



# SACRAMENTO CITY UNIFIED SCHOOL DISTRICT BOARD OF EDUCATION

Agenda Item 7.2

**Meeting Date:** January 18, 2018

**Subject:** Approve Resolution No. 2980: Expanding Safe Haven Efforts

- Information Item Only
- Approval on Consent Agenda
- Conference (for discussion only)
- Conference/First Reading (Action Anticipated: \_\_\_\_\_)
- Conference/Action
- Action
- Public Hearing

**Division:** Board Office

**Recommendation:** Approve Resolution No. 2980: Expanding Safe Haven Efforts.

**Background/Rationale:** The SCUSD Board of Education passed a resolution in December 2016 declaring the District a Safe Haven, which launched a number of related efforts. The District will now focus on key policy areas that strengthen the original Safe Haven work and expand it to other topic areas and students. The approval of the attached resolution outlines the Safe Haven policy direction over the next six months, and acts as a call to action for community leaders, local advocacy groups, and partners to become engaged in the policy development process. This agenda item includes the initial drafting of a Board Policy focused on immigration enforcement activities as a starting point for the overall effort outlined in the resolution. The attached draft is based on sample policy language offered by the American Civil Liberties Union.

**Financial Considerations:** None.

**LCAP Goal(s):** Family and Community Empowerment

**Documents Attached:**

1. Resolution No. 2980: Expanding Safe Haven Efforts
2. Initially drafted Board Policy: Immigration Enforcement Activities

**Estimated Time of Presentation:** 10 minutes

**Submitted by:** Nathaniel Browning, Policy and Governance  
Manager for the Board of Education

**Approved by:** Jorge A. Aguilar, Superintendent

**SACRAMENTO CITY UNIFIED SCHOOL DISTRICT  
BOARD OF EDUCATION**

**RESOLUTION NO. 2980**

**EXPANDING SAFE HAVEN EFFORTS**

**WHEREAS**, on December 8, 2016 the SCUSD Board of Education declared Sacramento City Unified School District a Safe Haven by unanimously approving Resolution No. 2915: Recognition of A Safe Haven School District;

**WHEREAS**, the focus of the resolution is to safeguard students and families from the climate of fear and intolerance that ensued following the 2016 National election;

**WHEREAS**, the Board of Education launched a districtwide campaign in which materials and workshops were shared and promoted to empower students, educators and families with information on their legal rights and direct them to resources;

**WHEREAS**, policies and protocols were reviewed, updated and developed that further secured any personally identifiable information of any student, family member, or school employee who may be adversely effected by any current or future national policies or executive actions;

**WHEREAS**, events and displays focused on tolerance and inclusivity will continue across the District;

**WHEREAS**, Sacramento City Unified School District has been widely recognized by State Superintendent of Public Instruction Tom Torlakson and others across the state as a Safe Haven model because of these efforts;

**WHEREAS**, the District and its partners remain unequivocally committed to offering increased Safe Haven protections that ensure all students, families, and staff members—irrespective of their immigration status, ethnicity, race, religion, sexual orientation, ability, sex and gender identity and preference, socio-economic status or beliefs—an educational environment free from fear;

**WHEREAS**, the District and its partners, in today's uncertain national climate, recognize the need for a continued focus on creating a Safe Haven for students, families, and staff by developing additional policies related to further outlining the restrictions on immigration enforcement activities, and increasing protections and immigration-related sponsorship [Office1] opportunities for current and future district staff;

**WHEREAS**, the District also seeks to encompass a broader set of Safe Haven protections to include [Office2] a greater number of students' civil rights by undertaking future policy work around student contact with law enforcement on campus, and student questioning and apprehension;

**WHEREAS**, the District has already undertaken significant efforts around the restriction of federal enforcement of immigration on campus with the passage of the December 2016 Safe Haven Resolution, protocols developed in partnership with the Sacramento City Teachers Association, and the initial drafting of a Board Policy based on sample policy language offered by the American Civil Liberties Union; and

**WHEREAS**, The Sacramento City Unified School Board recognizes the expertise and importance of engaging community advocacy groups and partners to develop robust localized policies that best benefit our students, families and staff.

