

Santa Clara County  Office of Education

**RESOLUTION
AFFIRMING SUPPORT OF STUDENTS AND FAMILIES
REGARDING IMMIGRATION ENFORCEMENT ACTIONS AT SCHOOLS**

**SANTA CLARA COUNTY BOARD OF EDUCATION
RESOLUTION No. 2197-3**

WHEREAS, the Declaration of Independence of the United States of America recognizes every individual's right to life, liberty, and the pursuit of happiness; and

WHEREAS, public schools in California are subject to all federal and state laws and constitutional protections prohibiting discrimination on the basis of national origin, race, color, gender, sexual orientation, gender identity, transgender status, religion, ancestry, age, marital status, pregnancy status, veteran status, or disability; and

WHEREAS, the United States Supreme Court in 1982 ruled in *Plyler v. Doe* that public schools were prohibited from denying immigrant students access to elementary and secondary public education, and that undocumented children are entitled to equal access to a public elementary and secondary education, regardless of their or their parents' actual or perceived national origin, citizenship, or immigration status; and

WHEREAS, a letter from the U.S. Department of Justice and U.S. Department of Education dated May 8, 2014 reaffirms that all school districts must "comply with these Federal civil rights laws, as well as the mandates of the Supreme Court" ensuring that districts "do not discriminate on the basis of race, color, or national origin, and that students are not barred from enrolling in public schools at the elementary and secondary level on the basis of their own citizenship or immigration status or that of their parents or guardians. Moreover, districts may not request information with the purpose or result of denying access to public schools on the basis of race, color, or national origin"; and

WHEREAS, Director of Homeland Security (DHS) policy number 10029.2 entitled "Enforcement Actions at or Focused on Sensitive Locations" requires that Immigration and Customs Enforcement (ICE) "officers and agents exercise sound judgment when enforcing federal law at or focused on sensitive locations and make substantial efforts to avoid unnecessarily alarming local communities," states that "the sensitive locations covered by this policy include but are not limited to, schools," and provides that "[a]ny planned enforcement action at or focused on a sensitive location covered by this policy must have prior approval of one of the following officials: the Assistant Director of Operations, Homeland Security Investigations (HSI); the Executive Associate Director (EAD) of HSI; the Assistant Director for Field Operations, Enforcement and Removal Operations (ERO); or the EAD of ERO," unless:

- The enforcement action involves a national security or terrorism matter;
- There is an imminent risk of death, violence, or physical harm to any person or property;
- The enforcement action involves the immediate arrest or pursuit of a dangerous felon, terrorist suspect, or any other individual(s) that present an imminent danger to public safety; or
- There is an imminent risk of destruction of evidence material to an ongoing criminal case; and

WHEREAS, the Santa Clara County Board of Education concurs with the U.S. Department of Homeland Security's conclusion that schools are sensitive locations and that enforcement actions at schools should take place only in circumstances involving imminent dangers to public safety; and

WHEREAS, under the California Constitution, “[a]ll students and staff of public primary, elementary, junior high and senior high schools have the inalienable right to attend campuses that are safe, secure, and peaceful”; and

WHEREAS, it is the general policy of the Santa Clara County Board of Education not to allow any individual or organization to enter a school or program site if the safe, secure, and peaceful educational environment would be disrupted by that visit; and

WHEREAS, the safe, secure, and peaceful educational environment would be disrupted by the presence of federal officers or agents who access Santa Clara County Office of Education property or transportation routes for the purposes of enforcing federal immigration laws against students or their families; and

WHEREAS, it is not the mission, purpose, or role of the Santa Clara County Office of Education to determine the citizenship or immigration status of any of its students or families, nor to enforce federal immigration laws, and involving Santa Clara County Office of Education personnel in enforcing federal immigration laws may decrease students’ likelihood of feeling safe interacting with Santa Clara County Office of Education personnel; and

WHEREAS, students’ ability to achieve is negatively impacted by the removal or deportation of their family members, particularly when such actions leave students without adult family members to care for them; and

WHEREAS, the Family Educational Rights and Privacy Act (FERPA) generally prohibits school districts from disclosing personally identifiable information in a student’s “education records” to third parties, including ICE, without written parental consent; and

WHEREAS, on November 8, 2016, California voters passed Proposition 58, which recognizes the value and importance of students graduating from our schools proficient in both English and one or more other languages, and a diverse student population greatly helps in accomplishing this goal;

NOW, THEREFORE, BE IT RESOLVED, by the Santa Clara County Board of Education, that the board reaffirms its commitment to the success of all students and to promoting and elevating tolerance, inclusiveness and kindness of all students, families, and staff;

BE IT FURTHER RESOLVED, that Santa Clara County Office of Education personnel are encouraged to work with and support students and families who express concern about immigration enforcement actions at school, including students who may not be attending school because of such concerns;

BE IT FURTHER RESOLVED, that if any students or families have questions about their immigration status, Santa Clara County Office of Education personnel shall refer those families to community-based legal services organizations that provide resources for immigrant families;

