



Board Policy

Thomas Edison Charter Academy Responding to Immigration Issues: Protection of the Rights of Undocumented Students

June 20, 2018

Thomas Edison Charter Academy (“TECA”) adopts the following policies in accordance with California Education Code section 234.7(f) regarding pupil protections relating to immigration and citizenship status.

I. Safe Haven Policy for Students and Family

TECA shall provide a safe, secure, and peaceful learning environment for all students and staff. TECA defines sensitive or safe locations to include its schools, official activities of its schools, including those occurring in public places and adjacent areas, and all of TECA’s property, including but not limited to, facilities owned, controlled by, or leased by TECA. Where outside contractors or service providers (particularly school resource officers) are regularly present at sensitive or safe locations or have access to student information, TECA shall seek commitments from those parties not to facilitate immigration enforcement at any of the TECA’s sensitive or safe locations unless required by law.

II. Policy for Gathering and Handling Student and Family Information

- A. The TECA Board of Directors shall maintain in writing TECA’s policies and procedures for gathering and handling sensitive student information. Appropriate personnel shall receive training regarding these policies and procedures.

- B. If TECA possesses information that could indicate immigration status, citizenship status, or national origin information, TECA shall not use the acquired information to discriminate against any students or families or bar children from enrolling in or attending school.
- C. If parents or guardians choose not to provide information that could indicate their or their children's immigration status, citizenship status, or national origin information, TECA shall not use such actions as a basis to discriminate against any student or family or bar children from enrolling or attending school.
- D. TECA shall not allow school resources or data to be used to create a registry based on race, gender, sexual orientation, religion, ethnicity, or national origin.

III. Policy for Inquiries Regarding Immigration Status, Citizenship Status, and National Origin Information

- A. TECA personnel shall not inquire specifically about a student's citizenship or immigration status or the citizenship or immigration status of a student's parents or guardians; nor shall personnel seek or require, to the exclusion of other permissible documentation or information, documentation or information that may indicate a student's immigration status, such as a green card, voter registration, a passport, or citizenship papers.
- B. Where any law contemplates submission of national origin related information to satisfy the requirements of a special program, TECA personnel shall solicit that documentation or information separately from the school enrollment process.
- C. Where permitted by law, the Superintendent/Executive Director of TECA shall enumerate alternative means to establish residency, age, or other eligibility criteria for enrollment or programs, and those alternative means shall include among them documentation or information that are available to persons regardless of immigration status, citizenship status, or national origin, and that do not reveal information related to citizenship or immigration status.
- D. Where residency, age, and other eligibility criteria for purposes of enrollment or any program may be established by alternative documents or information permitted by law or this Policy, TECA's procedures and forms shall describe to the applicant, and accommodate, all alternatives specified in law and all alternatives authorized under this Policy.

IV. Inquiries About Social Security Numbers or Cards

- A. TECA shall not solicit or collect entire Social Security numbers or cards.

- B. TECA shall solicit and collect the last four digits of an adult household member's Social Security number only if required to establish eligibility for federal benefit programs.
- C. When collecting the last four digits of an adult household member's Social Security number to establish eligibility for a federal benefit program, the TECA shall explain the limited purpose for which this information is collected, and clarify that a failure to provide this information will not bar the student from enrolling in or attending the school.
- D. TECA shall treat all students equitably in the receipt of all school services, including, but, not limited to, the gathering of student and family information for the free and reduced lunch program, transportation and educational instruction.

V. Procedures Regarding Sharing Student and Family Information

- A. TECA shall avoid the disclosure of information that might indicate a student's or family's citizenship or immigration status if the disclosure is not authorized by Family Educational Rights and Privacy Act (FERPA).
- B. TECA personnel shall take the following action steps upon receiving an information request related to a student's or family's immigration or citizenship status:
 - 1. Notify the TECA Superintendent/Executive Director about the information request.
 - 2. Provide students and families with appropriate notice and a description of the immigration officer's request.
 - 3. Document any verbal or written request for information by immigration authorities.
 - 4. Unless prohibited, provide students and parents/guardians with any documents issued by the immigration-enforcement officer.
- C. Except for investigations of child abuse, child neglect, or child dependency, or when the subpoena served on the local educational agency prohibits disclosure, TECA shall provide parental or guardian notification of any court orders, warrants, or subpoenas before responding to such requests.
- D. TECA shall require written parental or guardian consent for release of student information, unless the information is relevant for a legitimate educational interest or includes directory information only. Neither exception permits disclosing information to immigration authorities for immigration-enforcement purposes; no student information shall be disclosed to immigration authorities for immigration-enforcement purposes without a court order or judicial subpoena.
- E. TECA's request for written or parental or guardian consent for release of student information must include the following information:

1. The signature and date of the parent, guardian, or eligible student providing consent;
2. A description of the records to be disclosed;
3. The reason for release of information;
4. The parties or class of parties receiving the information; and
5. When requested by the parents, guardians or eligible student, a copy of the records to be released.

