



## FAQ for Staff – Supporting Undocumented Students

Dear 4J staff:

On February 15, 2017, the 4J Board of Directors unanimously approved a resolution affirming the board’s commitment to a safe, inclusive and supportive school environment for all students, regardless of their national origin, immigration or documentation status. That resolution and more information for parents and community members are available on the district website in English and Spanish.

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.

Each employee is expected to review and follow the guidelines in this FAQ. There are some revisions from the guidelines shared in January so please review this carefully. If you have questions after reviewing it, please ask your supervisor or send an email to [perez\\_k@4j.lane.edu](mailto:perez_k@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, regardless of whether the child is a legal resident of the United States. Specifically, the United States Supreme Court ruled that undocumented school children have a constitutional right to equal access to K-12 education. As the court explained, these children are in the U.S. through no fault of their own, and denying them a basic education would take an “inestimable toll.” Education prepares individuals to be “self-reliant and self-sufficient participants in society.” *Plyler v. Doe (1982)*.

### **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.

State law prohibits public employees from asking about, or requesting information concerning, a person’s citizenship or immigration status, except when required by law or necessary to determine eligibility for a benefit.

### **3. May staff members disclose information about a student’s immigration status? To what extent are student records confidential?**

No. Staff are prohibited by state law from disclosing, for purposes of enforcement of federal immigration laws, information about a student or student’s family such as the address of the student or relative, the student’s school or school hours, the student or relative’s workplace or hours of work, and contact information including telephone number, email address or social media account information, or the date, time or location of appointments with the district.

Any request by an immigration official for any information about a student, even “directory information,” may not be granted at the school level, and must be referred to the office of the superintendent for response.

Even when staff are asked for a student’s immigration or citizenship information for reasons having nothing to do with federal immigration law enforcement, 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. The disclosure of such information may jeopardize the right of a student to attend public school and expose the district to liability. The disclosure may also violate the Federal Educational Rights and Privacy Act (FERPA).

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.

The district may – but is not required to – 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. Employees should not release directory information except with administrative direction. 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 students at 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. School employees may not consent to immigration officials’ request to access the school unless directed by the superintendent or designee.

In the event an immigration official requests access to a private area of a school, to interview a student, or to provide other information about a student, the request shall be initially denied, and staff may not confirm whether or not a student attends the school. The school shall inform the official that 4J procedures require that such requests go through the superintendent’s office which will respond to such requests, and refer the official to the superintendent’s office at the 4J Ed Center. The school should then immediately contact the superintendent’s office. The superintendent or designee will decline any request to access a student or student information for purposes of federal immigration law enforcement unless it

is determined, in consultation with legal counsel, that compliance with the request is required by law, court order or court issued warrant.

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.

#### **5. How should an administrator respond to a search warrant or court order from immigrations officials?**

An administrator presented with a court order or warrant by an immigrations officer demanding access to a student, to confidential information, or to private spaces of a school, shall refer the officer to the superintendent's office at the 4J Ed Center. The school should immediately contact that office or the district's legal counsel.

The superintendent's office in consultation with legal counsel will request the agent's identification, badge number and phone number of supervisor, purpose of visit, closely review the scope of the order or warrant and determine next steps.

If an immigration officer insists on remaining at the school, ask the officer to wait, call district legal counsel or the superintendent's office, and inform the officer that legal counsel is on the way.

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

A law enforcement officer or an official from the Department of Human Services may not take a child from school without a court order, making an arrest, taking a student into protective custody, or permission of the parent or guardian.

#### **7. If a student's parent is detained as the result of an immigration enforcement action or raid, what should we do?**

The school will work to ensure the safety of a student affected by an immigration enforcement action, will notify students when possible, and will not knowingly release a student into a hazardous situation. The school will make multiple attempts to contact the persons listed on the student's emergency contact list. If these efforts are unsuccessful, the school will contact the Oregon Department of Human Services. The transportation department will be alerted, and staff may be asked to work extended hours to ensure students are transitioned safely. Staff may not take students home.

Please encourage all families to have updated emergency contact information about who is authorized to pick up a student from school, and to consider including multiple options. Crisis plan tools for parents who wish to plan for their children's care in the event they are unavailable to do so can be found at: <https://www.latnet.org/community-resources/>

#### **8. Are there any other staff obligations I should be aware of?**

The procedures in this memo are designed to ensure a safe environment for students, and an orderly process for handling requests from immigration authorities. They do not cover every conceivable situation. If there is a safety emergency that presents imminent danger of harm, you are expected to take steps necessary to protect students and staff. Please also be aware that federal law prohibits the obstruction of justice, so – for example – you should not destroy evidence, make false statements, or

physically intervene in an arrest. Individuals could face individual consequences for violating criminal laws.

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, please communicate that to your supervisor.

While it is wise to prepare for the possibility of such requests, it is also true that (1) we are not aware of any Oregon school that has been approached by immigration officials for information or enforcement actions; and (2) the Department of Homeland Security appears to be following its “sensitive locations” policy. By its own internal policies, the department generally avoids immigration enforcement at schools, bus stops, education-related activities or events, as well as medical facilities and places of worship. If this policy changes, we will let you know promptly.

Thank you for reviewing this memo.

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