Immigrant and Undocumented Students

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General Topic Areas

- General Overview of Immigrant Students in California
- Rights of Students and Parents
  - Federal & State Law
- Hot Topic Laws
  - Sanctuary Jurisdictions/Safe Haven School Districts
  - AB 699 – Immigration and Citizenship Status
  - DACA
- Special Considerations for Schools
  - Student Records
  - Special Education
  - Access to Higher Education
Immigrant Students in California

- What does the word “immigrant” mean to you?
Overview of Immigrant Students in California

How do we define “immigrant students”? 
Immigrant Students in California

Why does it matter to know who our immigrant students are?
Immigrant Students in California

Where do immigrant students come from?

2018-19 School Year

- Mexico
- El Salvador
- China
- Guatemala
- India

Top Five Countries of Origin
Immigrant Students in California

Who are our immigrant students?
- Documented Immigrant Students
- Undocumented Immigrant Students
- Mixed-Status Families
- Unaccompanied Minors
- English Language Learners
- Migrant Students
Immigrant Students in California

- Who are our immigrant students?
  - Documented Immigrant Students

![Immigrant Document]
![TPS]
![DACA]

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Immigrant Students in California

- Who are our immigrant students?
  - Undocumented Immigrant Students
Immigrant Students in California

- Who are our immigrant students?
  - Mixed-Status Families

- How can LEAs support these students?
Immigrant Students in California

- Who are our immigrant students?
  - Unaccompanied Minors
Immigrant Students in California

- Who are our immigrant students?
  - English Language Learners
    - Issues may intersect
Immigrant Students in California

Languages

- Spanish
- Vietnamese
- Mandarin
- Arabic
- Filipino

English Language Learners
Immigrant Students in California

Who are our immigrant students?
- Migrant Students
Immigrant Students in California

Where are immigrant students attending school?

2018-19 School Year

Top Five Receiving School Districts

- LAUSD
- Irvine USD
- San Diego USD
- Oakland USD
- San Juan USD
Federal Law

- The U.S. Supreme Court has held that no state may deny access to a basic public education to any child residing within the state, whether residing in the U.S. legally or not. *Plyler v. Doe* (1982) 457 U.S. 202.)
California Law

- Compulsory Education
- Protections against discrimination, harassment, intimidation, and bullying based on immigration status
- Right to participation
Hypothetical

As you walk by in a school yard, you overhear John tell David, “You better practice your high jump once Trump builds the wall.”

How would you respond?

What if you receive multiple reports from students about John making comments about the students becoming “orphans once ICE takes your parents away”?
What is a “Sanctuary” Jurisdiction?
SB 54 – California Values Act

- Makes California a sanctuary state
- Prohibits investigation, detention or arrest for immigration enforcement purposes
Safe Haven School Districts Follow Sanctuary Cities Example
“Safe Haven” School Districts
Hypothetical

Jane, the Washington Elementary office manager, receives enrollment forms from a parent who does not speak English. Jane suspects that the parent is undocumented and demands that the parent submit proof of legal status.

You are Jane’s supervisor – what do you do in this situation?
AB 699 – Educational Equity

- Passed in CA Legislature October 2017
- Codifies “immigration status” and “citizenship” as protected
- LEAs cannot collect information or documents regarding citizenship or immigration status
AB 699 – Other Mandates

- Report to board law enforcement requests for immigration information
- Encourage LEAs to ask parents to update emergency cards
- Requires school boards to provide info on right to free public education regardless of immigration status or religious beliefs
- Inform parents of the “Know Your Rights” immigration enforcement guidelines
- Requires school boards to educate students on negative impact of bullying for immigration or religion
AB 699 – Educational Equity

- Model policies on immigration required by July 1, 2018
- Check to ensure district has complied


Hypothetical

Someone made a comment on a school’s Facebook page that ICE has been staking out families about a block away. Shortly thereafter, the District has noticed a number of students have not showed up for school.

- Do you respond?
- If so, what would you do?
ICE Sensitive Locations Memorandum
Sensitive Locations Memorandum

What Law Enforcement Actions Are Covered?