BE IT FURTHER RESOLVED, that Santa Clara County Office of Education personnel shall not treat students differently on the basis of undocumented status, including for district residency purposes, and shall review the list of documents that are currently used to establish residency to ensure that any required documents would not unlawfully bar or discourage a student who is undocumented or whose parents are undocumented from enrolling in or attending school;

BE IT FURTHER RESOLVED, that Santa Clara County Office of Education personnel shall treat all students equitably in the receipt of all school services, including, but not limited to, free and reduced breakfast or lunch, transportation, extracurricular activities, athletics, awards, institutional scholarships, and educational instruction, even if they or their families are undocumented or do not have social security numbers, so as to not “chill” the equal rights of all students to public education under Plyler; and

BE IT FURTHER RESOLVED, that the Santa Clara County Board of Education reaffirms the authority of the Superintendent to protect the data and identities of students, their families, and personnel to the fullest extent provided by the law. Santa Clara County Office of Education personnel shall not, unless compelled by a judicial order or lawfully issued subpoena accompanied by any required parental notification, or subsequent to receiving a signed release, disclose any information about a student's or family's immigration status, or any information about a student that is protected by FERPA, to an ICE officer or agent or any other third party not specifically subject to a FERPA exception; and

BE IT FURTHER RESOLVED, that Santa Clara County Office of Education schools and programs be considered safe havens for students and their families to the fullest extent allowed by law.

Santa Clara County Office of Education personnel shall not:

- Require students to apply for or supply social security numbers;
 - Inquire about or record a student's or a family member's citizenship or immigration status, including by requiring documentation of a student's legal status, such as a green card or citizenship papers, at initial registration or at any other time;
 - Make unreasonable inquiries from a student or a student's family that could expose the immigration status of the student or student's family;
 - Use Santa Clara County Office of Education resources for the purposes of detecting or assisting in the apprehension of persons whose only violation of law is or may be being an undocumented resident in the United States, or failing to produce documents authorizing residency in the United States; or
 - Enter into agreements related to the enforcement of federal immigration laws with federal, state or local law enforcement agencies, including ICE;
- No ICE officer or agent, or any other individual seeking to enforce federal immigration law, shall be granted access to any school site, facility, or material property for the purpose of enforcing immigration laws, unless:
 - The individual requesting access provides the Superintendent with credentials, the factual and legal basis for the specific request for access, and written authority from an appropriate individual at ICE for the specific request for access;
 - The Superintendent determines in writing, upon consultation with legal counsel, that acquiescence to the request for access is required by law; and
 - Adequate notice of the specific request for access is provided to the Superintendent so that the Superintendent can take steps to provide for the emotional and physical safety of students and staff, including by notifying any directly affected families; and
- The Superintendent shall:
 - Ensure that families are notified about any ICE efforts to gain information about students or their families; and
 - Make available rapid-response resources, such as legal guardianship documents and referrals to social and legal service providers, to assist students whose family members have been detained; and

BE IT FURTHER RESOLVED, that the Superintendent shall develop a plan to:

- Distribute this resolution, translated into all appropriate languages, to:
 - All Santa Clara County Office of Education and school sites and personnel—including employees, contractors, volunteers, representatives, campus police, and security—which are hereby directed to comply with the general guidelines and principles outlined herein; and
 - All students and parents, along with a renewed FERPA notice explaining when information may be shared and what information is classified as “directory” information and providing a renewed opportunity to opt out of directory information disclosure, also translated into all appropriate languages;
- Ensure that all Santa Clara County Office of Education personnel are adequately trained to implement this resolution;

- Provide oversight for the review and revision of existing Santa Clara County Office of Education policies and procedures as necessary to comply with this resolution; and
- Consult with and involve the Policy Council, Parent Advisory Committees, the County Counsel's Office, and immigrant and civil rights community-based organizations in monitoring and implementing this resolution.

PASSED AND ADOPTED by the Santa Clara County Board of Education at a meeting held on February 15, 2017, by the following vote:

AYES: President Chang, Vice-President Kamei, members Di Salvo, Green, Rossi, Mah and Song

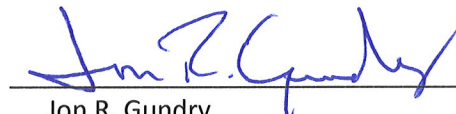
NOES: - none -

ABSTAIN: - none -

ABSENT: - none -



Dr. Michael Chang, President
Santa Clara County Board of Education



Jon R. Gundry
County Superintendent of Schools



Rosemary Kamei, Vice President
Santa Clara County Board of Education



Joseph Di Salvo
Santa Clara County Board of Education




Darcie Green
Santa Clara County Board of Education



Grace H. Mah
Santa Clara County Board of Education



Claudia Rossi
Santa Clara County Board of Education



Anna Song
Santa Clara County Board of Education