a copy of any warrants;
 - d. Inform the officer that they are not obstructing his or her efforts but that they need to contact the Designated Administrator for assistance.
4. College Police shall not provide personal information about an individual for immigration enforcement purposes, unless ~~that information is publicly available, or~~ required by a court order or judicial warrant. "Personal information" is defined as any information that identifies or describes an individual, and includes but is not limited to, a student's physical description, home or work address, telephone number, education, financial

matters, medical or employment history, and statements made by, or attributed to, the individual. ~~This restriction does not apply to information regarding the immigration or citizenship status of an individual.~~

5. ~~In accordance with FERPA~~, unless the District is served with a judicial subpoena or court order that by its terms prohibits disclosure to the student, the student must be notified of any judicial order or subpoena before the institution complies with the order ~~in accordance with FERPA~~.

E. Responding to Immigration Actions Against Students or Family Members

1. If there is reason to suspect that a student, faculty member, or staff person has been taken into custody as the result of an immigration action, the District shall **attempt to** notify the person's emergency contact that the person may have been taken into custody.
2. ~~College personnel shall designate a staff person~~ **The DDO is designated as** the point of contact for any student, faculty member, or staff person who may or could be subject to an immigration order or inquiry.
3. District personnel shall not discuss the personal information, including immigration status information, of any student, faculty member, or staff person with anyone, or reveal the personal information to anyone, unless disclosing this information is permitted by federal and state law.
4. ~~College and university personnel~~ **The DDO** shall maintain a contact list of legal service providers who provide legal immigration representation, and **will** provide this list free of charge to any student **or employee** who requests it. At a minimum, the list shall include the legal service provider's name and contact number, e-mail address, and office address.
5. If a student is detained or deported, or is unable to attend to his or her academic requirements because of an immigration order, District personnel ~~shall~~ **will** make all reasonable efforts to assist the student in retaining any eligibility for financial aid, fellowship stipends, exemption from nonresident tuition fees, funding for research or other educational projects, housing stipends or services, or other benefits the student has been awarded or received subject to and in compliance with its policy.
6. District personnel shall permit a student who is subject to an immigration order to reenroll if and when the student is able to return ~~to [the college or university]~~, subject to and in compliance with its policies, and will make reasonable and good-faith efforts to provide

for a seamless transition in the student's reenrollment and reacquisition of campus services and support.

7. ~~[College and university personnel]~~ The DDO or their designee(s) shall be available to assist, in a sensitive manner, any student, faculty, and staff who may be subject to an immigration order or inquiry, or who may face similar issues, and whose education or employment is at risk because of immigration enforcement actions. Such assistance shall not include direct monetary support or legal advice.

Reference: Education Code section 66093.3; Government Code section 7282, et seq., and 7284, et seq.

See also: Promoting a Safe and Secure Campus for All: Guidance and Model Policies to Assist California's Colleges and Universities in Responding to Immigration Issues (<https://oag.ca.gov/sites/all/files/agweb/pdfs/immigration/higher-education-guidance.pdf>)

Adopted: ___/___/2019

Supersedes: New Policy