**NOW, THEREFORE, BE IT RESOLVED**, the Sacramento City Unified School District, in collaboration with community groups and partners, will focus on the aforementioned policy areas between now and the end of June 2018 in order to strengthen and grow Safe Haven projections for students, families and staff;

**RESOLVED FURTHER**, the Sacramento City Unified School Board calls upon community leaders, local advocacy groups, and partners to engage in monthly policy development dialog around the district's Safe Haven efforts in order to develop thoughtful and impactful policies that will build upon the Safe Haven work previously completed; and

**BE IT FINALLY RESOLVED**, that the Policy Committee of the Sacramento City Unified School Board will host monthly meetings were advocacy groups and partners are invited to help steer the direction of future Safe Haven policy within the district.

**PASSED AND ADOPTED**, by the Sacramento City Unified School Board of Education on this 18<sup>th</sup> day of January, 2018, by the following vote:

A YES: \_\_\_\_

NOES: \_\_\_\_

ABSTAIN: \_\_\_\_

ABSENT: \_\_\_\_

ATTESTED TO:

\_\_\_\_\_  
Jessie Ryan  
President of the Board of Education

\_\_\_\_\_  
Mai Vang  
Chair, Policy and Governance Committee

\_\_\_\_\_  
Jorge A. Aguilar  
Secretary of the Board of Education

**BP####**

## **Immigration Enforcement Activities**

Immigration enforcement activities in and around schools create hardships and barriers to health and educational attainment for immigrant students, and establish a pervasive climate of fear, conflict, and stress that affects all District students, regardless of their background or immigration status.<sup>1</sup> The federal government has recognized the human cost associated with immigration enforcement on campus and declared that schools are “sensitive locations” at which immigration enforcement activity should not occur. Accordingly, federal immigration enforcement activities in and around District property<sup>2</sup> would be a severe disruption to the learning environment and educational setting for students.

The District is committed to providing a safe, welcoming, and inclusive learning environment for immigrant students and their families. The District is also committed to protecting the rights of immigrant students and their families through policies that prohibit information-sharing with local law enforcement and federal immigration authorities<sup>3</sup> to the fullest extent possible under the law.

The District shall not adopt or implement policies, practices, or procedures that exclude students from school based on their or their parents’ or guardians’ actual or perceived immigration status. Furthermore, District personnel shall treat all students equitably in the receipt of all school services, including, but not limited to, the free and reduced meal program, transportation, and educational instruction.

The specific provisions of this policy, which limit the District’s participation in immigration enforcement to the maximum extent permitted by law, are necessary to fulfill the District’s obligation to provide all students, regardless of their immigration status, equal access to education.

## **Prohibition Against Immigration Enforcement Activities by District or On-Campus**

Involving the enforcement of Federal civil immigration law establishes a climate of fear, conflict, and stress, and it 1) creates the perception that staff and School Resource Officers (SRO) are exercising federal immigration enforcement authority; 2) decreases the likelihood that students will cooperate with staff SROs, and officials based on fears that this could lead to their deportation or the deportation of family members; and 3) conflicts with the District’s constitutional obligation to provide equal educational opportunities to students regardless of their immigration status.

The District shall not enter into agreements with state or local law enforcement agencies, or any federal agency, to conduct or support immigration enforcement activities.

Local law enforcement partners shall acknowledge, through a signed Memorandum of Understanding (MOU), that they will not enforce federal immigration law, as outlined by the City of Sacramento’s

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<sup>1</sup> “Citizenship or immigration status” refers to all matters regarding citizenship, the authority to reside in or otherwise be present in the United States, the time or manner of a person’s entry into the United States, or any other civil immigration matter enforced by the Department of Homeland Security (“DHS”) or other federal agency charged with the enforcement of civil immigration law.

<sup>2</sup> District property includes, but is not limited to, all school sites, early education centers, adult school facilities, school buses, and District administrative offices.

<sup>3</sup> “Federal immigration authorities” means any officer, employee, or person otherwise paid by or acting as an agent of United States Immigration and Customs Enforcement (“ICE”) or any division thereof, or any other officer, employee, or person otherwise paid by or acting as an agent of the United States Department of Homeland Security (“DHS”) who is charged with the enforcement of civil immigration law.