TECA shall permanently keep the consent notice with the record file.

- F. The parent, guardian, or eligible student is not required to sign the consent form. If the parent, guardian or eligible student refuses to provide written consent for the release of student information that is not otherwise subject to release, TECA shall not release the information.
- G. TECA shall notify the recipient of any student information that transmission to others without written consent of the parent, guardian, or eligible student is prohibited.

VI. Annual Information Notice to Parents and Guardians Regarding Information Policy

- A. General Information Policy. TECA must provide an annual notice to parents and guardians of the school's general information policies that includes:
 1. Assurances that TECA will not release information to third parties for immigration-enforcement purposes, except as required by law or court order.
 2. A description of the types of student records maintained by TECA.
 3. A list of the circumstances or conditions under which TECA might release student information to outside people or entities.
 4. A statement that, unless TECA is providing information for a legitimate educational purpose under FERPA and the California Education Code or directory information, TECA shall notify parents or guardians and eligible students—and receive their written consent—before it releases a student's personally identifiable information.
 5. Policies regarding the retention and destruction of personally identifiable information.
- B. Directory Information Policy. If TECA decides to release directory information, TECA shall provide an annual notice to parents and guardians, and "eligible students" in attendance, of the TECA directory information policy that includes:
 1. The categories of information that TECA has classified as public directory information that may be disclosed without parental consent and which should only include the information specifically identified in Education Code section 49061, subdivision (c).

2. A statement that directory information does not include citizenship status, immigration status, place of birth, or any other information indicating national origin (except where TECA receives consent as required under state law).
3. The recipients of the directory information.
4. A description of the parent's or guardian's abilities to refuse release of the student's directory information, and how to refuse release.
5. The deadline in which the parent, guardian or student must notify the school in writing that he or she does not want the information designated as directory information.

VII. Monitoring and Receiving Visitors onto Campus

- A. No outsider—which would include immigration-enforcement officers—shall enter or remain on school grounds of TECA during school hours without having registered with the Superintendent/Executive Director, the principal, or designee. If there are no exigent circumstances necessitating immediate action, and if the immigration officer does not possess a judicial warrant or court order that provides a basis for the visit, the officer must provide the following information to the Superintendent/Executive Director, the principal, or designee:
 1. Name, address, occupation;
 2. Age, if less than 21;
 3. Purpose in entering school grounds;
 4. Proof of identity and;
 5. Any other information as required by law.
- B. TECA shall adopt measures for responding to outsiders that avoids classroom interruptions, and preserves the peaceful conduct of the school's activities, consistent with local circumstances and practices.
- C. TECA shall post signs at the entrance of its school grounds to notify outsiders of the hours and requirements for registration.
- D. TECA personnel shall report entry by immigration-enforcement officers to any appropriate administrator as would be required for an unexpected or unscheduled outside visitor coming on campus.

VIII. Responding to On-Campus Immigration Enforcement

- A. As early as possible, TECA personnel shall notify the Superintendent or Executive Director of any request by an immigration-enforcement officer for school or student access, or any requests for review of school documents (including for the services of lawful subpoenas, petitions, complaints, warrants, etc.).

- B. In addition to notifying the Superintendent/ Executive Director, principal, or designee, TECA personnel shall take the following action steps in response to an officer present on the school campus specifically for immigration-enforcement purposes:
1. Advise the officer that before proceeding with his or her request, and absent exigent circumstances, school personnel must first receive notification and direction from the Superintendent.
 2. Ask to see, and make a copy of or note, the officer's credentials (name and badge number). Also ask for and copy or note the phone number of the officer's supervisor.
 3. Ask the officer for his/her reason for being on school grounds and document it.
 4. Ask the officer to produce any documentation that authorizes school access.
 5. Make a copy of all documents provided by the officer. Retain one copy of the documents for school records.
 6. If the officer declares that exigent circumstances exist and demands immediate access to the campus, TECA personnel should comply with the officer's orders and immediately contact the Superintendent/Executive Director, principal or designee.
 7. If the officer does not declare that exigent circumstances exist, respond according to the requirements of the officer's documentation. If the immigration-enforcement officer has:
 - a. an ICE (Immigrations and Customs Enforcement) administrative warrant, TECA personnel shall inform the agent that he or she cannot consent to any request without first consulting with TECA's general counsel.
 - b. a federal judicial warrant (search-and-seizure warrant or arrest warrant, prompt compliance with such a warrant is usually legally required. If feasible, consult with TECA's general counsel before providing the agent access to the person or materials specified in the warrant.
 - c. a subpoena for production of documents or other evidence, immediate compliance is not required. Therefore, TECA personnel shall inform TECA's legal counsel of the subpoena, and await further instructions on how to proceed.
 8. While TECA personnel should not consent to access by an immigration-enforcement officer, except as described above, he/she should not attempt to physically impede the officer, even if the officer appears to be exceeding the authorization given under a warrant or other document. If an officer enters the premises without consent, TECA personnel shall document his or her actions while on campus.
 9. After the encounter with the officer, TECA personnel shall promptly take written notes of all interactions with the officer. The notes shall include the following items:
 - a. List or copy of the officer's credentials and contact information;
 - b. Identity of all school personnel who communicated with the officer;
 - c. Details of the officer's request;

