



Fagen Friedman & Fulfroft LLP

Pittsburg USD's Commitment as a Safe Haven School District

Presented by: Melissa Phung
and Alejandra Leon
February 2017



F3law.com

Purpose of Meeting

- Pittsburg USD has made a commitment to ensure that all students feel safe, regardless of immigration status, sex, race, sexual orientation, ethnicity, ability, sex or gender identify, religion, socio-economic status, or ideological beliefs.
- The purpose of this meeting is to provide answers regarding the District's implementation of its Safe Haven Resolution.



Rights For All Students

- All students, whether undocumented or not, have a right to attend school.
- 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. (*See Plyler v. Doe*, 457 U.S. 202 (1982).)



Rights For All Students Cont...

- All students have a right to be in a learning environment free from bullying, harassment, discrimination, violence, and intimidation.
- Make sure staff reports to you any concerns regarding bullying/harassment.
- Promptly investigate reports regarding possible bullying or harassment
- Use the Uniform Complaint process. (BP and AR 1312.3)



Parent Rights

- If you are asked to comply with a search warrant, court order, or subpoena to speak with a student and/or access student records, notify parent that you received said request and intend to comply
- Encourage Parents to update their emergency contacts in the event that parent is unable to be reached



Student Records

- School districts are not required to collect information regarding a student's immigration or legal status before enrolling a student in school. (Unless the child is enrolled in school on a F-1 or M-1 visa, e.g. foreign exchange students.)
- Staff should not inquire about students'/parents' legal status



Student Records

- Any inadvertent disclosure by students/families of their legal status should not be disclosed or maintained in any student record



Disclosure of Student Records

- FERPA protects the privacy of student records, with certain, limited exceptions. FERPA does not make any distinction between students who are legal residents with those who are undocumented.
- Student records are generally not subject to Public Records Act requests, or else are otherwise subject to redaction.



ICE Agents in Sensitive Locations

- A policy memorandum released by ICE in 2011, commonly referred to as the “sensitive locations memo,” absent exigent circumstances.



ICE Agents in Sensitive Locations

- The District must allow ICE agents on those campuses that allow foreign exchange students (who are in the U.S. under an F-1 or M-1 visas) for onsite visits.



What to Do if ICE Agents Come on Campus?

- Immediately notify the Superintendent
- Request the following of the ICE agent or federal immigration official:
 - name and badge number
 - phone number of the agent's supervisor
 - purpose of the visit



What to Do if ICE Agents Come on Campus?

- Collect from the agent any documentation they provide (e.g., subpoena, search warrant)
- Advise the agent that prior to proceeding with their request, and absent exigent circumstances, notifications and directions from specific District offices must take place



What to Do if ICE Agents Come on Campus?

- Wait for further direction and advice from the Superintendent to appropriately respond to the ICE agent(s)' request
- Make counselors available, as needed
- Create an incident report, as soon as practicable. Designate the incident as "Immigration and Customs Enforcement (ICE) Inquiry Investigation"



What to Do if ICE Agents Come on Campus?

- Obtain additional guidance from the Superintendent regarding any necessary notification to parents/caregiver(s) of the student who may be the focus of the ICE inquiry



What to Do if ICE Agents Come on Campus?

- Should an agent declare that exigent circumstances exist and demand immediate access to the campus, administrators should comply with the order of ICE or federal immigration official and **immediately** contact the Superintendent.
- Exigent circumstances include, but are not limited to:
 - Terrorism or imminent risk of death



CELEBRATE SUCCESS

F3 student



awards

ENVIRONMENT | ART | ESSAY | PHOTOGRAPHY

F3AWARDS.ORG

Information in this presentation, included but not limited to PowerPoint handouts and the presenters' comments, is summary only and not legal advice. We advise you to consult with legal counsel to determine how this information may apply to your specific facts and circumstances.



Fagen Friedman & Fulfrost LLP



Business, Facilities & Real Estate
Charter School
eMatters
Governance & Leadership
Labor & Employment
Litigation
Student Services & Special Education
Higher Education

FRESNO | INLAND EMPIRE | LOS ANGELES
OAKLAND | SACRAMENTO | SAN DIEGO

www.f3law.com

*Information in this presentation, including but not limited to PowerPoint handouts and the presenters' comments, is summary only and not legal advice.
We advise you to consult with legal counsel to determine how this information may apply to your specific facts and circumstances.*