Sanctuary City Resolution and the State of California's Sanctuary status as outlined by Senate Bill 54 (De León), and declare that they will not participate in immigration enforcement efforts with federal authorities. This means that law enforcement officers stationed at District schools shall not: hold individuals in custody on ICE detainers,<sup>4</sup> respond to ICE notification or transfer requests,<sup>5</sup> make arrests based on civil immigration warrants,<sup>6</sup> or allow ICE to use campus facilities for immigration enforcement purposes.

In accordance with these principles and general District policies restricting visitor access to school sites for school-related purposes only, the District shall deny requests by federal immigration authorities for access to a school site or to interview a student, unless authorities provide a lawfully signed warrant or exigent circumstances apply as outlined in law. Given the particular threat immigration enforcement poses to the learning environment, these requests shall be immediately forwarded to the Superintendent or designee as outlined by administrative regulations for review and a decision on whether to reverse the denial and allow access to the site or the student, and/or a decision on whether such access will conflict with District compliance with the legal principles articulated in *Plyler v. Doe* and other applicable laws.

(*cf. BP 5145.11 Questioning and Apprehension*)

This policy requires staff to develop Administrative Regulations that contain the following elements:

1. A protocol for a principal or designee to follow if federal immigration authorities request access to a school site or to interview a student by directly going to that school site.
2. A protocol for providing the federal immigration enforcement officer a private waiting room while credentials and other information is verified.
3. A protocol for the superintendent or designee to follow in reviewing the viability of the federal immigration authorities request for access. That protocol should include:
  - a. A process for confirming the agents' credentials and written authorization, signed warrant and other documentation instructing the agent to enter District property.
4. A protocol outlining next steps if a federal immigration enforcement agents satisfy the criteria for entering onto District property.
5. A protocol for the Superintendent or designee to monitor the agents' investigation. Such oversight includes prohibiting access to information, records, and areas beyond that specified in the warrant.
6. A protocol for interviewing students in a private location out of sight and hearing of other students, where parents, guardians and the principal or other are also able to attend the interview. The private interview will help avoid invading the student's privacy, jeopardizing the safety and welfare of other students, and further disruption of the school campus.

When federal immigration enforcement agents request access to a school site or to interview a student, the Superintendent and/or General Counsel shall ask for the agents' credentials, ask why the agents are requesting access, and ask to see a warrant signed by a federal or state judge. Federal immigration enforcement agents must provide to the Superintendent and/or General Counsel written authorization from ICE instructing them to enter District property, including the purpose of such entry, as well as a warrant signed by a federal or state judge which specifies the name of the person under arrest or area to be searched.

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<sup>4</sup> "Detainer" or "hold request" means a federal ICE request that a local law enforcement agency maintain custody of an individual currently in its custody beyond the time he or she would otherwise be eligible for release in order to facilitate transfer to ICE and includes, but is not limited to, DHS Form I-247D.

<sup>5</sup> "Notification request" means an ICE request that a local law enforcement agency inform ICE of the release date and time in advance of the public of an individual in its custody and includes, but is not limited to, DHS Form I-247N. "Transfer request" means an ICE request that a local law enforcement agency facilitate the transfer of an individual in its custody to ICE, and includes, but is not limited to, DHS Form I-247X.

<sup>6</sup> "Civil immigration warrant," also known as an administrative removal warrant, means any warrant for arrest for a violation of federal civil immigration law, and includes civil immigration warrants entered in the National Crime Information Center database.

If the federal immigration enforcement agents are not able to provide such written authority and warrant, the Superintendent and/or General Counsel shall prohibit their access to District property.

