

SAN DIEGO UNIFIED SCHOOL DISTRICT

Date: August 23, 2018

To: Area Superintendents and All School Principals; Division and Department Heads

Subject: CONSTITUTIONAL RIGHTS OF UNDOCUMENTED STUDENTS TO A FREE PUBLIC EDUCATION

Department and/or Persons Concerned: Area Superintendents, Principals

Reference: BP 0410, AR 0410, AR 5125, Education Code sections 200-262.4, FERPA (20 U.S.C. section 1232g; 34 CFR Part 99)

Brief Explanation:

The District supports the civil right of every student to a free public education, and is committed to serving all children. The purpose of this circular is to explain the constitutional right of every student to an education, regardless of immigration status; and provide guidance to you in ensuring those rights are protected.

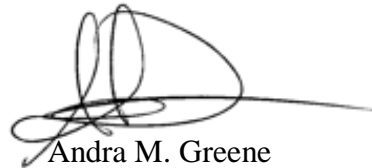
In 1982, in a case called *Plyler v. Doe* (457 U.S. 202), the U.S. Supreme Court ruled that undocumented students have a constitutional right to a free public education. Federal law prohibits the District from discriminating against undocumented students, requesting information regarding a student's immigration status, or requiring proof of legal status as a condition of enrollment. Schools also may not adopt policies or practices that discourage participation by undocumented students or their families, or lead to the exclusion of students based on their or their parents' or guardians' actual or perceived citizenship or immigration status.

Further, since 2011, the Department of Homeland Security has considered schools "off limits" for immigration enforcement and the District will continue to press them to maintain that policy. In the event a representative from the U.S. Department of Immigration and Customs Enforcement ("ICE") appears at a District campus, they should be referred to School Police. The District believes that the presence of ICE is likely to lead to a disruption of the educational setting and will not permit immigration raids or other activities on campus that disturb the school setting.

The District is also committed to maintaining the confidentiality rights of students under the Family Educational Rights & Protection Act ("FERPA"). This law prohibits the release of student records without parental consent, including information which might indicate immigration status, unless mandated by law.

In accordance with the above:

- District personnel are prohibited from discriminating against students on the basis of actual or perceived immigration status or national origin.
- District staff may not ask students or their families about their immigration status, including requiring documentation of a student's legal status, such as asking for a green card, citizenship papers, or a social security number as a condition of enrollment or at any other time.
- District personnel may not make unreasonable inquiries from a student or his/her parents for the purpose of exposing the immigration status of the child or his/her family.
- If you receive a request for documents from ICE or any other immigration enforcement agency, please forward them to Legal Services for review.
- If ICE appears on your campus or facility, please refer them to school police. ICE agents should not be permitted on campus unless approved by School Police.

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke extending to the right.

Andra M. Greene
General Counsel

AMG:dmh