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# MARIN COUNTY

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## OFFICE OF EDUCATION

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MARY JANE BURKE  
MARIN COUNTY  
SUPERINTENDENT OF SCHOOLS

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October 7, 2020

Dear MCOE Staff,

I want to provide a summary of current California law to clarify how to manage issues of immigration at our campuses and administrative offices.

**First, it is imperative that our schools send the message that we are committed to protecting the right of every student to attend public school, regardless of the immigration status of a student or of a student's family members. This commitment extends to school employees having the right to work in a welcome environment as well.**

Marin County Board of Education Resolution No. 912 preserves the protections of immigrant families and affirms the right of undocumented children to a public education.

It is our duty and responsibility to provide each child in our schools with a high quality public education in a safe and nurturing environment, and offer a safe and welcome workplace for our employees. I am providing the following directions to staff at our schools:

- Our staff will not request information or make a record of information on the immigration status of a student or family member. Furthermore, students and families are not required to provide a social security number for school forms.
- **If the Immigration and Customs Enforcement (ICE) agency requests access to a school site or student information, please refer the agent directly to me or Ken Lippi, Assistant Superintendent.** We will work with the MCOE's legal counsel to determine next steps.
- Assembly Bill 450 became law in California on January 1, 2018. This law prohibits employers (except as otherwise required by federal law) from:
  - Granting an immigration enforcement agent access to nonpublic areas of a place of labor without a judicial warrant;
  - Allowing an immigration enforcement officer to access, review, or obtain employee records without a subpoena, unless the employer has been provided a Notice of Inspection (NOI), which authorizes an agent to inspect form I-9 Employment Eligibility Verification and other records;
  - Conducting any re-verification of employment eligibility of current employees at a time or in a manner not required by federal law; violations are subject to civil penalties.

- Assembly Bill 699, signed into law on October 5, 2017, went into effect on January 1, 2018. This law:
  - o Clarifies protections for immigrant students served by school districts, county offices of education, and charter schools and reaffirms the United States Supreme Court's 1982 decision in *Plyler v. Doe*.
  - o Directs LEA's to adopt (or revise current policies incorporating new requirements) policies on limiting assistance with immigration enforcement at public schools and ensuring that public schools remain safe and accessible to all California residents, regardless of immigration status, by July 1, 2018.

On June 12, 2018, the Marin County Board of Education approved the enclosed general policy that outlines guidelines to assist our programs and county office in responding to immigration issues. This policy includes directions on the following:

- Collecting and Retaining Student Information
- Inquiries regarding Immigration Status, Citizenship Status and National Origin Information
- Inquiries about Social Security numbers/cards
- Procedures regarding sharing annual information Notice to Parents and Guardians
- Monitoring and receiving campus visitors
- Responding to on-campus immigration enforcement
- Responding to the detention or deportation of a student's family member
- Responding to hate crimes and bullying

Anyone seeking answers to questions about immigration will be referred to local non-profit immigration organizations, such as the [American Immigration Lawyers Association](#), the [Legal Aid of Marin](#) or the [Canal Alliance](#). In addition, the MCOE has set up a web page for resources at [Immigrant Student and Family Resources](#).

Immigrant families are not the only ones who are concerned about recent changes in federal policies. We want to send the message that MCOE rejects all discrimination based on race, ethnicity, religion, gender, gender identity and expression, immigration status, disability and sexual orientation.

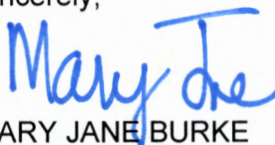
We will continue to track changes to the law and provide our community at large with available resources as this issue evolves. I want our community to be assured that we will adhere to our core values: public schools are the foundation of our democracy; every person has intrinsic worth; we believe in treating people with dignity and respect; high standards and expectations foster greater achievement; each of us shares responsibility for the welfare of our community; diversity is an asset in our community; honesty and integrity are essential in building relationships; schools must provide access and equity; and people thrive in safe environments.

If you have questions, you can call or email the following people for assistance:

- Mary Jane Burke, Marin County Superintendent of Schools: (415) 499-5801 or [mjburke@marinschools.org](mailto:mjburke@marinschools.org)
- Ken Lippi, Assistant Superintendent: (415) 499-5803 or [klippi@marinschools.org](mailto:klippi@marinschools.org)

Thank you for providing a safe and welcoming environment for ALL of our students to achieve.

Sincerely,



MARY JANE BURKE  
Marin County Superintendent of Schools

Enclosure

**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 (California Attorney General April 2018)**

**1. Policies for Collecting and Retaining Student Information**

The Superintendent or designee shall maintain in writing Marin County Office of Education policies and procedures for gathering and handling sensitive student information and appropriate personnel shall receive training regarding those policies and procedures.

If the Marin County Office of Education possesses information that could indicate immigration status, citizenship status, or national origin information, the Marin County Office of Education 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, the Marin County Office of Education shall not use such actions as a basis to discriminate against any students or families or bar children from enrolling or attending school.

The Marin County Office of Education 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.