If the federal immigration enforcement agents satisfy the above criteria, the school site principal or his/her designee shall oversee the agents' investigation. Such oversight includes prohibiting access to information, records, and areas beyond that specified in the warrant. For student interviews, a private location out of sight and hearing of other students should be arranged, where practicable, that will help avoid invading the student's privacy, jeopardizing the safety and welfare of other students, and further disruption of the school campus. Any questioning of, or interaction with, students is impermissible, unless exigent circumstances apply. Subsequent Administrative Regulations will outline protocols around such exigent circumstances. ~~The principal or designee shall discourage federal immigration enforcement agents from interviewing or escorting students through school hallways in view of students. The District expects that federal immigration enforcement agents will provide the principal or designee the opportunity to be present during any interview of a student.~~

The district shall refuse all informal requests by federal immigration authorities for voluntary access to student records, including requests to access student directory information and information that may be disclosed to law enforcement under the Family Education Rights and Privacy Act ("FERPA"), across all aspects of the District and to the fullest extent possible under the law.<sup>7</sup> If presented with an ICE Administrative Subpoena<sup>8</sup> for records, the District shall forward the subpoena to the Superintendent or designee, who will in turn inform the federal immigration authorities of the District's general policy against sharing student records. In the event the federal immigration authorities seek to enforce the subpoena in court, the District will oppose that motion and may appeal a court order enforcing the subpoena. The District will comply with any final court order enforcing an Administrative Subpoena issued to federal immigration authorities.

When required by judicial warrant<sup>9</sup> or other court order to provide federal immigration authorities' access to a student's records, the school site principal or designee shall comply with corresponding Administrative Regulations on this matter. The accompanying Administrative Regulations will include all sample legal documents identified within this document for staff reference and identification purposes.

*(cf. BP/AR 5125: Student Records)*

Absent a judicial warrant or other court order, federal immigration enforcement agents will not be permitted access to the school site, students, or student records. The District and its staff, faculty, employees, and campus police will not honor any ICE detainers or requests to obtain custody of a student.

Federal immigration authorities may take custody of a student only if they present a judicial warrant or court order that satisfies the criteria described in the above section.

In the event a student's parent or guardian has been arrested by federal immigration authorities, the District shall use the student's emergency card contact information and release the student to the person(s) designated as emergency contacts by the student's guardian. Alternatively, the District will release the student into the custody of any individual who presents a Caregiver's Authorization Affidavit<sup>10</sup> on behalf of the child. In the event there is no emergency contact listed or the emergency contact(s) are not able to take custody of the child, and no person with a Caregiver's Authorization Affidavit presents themselves on behalf

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<sup>7</sup> FERPA authorizes, but does not require, the District's voluntary disclosure of student directory information. The District will refuse any informal request for voluntary disclosure of student directory information.

<sup>8</sup> "ICE Administrative Subpoena" is a subpoena to require the testimony of witnesses or production of records.

<sup>9</sup> "Judicial warrant" means a warrant based on probable cause and issued by a state federal judge or a federal magistrate judge that authorizes federal immigration authorities to take into custody the person who is the subject of the warrant.

<sup>10</sup> Use of the Caregiver's Authorization Affidavit is authorized by Part 1.5 (commencing with Section 6550) of Division 11 of the California Family Code.

the child, the District will release the student to County Child Protective Services or local law enforcement whose jurisdiction possesses a Safe Haven or comparable policy.

## Student Information Privacy

District staff shall not require information that relates to students' or their families' immigration status, including, passport, a birth certificate, or other citizenship-related documents. District shall not request social security information. District personnel shall not inquire into a student's or a family member's immigration status.

District personnel who learn of information related to a student's or their family member's actual or perceived immigration status must keep that information confidential and therefore shall not record or distribute that information. District staff shall not initiate communication with federal immigration authorities or local, state, or federal law enforcement regarding a student's or their family member's personal information.

*(cf. BP 4119.23, 4219.23, 4319.23: Unauthorized Release of Confidential/Privileged Information)*  
*(cf. BP/AR 5125: Student Records)*  
*(cf. BP/AR 5125.1: Release of Directory Information)*

Pursuant to the Family Education Rights and Privacy Act ("FERPA"), District personnel shall not disclose to federal immigration authorities personally identifying information found in a student's education records without parental consent authorizing, or a judicial order mandating, the disclosure. Prohibited information-sharing under this policy includes, but is not limited to, disclosing information in a student's cumulative file relating to the student or their family member's immigration status.

