

AR 5017 Making and Responding to Inquiries of Immigration Status, Citizenship Status, and National Origin Information

Unless required by federal or state law, the District 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. In those circumstances in which federal or state law authorizes such an inquiry, the documentation or information shall be used only in accordance with such federal or state laws.

The District is not permitted to use immigration status, citizenship status, or national origin information in personal statements outside the application process, other than for legitimate educational interests, including the provision of a service or benefit relating to the student, such as health care, counseling, job placement or financial aid.

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 policies and procedures to protect such personal identifiable information and retain the information only to the extent it is necessary or required by law. The District shall avoid the disclosure of 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.

Where permitted by law, the Dean of Enrollment Services or designee of the District 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 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 can be found in the Residency Questionnaire in the Admissions and Records website.

Responding to Inquiries of Immigration Status

The District reaffirms the principles that the attainment of education for the betterment of the individual and the community is paramount, regardless of one's immigration status. It is imperative that the District put necessary protections in place, and show it will take the necessary steps to ensure that all students, faculty, staff, and the public have every opportunity to continue their education free from intimidation or loss of access to resources and programs that students should enjoy without fear and undue risk.

The District shall:

- Advise all students, faculty, and staff to notify Campus Police, as soon as possible, if they are advised that an immigration officer is expected to enter, will enter, or has entered the campus to execute a federal immigration order. Do not confront the federal official yourself.
- Comply with a request from an immigration officer for access to nonpublic areas of the campus only upon presentation of a judicial warrant, court order, or subpoena. Contact Campus Police

who will verify the legality of any judicial warrant, court order, or subpoena and refer the request for access to the Office of the Superintendent/President.

- Notify the person's emergency contact if there is reason to suspect that a student, faculty, or staff person has been taken into custody as a result of an immigration enforcement action, as soon as possible.
- Maintain a contact list of legal services providers who provide legal immigration representation, and provide it free of charge to any and all students who request it. The list shall include, but not necessarily be limited to, the organization's name and contact number, email address, and office address.
- Post on the website the SMC Guidelines for the Campus Community on Federal Immigration Enforcement Actions.

Campus Police will not contact, detain, question, or arrest any individual on the sole basis of suspected undocumented immigration status or to discover the immigration status of an individual. Campus Police will not undertake joint efforts with federal immigration enforcement authorities to investigate, detain or arrest an individual for violation of federal immigration law.

References: Education Code Sections 66093, 66093.3, and 68076; Title 5 Section 41905

Dated: 10/30/19

ARTICLE 11. Access to Higher Education for Every Student [66093 - 66093.4]

66093.

(a) The Legislature finds and declares all of the following:

(1) California's colleges and universities have traditionally been beacons of free thought that challenge students in a peaceful, safe environment. Its institutions of higher education have always been of great pride to the State of California.

(2) With great risks presented by changes to immigration policies and enforcement at the federal level, it is more important than ever to work to protect the students, faculty, staff, and the public, and ensure that, regardless of their immigration status, they can continue to take advantage of the education to which they are entitled, and are free from intimidation or loss of access to resources and programs that other students enjoy.

(3) It is imperative that California put necessary protections in place, and show it will take the necessary steps to ensure that the state's students, faculty, staff, and the public have every opportunity to continue their education without fear or undue risk.

(4) In doing so, California reaffirms the principles that the attainment of education for the betterment of the individual and the community is paramount, regardless of one's immigration status. It is in the country's best interests, as a nation of immigrants, which has benefited greatly from immigrants of all walks and backgrounds, to ensure that those who pursue educational and academic growth may further contribute to the productivity of this great state and nation.

(b) Therefore, it is the intent of the Legislature to enact legislation to enact the policies set forth in Section 66093.3 to ensure that California's public and private institutions of higher education strive to foster a campus community that is safe, welcoming for all, and provides access to services and supports for all students, faculty, and staff regardless of their immigration status.

(Added by Stats. 2017, Ch. 488, Sec. 1. (AB 21) Effective January 1, 2018.)

66093.3.

