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[4j_announce] FAQ - Supporting Undocumented Students

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Sender : 4j announce-bounces <4j_announce-bounces@4j.lane.edu>

Subject : [4j_announce] FAQ - Supporting Undocumented Students

To : 4j announce
<4j_announce@4j.lane.edu>

January 2017

Dear 4J staff:

A number of district employees have asked questions related to the district's commitment to all serving and supporting students, including those who are living in the U.S. without legal permission.

We are writing to ensure all staff are aware of and are able to respond to common questions about support of students who are undocumented or come from families who are undocumented.

Please take a moment to review this email. If you have questions after reviewing it, please ask your supervisor or send an email to hr@4j.lane.edu with the subject line "FAQ - Undocumented students"

1. [Do undocumented students have a right to attend public schools?](#)
[Do schools have an obligation to educate undocumented students?](#)

Yes. Every public school in Oregon has a legal obligation to educate every child who has not completed the 12th grade and is between the ages of 5 and 19, and up to age 21 for students receiving special education services. This obligation does not

depend on whether the child is a legal resident of the United States. Specifically, the United States Supreme Court case of *Plyler v. Doe* makes it clear that children have a constitutional right to equal access to education regardless of their immigration status or that of their parents.

2. Should district staff collect or retain information on student immigration status, or that of students' parents?

No. The district does not collect information on the immigration status of students or parents. 4J employees may not ask about or document a student's immigration status or that of the student's family members.

3. May staff members disclose information about a student's immigration status?

To what extent are student records confidential?

No. Staff may not disclose the immigration status or other personal information about any student or his/her family, without prior parental consent or the authorization of the district to do so.

Eugene 4J staff are expected to follow district policies including Board Policy JO and JOB, as well as state and federal laws concerning student records. Students' educational records and the personally identifiable information in those records are strictly confidential. Such records may not be released to anyone by any employee without the prior consent of the parent (or eligible student) unless one of the narrow exceptions to that rule applies. Exceptions include staff within the district who have a legitimate educational interest, another school or district where the student is seeking to enroll, or a court order. Even when records have been subpoenaed, the district must follow a process prior to their disclosure.

Student records laws do not contain a blanket exception for law enforcement.

Therefore, employees may not provide records to law enforcement except where permitted by law. For example, if there is a health and safety emergency (which is narrowly defined), the school shall disclose personally identifiable information from a student record to law enforcement, child protective services, health care professionals and other appropriate parties if knowledge of the information is necessary to protect the health and safety of the student and others.

Employees may also disclose directory information to the extent that the district has designated certain information as directory information and a parent has not opted out of the disclosure of directory information. Please see Board Policy JO, JOA and JOB for more information about student records.

Requests for student records and sensitive or confidential information should be directed to the appropriate channels at the school. Any employee who is unsure should ask his or her supervisor.

4. May immigration officials access the school without a warrant?

No. Any member of the public may access the front office of a school or other public area such as an office lobby. However, no visitor may access the private areas of a school without the permission of the front office. If an immigration official requests access to a private area of a school, or to student information, the school shall inform the official that schools are required to contact the superintendent's office and that the superintendent's office will respond to such requests.

5. How should an administrator respond to a search warrant or court order?

An administrator presented with a court order or warrant by a law enforcement agent demanding access to confidential information or private spaces of a school, the administrator should request the agent's identification, badge number and phone number of supervisor (unless the agent is a School Resource Officer known to the administrator), and purpose of visit. The administrator is to then closely review the scope of the order or warrant, ask the agent to wait while the administrator obtains advice, and immediately contact the superintendent's office or district legal counsel for further advice.

If a school has reason to believe that a person is impersonating a law enforcement agent, the school should call the School Resource Officer or 911 immediately.

6. May school staff release a student to the custody of law enforcement?

A law enforcement officer or an official from DHS may not take a child from school without a court order, an arrest warrant, a protective custody order, or permission of the parent or guardian.

Under Oregon law, city police officers including SROs may not use agency funds, equipment or personnel for the purpose of detecting or apprehending persons whose only violation of law is that they are persons of foreign citizenship present in the United States in violation of federal immigration laws.

7. Are there any other staff obligations I should be aware of?

All children are entitled to public education regardless of their immigration status or that of their parents, and employees are expected to create safe, welcoming and equitable educational environments for all students. All employees must report suspected acts of bullying, harassment and discrimination against students to administrators. All employees must refrain from actions that discriminate against a 4J student on the basis of national origin, race, color, sexual orientation, gender identity, gender, and other protected status.

If you learn about a practice or policy that has an unintended discriminatory impact on the right of any child to a public education that you believe should be addressed, please communicate that to your supervisor.

Thank you for reviewing this email.

To reply to this message, please send your email directly to the sender. Replies to the 4J_announce email distribution list are automatically discarded.
