

Overview

Federal and California state laws require that educational personnel protect student records, student data, and any personally identifiable information from inadvertent or unlawful disclosure to third parties. Therefore, it is important that school personnel receive the proper training to understand the laws and responsibilities they are required to uphold within their institutions. Training is especially vital to handling immigrant student data and records.

Too many current and aspiring students from undocumented or immigrant families in California have serious concerns about providing their personal information to secondary and post-secondary institutions. This fear has directly affected enrollment and retention at educational institutions, as well as students' willingness to apply for admissions or other important services for which they are eligible. Consequently, schools have the dual responsibility of protecting student data and ensuring that students are aware of the protections afforded to them.

How to Use this Guide

This guide was created to help educators and administrators at California secondary and postsecondary institutions improve compliance with federal and state laws, as well as create a safer environment for all students, regardless of their immigration status. Important elements of the guide include:

- Specific recommendations for educators and administrators
- Model Policies by the CA Attorney General for secondary & postsecondary institutions
- Guidance from the CCC, CSU & UC about immigration enforcement activities
- Overview of Federal & State Laws & Educational Codes regarding the protection of student data

Five Ways for You and Your School To Protect Student Data

1. Familiarize yourself with the resources within this guide. Share them with your colleagues, administrators, and key departments such as admissions, financial aid, and the registrar.
2. Ensure that trained personnel have reviewed your campus' enrollment, residency, and data collection policies and practices to affirm that any data gathered shall remain confidential consistent with federal and state law, and shall be used only for the limited purpose for which it was intended.
3. Ensure that any data collection for educational purposes, including outreach, analysis of milestones, etc. adheres to FERPA, the Attorney General's model policies and recommendations, and any other applicable laws or policies.
4. Post your data/information policies regarding the handling of student data, including directory information, within the offices of key departments and on the school's website. Additionally, ensure that annual notice of these policies is emailed to current and prospective students.
5. Develop a protocol for responding to any requests for student documents by a federal immigration officer (such as an ICE or CBP agent) or another third party. Be sure to share these protocols across campus.

California Model Policies To Promote Safe and Secure Campuses for All

Model policies were created by the California Attorney General's Office to ensure safe and accessible school campuses for all California students, regardless of immigration status. This was mandated by the California state legislature ([AB 21](#) & [AB 699](#)). By March 1, 2019, these model policies were to be adopted and implemented at all California Community Colleges, California State Universities, and K-12 institutions. The legislature also requested that the University of California adopt and implement the model policies.

The Attorney General's Model Policies provide oversight in the following circumstances:

- Gathering and handling of student information
- Responding to law enforcement requests for:
 - Access to campuses and residential units for immigration enforcement purposes
 - Access to student records for immigration enforcement purposes
- Responding to immigration actions against students or family members

Find the Attorney General's Model Policies Here:

- Higher Education: [Promoting a Safe and Secure Campus for All: Guidance and Model Policies to Assist California's Colleges and Universities in Responding to Immigration Issues](#)
- K-12 Schools: [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](#)

Questions to Consider: Has your school already implemented these policies?

Guidance for Higher Education Institutions Regarding Enforcement Activities

Each system of public higher education institutions in California created a Frequently Asked Questions (FAQ) or Advisory to provide guidance on what to do if Immigration and Customs Enforcement (ICE) or Customs and Border Protection (CBP) come to campus.

- University of California: [Frequently Asked Questions for University Employees About Possible Federal Immigration Enforcement Actions on University Property](#)
- California State University: [FAQs for California State University Employees About Federal Immigration Enforcement Actions on University Property](#)
- Community Colleges of California: [Advisory 18-01: "Sanctuary" Jurisdiction Legislation Senate Bill 54 \(2017\) and Assembly Bill 21 \(2017\)](#)

Questions to Consider: Has your college or university ensured that all personnel are aware of these policies?

Important Federal and State Laws Regarding Student Data

Federal and state laws require specific steps be taken to prevent the disclosure of student data and student records. By familiarizing yourself with this content and taking definitive steps to ensure the laws are correctly implemented on your campus, significant protections for undocumented and immigrant students should be in place.