The Trustees of the California State University, the governing board of each community college district in the state, and each independent institution of higher education that is a qualifying institution as defined in subdivision (l) of Section 69432.7, shall, and the Regents of the University of California are requested to, do all of the following to the fullest extent consistent with state and federal law:

- (a) Refrain from disclosing personal information about students, faculty, and staff except:
 - (1) with the consent of the person identified, or if the person is under 18 years of age, with the consent of the parent or guardian of the person identified;
 - (2) as may legally be disclosed under state and federal privacy laws;
 - (3) for the programmatic purpose for which the information was obtained;
 - (4) as part of a directory that does not include residence addresses or individual persons' course schedules and that the person has not elected to opt out of; or
 - (5) in response to a judicial warrant, court order, or subpoena.
- (b) Advise all students, faculty, and staff to notify the office of the chancellor or president, or his or her designee, as soon as possible, if he or she is advised that an immigration officer is expected to enter, will enter, or has entered the campus to execute a federal immigration order.
- (c) If there is reason to suspect that a student, faculty, or staff person has been taken into custody as a result of an immigration enforcement action, the college or university, as soon as possible, shall notify the person's emergency contact that the person has been taken into custody.
- (d) Comply with a request from an immigration officer for access to nonpublic areas of the campus only upon presentation of a judicial warrant. This subdivision shall not apply to an immigration officer's request for access or information related to the operation of international student, staff, or faculty programs, employment verification efforts, or other nonenforcement activities.
- (e) Advise all students, faculty, and staff responding to or having contact with a an immigration officer executing a federal immigration order, to refer the entity or individual to the office of the chancellor or president, or his or her designee, for purposes of verifying the legality of any warrant, court order, or subpoena.
- (f) Designate a staff person to serve as a point of contact for any student, faculty, or staff person who may or could be subject to an immigration order or inquiry on campus. Unless the disclosure is permitted by state and federal education privacy law, faculty and staff persons shall be prohibited from discussing the personal information, including immigration status information, of any student, faculty, or staff person with anyone, or revealing that personal information to anyone. Nothing in this subdivision shall be construed to require a college or university to hire staff to fulfill the requirements of this subdivision.
- (g) Maintain a contact list of legal services providers who provide legal immigration representation, and provide it free of charge to any and all students who request it. The list shall include, but not necessarily be limited to, the organization's name and contact number, email address, and office address.
- (h) Adopt and implement, by March 1, 2019, the model policy developed by the Attorney General or an equivalent policy pursuant to the California Values Act (Chapter 17.25 (commencing with Section 7284) of Division 7 of Title 1 of the Government Code), limiting assistance with immigration enforcement to the fullest extent possible consistent with federal and state law.
- (i) (1) Post on its Internet Web site in a conspicuous location, and provide via email quarterly or each semester to all students, faculty, and staff:
 - (A) A copy of the policy adopted pursuant to subdivision (h).

(B) Guidance informing them of their rights under state and federal immigration laws and how to respond to a federal immigration action or order.

(2) Update the information posted on its Internet Web site pursuant to paragraph (1) as often as is necessary to reflect any changes to federal and state immigration laws and university or college policies and procedures.

(j) In the event that an undocumented student is subject to a federal immigration order, ensure that both of the following occur:

(1) In the event that an undocumented student is detained, deported, or is unable to attend to his or her academic requirements due to the actions of an immigration officer in relation to a federal immigration order, the college or university shall 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 he or she has been awarded or received, and permit the student to be reenrolled if and when the student is able to return to the college or university. It is the intent of the Legislature that, in implementing this paragraph, California colleges and universities make reasonable and good-faith efforts to provide for a seamless transition in a student's reenrollment and reacquisition of campus services and supports.

(2) That staff is available to assist, in a sensitive manner, undocumented students, and other students, faculty, and staff who may be subject to a federal immigration order or inquiry, or who may face similar issues, and whose education or employment is at risk because of federal immigration actions.

(k) For purposes of this article, "immigration officer" means any state, local, or federal law enforcement officer who is seeking to enforce immigration law.