**2. Policies for Inquiries Regarding Immigration Status, Citizenship Status, and National Origin Information**

Marin County Office of Education 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, Marin County Office of Education personnel shall solicit that documentation or information separately from the school enrollment process.

Where permitted by law, the Superintendent or designee or the Marin County Office of Education 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 Marin County Office of Education's procedures and forms shall describe to the applicant, and accommodate, all alternatives specified in law and all alternatives authorized under this policy.

### **3. Policies for Inquiries About Social Security Numbers or Cards**

The Marin County Office of Education shall not solicit or collect entire Social Security numbers or cards.

The Marin County Office of Education 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, the Marin County Office of Education 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.

The Marin County Office of Education 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.

### **4. Policies and Procedures Regarding Information Sharing**

The Marin County Office of Education 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).

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

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

The Marin County Office of Education 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.

The Marin County Office of Education'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. The Marin County Office of Education 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 this not otherwise subject to release, the Marin County Office of Education shall not release the information.

## **5. Policies for Annual Information Notice to Parents and Guardians**

### General Information Policy

The Marin County Office of Education must provide an annual notice to parents and guardians of the school's general information policies that includes:

- a. Assurances that the Marin County Office of Education will not release information to third parties for immigration-enforcement purposes, except as required by law or court order.
- b. A description of the types of student records maintained by the Marin County Office of Education.
- c. A list of the circumstances or conditions under which the Marin County Office of Education might release student information to outside people or entities.
- d. A statement that, unless the Marin County Office of Education is providing information for a legitimate educational purpose under FERPA and the California Education Code or directory information, the Marin County Office of Education shall notify parents or guardians and eligible students—and receive their written consent—before it releases a student's personally identifiable information.

## **6. Policies for Monitoring and Receiving Visitors onto Campus**

No outsider—which would include immigration-enforcement officers—shall enter or remain on school grounds of the Marin County Office of Education programs 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;

- a. Age, if less than 21;
- b. Purpose in entering school grounds;
- c. Proof of identity; and
- d. Any other information as required by law.

The Marin County Office of Education 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.

The Marin County Office of Education shall post signs at the entrance of its school grounds to notify outsiders of the hours and requirements for registration.

Marin County Office of Education 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.

## **7. Policies for Responding to On-Campus Immigration Enforcement**

As early as possible, Marin County Office of Education personnel shall notify the

Superintendent or designee 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 Superintendent or designee, Marin County Office of Education 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 Superintendent or designee.
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, Marin County Office of Education personnel should comply with the officer's orders and immediately contact the Superintendent or designee.
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:
  - **an ICE (Immigrations and Customs Enforcement) administrative warrant**, Marin County Office of Education personnel shall inform the agent that he or she cannot consent to any request without first consulting with the Marin County Office of Education's counsel.
  - **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 Marin County Office of Education's legal counsel before providing the agent access to the person or materials specified in the warrant.
  - **a subpoena for production of documents or other evidence**, immediate compliance is not required. Therefore, Marin County Office of Education personnel shall inform the Marin County Office of Education's legal counsel of the subpoena, and await further instructions on how to proceed.
8. While Marin County Office of Education 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, Marin County Office of Education personnel shall document his or her actions while on campus.
9. After the encounter with the officer, Marin County Office of Education personnel shall promptly take written notes of all interactions with the officer. The notes shall include the following items:
  - List or copy of the officer's credentials and contact information;
  - Identity of all school personnel who communicated with the officer;
  - Details of the officer's request;
  - 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;
  - Marin County Office of Education personnel's response to the officer's request;
  - Any further action taken by the agent; and

- Photo or copy of any documents presented by the agent.
10. Marin County Office of Education personnel shall provide a copy of those notes, and associated documents collected from the officer, to the Marin County Office of Education's legal counsel.
  11. In turn, the Marin County Office of Education's legal counsel shall submit a timely report to the Marin County Office of Education's governing board regarding the officer's requests and actions and the Marin County Office of Education'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.

#### **8. Policies for Parental Notification of Immigration-Enforcement Actions**

Marin County Office of Education 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.

Marin County Office of Education 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.

#### **9. Policies for Responding to the Detention or Deportation of a Student's Family Member**

The Marin County Office of Education 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.

The Marin County Office of Education 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.

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



## **10. Policies for Responding to Hate Crimes and Bullying**

### *Adopting and Publicizing Anti-Bullying and Anti-Harassment Policy*

The Marin County Office of Education 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.

The Marin County Office of Education 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.
- The Marin County Office of Education shall inform students who are victims of hate crimes of their right to report such crimes.

### *Processing Complaints of Harassment and Bullying*

The Marin County Office of Education 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:

- 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;
- 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 local educational agency; and
- An appeal process afforded to the complainant should he or she disagree with the resolution of a complaint.
- The Marin County Office of Education shall ensure that complaint procedures contain confidentiality safeguards for immigration status information.
- The Marin County Office of Education 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*

The Marin County Office of Education 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.

The Marin County Office of Education 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.