FEDERAL: Family Educational Rights and Privacy Act (FERPA)

20 U.S.C. § 1232g, 34 C.F.R. Part 99

FERPA is a federal law that prohibits schools from disclosing personally identifiable information in a student's "education records" to a third party without the consent of the student (or parent, if the student is under 18 years old). FERPA applies to all schools that receive federal education funds. However, if the third party presents a court order or judicial subpoena, schools may be required to release information, even without the consent of the student or parent.

Questions to Consider: Are all campus personnel aware of these protections? Is the information known to students?

20 U.S.C. § 1232g, 34 C.F.R. Part 99.37

FERPA states that an educational agency or institution may disclose directory information if it has given public notice to parents of students in attendance and eligible students in attendance at the agency or institution. Directory information is defined as information that would not generally be considered harmful or an invasion of privacy if disclosed. Examples of "directory information" could include name, address, telephone listing, and date of birth, plus other specific items the educational institution defines as directory information.

Questions to Consider: What information is classified as "directory information" at your school? Do students know they can opt out of having their "directory information" shared?

20 U.S.C. § 1232g, 34 C.F.R. Part 99.31

FERPA states that an educational agency or institution may disclose personally identifiable information from an education record of a student without the consent required if the disclosure is to other school officials, including teachers, within the agency or institution whom the agency or institution has determined to have legitimate educational interests. This is also known as the School Official Exception. However, an educational agency or institution must use reasonable methods to ensure that school officials obtain access only to those educational records in which they have legitimate educational interests. [emphasis added]

Questions to Consider: Have the student service professionals involved in these efforts received extensive training prior to receiving access to any data? Are all files password protected and the passwords regularly changed?

STATE: SB 54 (The California Values Act)

SB 54 is a California law that declares that immigrants are valuable and essential members of the California community. This law's primary elements include, but are not limited to:

- Disentangling state and local law enforcement agencies, school police, and security departments from federal immigration authorities.
- Prohibiting the use of CA resources and personnel to investigate, interrogate, detain, detect, or arrest persons for immigration enforcement purposes.
- Prohibiting law enforcement from inquiring into an individual's immigration status.
- Requiring the CA Attorney General, in consultation with the appropriate stakeholders, to publish model policies limiting assistance with immigration enforcement.

Questions to Consider: Is your campus security or police aware of and effectively implementing SB 54?

STATE: AB 21 Public Postsecondary Education: the Access to Higher Education for Every Student Bill

AB 21 REQUIRES Cal State University (CSU) campuses, Community Colleges of California (CCC), and independent institutions of higher learning—and requests the University of California (UC) campuses—to adopt and implement the following by March 1, 2019:

- Refrain from disclosing personal information, including the immigration status of students, faculty, and staff, unless permitted by state or federal education privacy law.
- Designate a staff person to serve as a point of contact for any student, faculty, or staff person subject to an immigration order or inquiry on campus.
- Immediately notify the institution's chancellor or president if the school or institution suspects or becomes aware that an immigration agent is expected to, will enter, or has entered the campus.
- Refer all presented documents by immigration to the office of the chancellor or president for purposes of verifying their validity.
- Comply with a request by ICE to enter nonpublic areas only if a judicial warrant is presented.

- Immediately notify the emergency contact of the student, faculty, or staff if that person is taken into immigration custody.
- Maintain resources for students, faculty, and staff, including a list of free legal service providers.
- Adopt and implement, by March 1, 2019, the Attorney General's model policy developed pursuant to SB 54 or equivalent policy (see below), AND post this policy on the school website and email policy to students, faculty, and staff each quarter/semester.
- Make all reasonable and good faith efforts to assist in the retention and reacquisition of campus services, including reenrollment, for undocumented students who are experiencing detention, deportation proceedings, or enforcement actions in relation to a federal immigration order.

Questions to Consider: Do you have a designated staff person to deal with immigration orders or inquiries on your campus? Do you have a protocol regarding the arrival of immigration enforcement officials?

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ABOUT US

Founded in 2006, **Immigrants Rising** transforms individuals and fuels broader changes. With resources and support, undocumented young people are able to get an education, pursue careers, and build a brighter future for themselves and their community. For more information, visit immigrantsrising.org. For inquiries regarding this resource, please contact Nancy Jodaitis, Director of Higher Education, at nancy@immigrantsrising.org.