- Arrests
- Interviews
- Searches
- Surveillance (for purposes of immigration)
Sensitive Locations Memorandum

What actions are not covered?

- Obtaining records, documents (with lawful subpoenas)
- Serving subpoenas
- Certification of Student Exchange Visitor Program
- Official functions or community meetings
Sensitive Locations
Memorandum

Other Exceptions – Exigent Circumstances

- National security or terrorism
- Imminent risk of death, violence, or physical harm
- Immediate arrest or pursuit presents imminent danger
- Imminent risk of destruction of evidence in criminal case
But What If ICE Comes To School Anyway?

- Notify Superintendent
- Follow visitor guidelines and policies
- Request info from ICE agent
- Notify parents of interviews
- Make counselors available to students
- Create incident report
Can Noncooperation Result in Loss of Federal Funding?
Student Records

Collection of Information
Enrollment

What can you ask for as far as Enrollment?

- Can ask for place/country of birth, U.S. Entry Date, date first attended school, etc., if the purpose is to collect data for federal funding.
- BUT – cannot use this information for enrollment purposes or to discriminate.

**tip** Ask these questions separately so as to not deter families from enrolling students.
FERPA

What is FERPA?
FERPA

Are student records disclosable?
What About ICE/DHS Requests for Student Records?
What About ICE/DHS Requests for Student Records?

Exceptions to the non-release of student records?
What About ICE/DHS Requests for Student Records?

- When do schools have to produce records?
  - Warrant
  - Court order
  - Subpoena
What About ICE/DHS Requests for Directory Information?
Special Education Issues

- School districts must provide EL students with disabilities with both the language assistance and disability-related services to which they are entitled under Federal law.
Special Education Issues

- Child Find
Special Education Issues

- Assessment
  - Assessment Plans – what is the parent’s native language?
  - Special Considerations for EL Students
Special Education Issues

- Individualized Education Programs
  - Meaningful participation
Special Education Issues

- Your all-star IEP team completed an initial assessment of a student who recently immigrated and is preparing to convene an IEP team meeting to review the results. The student’s parents speak Romanian.
  - Are you obligated to translate the assessment plan? Assessment reports? IEP?
Special Education Issues

- Common issues that Districts face regarding EL students with disabilities:
  - English language services;
  - Native language of student and parent;
  - Staff qualifications; and/or
  - Failure to provide interpreters or translated documents
Tuition Equity Laws - AB 540 and AB 2000

- What is AB 540?
Tuition Equity Law - AB 540 and AB 2000

How do you assist students seeking help about tuition?

- If eligible, fill out Affidavit.
- If not eligible, private grants and scholarships.

- USCIS – If an application is pending, can qualify for resident fee status and get financial aid. BUT – be careful if undocumented, as taking public funds could be grounds for deportation.
California DREAM Act 2011

- What is the California Dream Act?
- NOT associated with DACA

- [https://dream.csac.ca.gov/](https://dream.csac.ca.gov/)
Access to Colleges

- California protects undocumented students and encourages application.
- States that prohibit in-state tuition rates for undocumented students?
- States that prohibit enrollment of undocumented students?
Key Points

- Existing law, prior to the 2016 election, requires school districts to educate students regardless of legal status.
- District should continue to use the same protocols as it would in any situation for PRA, FERPA, or subpoena requests.
- Districts should update their policies to reflect AB 699 requirements.
Resources For Families

- Immigrant Legal Resource Center - [https://www.ilrc.org/](https://www.ilrc.org/)
- American Civil Liberties Union - [https://www.aclu.org/issues/immigrants-rights](https://www.aclu.org/issues/immigrants-rights)
- Californians Together - [https://www.californianstogether.org/](https://www.californianstogether.org/)
- La Raza Central Legal - [http://www.lrcl.org/](http://www.lrcl.org/)
- Central Legal De La Raza - [https://www.centrolegal.org/](https://www.centrolegal.org/)
- Southern California Immigration Project - [https://www.socalimmigrationproject.org/](https://www.socalimmigrationproject.org/)
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