District personnel shall follow this policy and not disclose, without parental consent, a student's immigration status, country of birth, or other personally identifiable information.<sup>11</sup>

*(cf. BP/AR 5125- Student Records)*  
*(cf. BP/AR 5116.1- Intradistrict Open Enrollment)*  
*(cf. BP 5117- Interdistrict Attendance)*  
*(cf. AR 5118- Transfers)*

~~District staff shall not initiate communication with federal immigration authorities or local, state, or federal law enforcement regarding a student's or their family member's personal information.~~ Categories of sensitive information about a student or family member that shall not be shared include:

1. Gender identity; Sexual orientation;
2. Status as a survivor of domestic violence;
3. Survivor of sexual assault;
4. Crime witness;
5. Recipient of public assistance;
6. Actual or perceived immigration or citizenship status;
7. National origin;
8. School discipline record; and
9. All information included in an individual's or household's income tax records.

Absent a judicial warrant or other court order, federal immigration authorities will not be permitted access to

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<sup>11</sup> FERPA authorizes, but does not require, the District's voluntary disclosure of student directory information. The District will therefore refuse any informal request for voluntary disclosure of student directory information.

student records. Any formal requests for information from federal immigration authorities shall be forwarded to the District Superintendent or designee for review. Consistent with the standards set forth in the paragraphs above, the District shall forward any judicial warrant, ICE Administrative Subpoena, or other subpoena for student records to the District's General Counsel for review, and shall not respond to any immigration related subpoena for records absent a court order enforcing the subpoena.

District shall not employ officers from, or enter into agreements for security services with, external law enforcement agencies that have agreements, policies, or procedures that promote or facilitate information sharing with federal immigration authorities, inconsistent with our own.

District recognizes that policies and procedures authorizing information sharing between law enforcement agencies and federal immigration authorities are not necessarily formal agreements. Information sharing can occur through unofficial agreements, policies, and practices, or unintentionally on shared databases. Accordingly, to prevent disclosure of student information, District will review the information-sharing agreements, policies, and procedures of every local law enforcement agency with which District intends to enter into a formal agreement for security or other services. If District is currently under an agreement with a local law enforcement agency for security services, District will review the local law enforcement agency's information sharing policies, procedures, and agreements for provisions that promote or facilitate information sharing with federal immigration authorities to ensure compliance with this policy, ~~to the greatest extent possible.~~

### **Procedures for Identifying and Reviewing Information Sharing Agreements**

To determine whether a local law enforcement agency has a problematic information sharing agreement or practice, the District shall consider the following:

- Whether the local law enforcement agency shares information on shared databases; and
- To what extent ~~Whether whether~~ the local law enforcement agency communicates with Immigration and Custom Enforcement (ICE), ~~and to what extent.~~

If the District employs officers from, or has security agreements with, a law enforcement agency that shares information with any federal immigration authorities, the District shall determine whether the operative agreements with the local law enforcement agency adequately protects students' personal information to the same degree as this policy. The District must immediately amend or render inoperative agreements, terms, and clauses that fail to ensure compliance with this policy.

### **Parental Notification**

If any federal immigration authority requests or gains access to a student or their records held by the school or District, Superintendent or designee must immediately notify the student's parent or guardian that the federal immigration authority sought access to the student, unless the court order or subpoena relates to a federal jury investigation or law enforcement purpose or relates to domestic or international terrorism (34 CFR § 99.31(a)(9)(ii); Ed Code §49077).

### **Data Tracking**

The following Administrative Regulation shall outline how the District shall track and monitor each instance, if any, of federal immigration authority request to access a school site, student records, or student; each instance when any federal immigration authority interviews a student on school grounds; and each instance when any federal immigration authority detains a student on school grounds.

The school principal or designee shall also notify the Superintendent and enter a written Incident Report the same day to detail any immigration enforcement activity involving a District student as outlined in

Administrative Regulations.

**Training and Distribution of Policy**

The Superintendent shall develop a plan for training teachers, administrators and other staff on how to respond to federal immigration authorities who request information about students and families and/or attempt to enter school property. The training plan shall be outlined in the Administrative Regulations. The Superintendent shall create versions of this policy and accompanying Administrative Regulation in the District’s Top five threshold languages and distribute it to all District families.

Policy SACRAMENTO CITY UNIFIED SCHOOL DISTRICT  
adopted: \_\_\_\_\_ Sacramento, California

DRAFT