- d. Whether the officer presented a warrant or subpoena to accompany his/her request, what was requested in the warrant/subpoena, and whether the warrant/subpoena was signed by a judge;
 - e. TECA personnel's response to the officer's request;
 - f. Any further action taken by the agent; and
 - g. Photo or copy of any documents presented by the agent.
10. TECA personnel shall provide a copy of those notes, and associated documents collected from the officer, to TECA legal counsel.
 11. In turn, TECA's legal counsel shall submit a timely report TECA's governing board regarding the officer's requests and actions and TECA's response to such requests and actions.
 12. E-mail the *Bureau of Children's Justice* in the *California Department of Justice* at *BCJ@doj.ca.gov*, regarding any attempt by a law-enforcement officer to access a school site or a student for immigration-enforcement purposes.

IX. Parental Notification of Immigration-Enforcement Actions

- A. TECA personnel must receive consent from the student's parent or guardian before a student can be interviewed or searched by any officer seeking to enforce the civil immigration laws at the school, unless the officer presents a valid, effective warrant signed by a judge, or presents a valid, effective court order.
- B. TECA personnel shall immediately notify the student's parents or guardians if a law-enforcement officer requests or gains access to a student for immigration-enforcement purposes, unless such access was in compliance with a judicial warrant or subpoena that restricts the disclosure of the information to the parent or guardian.

X. Responding to the Detention or Deportation of a Student's Family Member

- A. TECA shall encourage that families and students have and know their emergency phone numbers and know where to find important documentation, including birth certificates, passports, Social Security cards, doctors' contact information, medication lists, lists of allergies, etc., which will allow them to be prepared in the event that a family member is detained or deported.
- B. TECA shall permit students and families to update students' emergency contact information as needed throughout the school year, and provide alternative contacts if no parent or guardian is available.
 1. TECA shall ensure that families may include the information of an identified trusted adult guardian as a secondary emergency contact in case a student's parent or guardian is detained.

2. TECA shall communicate to families that information provided within the emergency cards will only be used in response to specified emergency situations, and not for any other purpose.
- C. In the event a student's parent/guardian has been detained or deported by federal immigration authorities, TECA shall use the student's emergency card contact information and release the student to the person(s) designated as emergency contacts. Alternatively, TECA shall release the student into the custody of any individual who presents a Caregiver's Authorization Affidavit on behalf of the student. TECA shall only contact Child Protective Services if TECA personnel are unsuccessful in arranging for the timely care of the child through the emergency contact information, Caregiver's Authorization Affidavit, or other information or instructions conveyed by the parent or guardian.

XI. Responding to Hate Crimes and Bullying

- A. TECA hereby adopts and publicizes this policy prohibiting discrimination, harassment, intimidation, and bullying on the basis of a student's actual or perceived nationality, ethnicity, or immigration status. This policy shall be translated in the student's primary language if at least 15 percent of the students enrolled in TECA speak a single primary language other than English.
- B. TECA shall notify parents and guardians of their children's right to a free public education, regardless of immigration status or religious beliefs.
1. This information shall include information related to the "Know Your Rights" immigration enforcement established by the Attorney General, attached hereto as Appendix A.
 2. TECA shall inform students who are victims of hate crimes of their right to report such crimes.
- C. Processing Complaints of Harassment and Bullying. TECA adopts the following process for receiving complaints of and investigating complaint of discrimination, harassment, intimidation, and bullying based on any of the following actual or perceived characteristics: immigration status, disability, gender, gender identity, gender expression, sexual orientation, nationality, race or ethnicity, religion, and/or association with a person or group with one of the aforementioned characteristics:
1. If school personnel witness an act of discrimination, harassment, intimidation, or bullying, they shall take immediate steps to intervene when safe to do so;
 2. Within a reasonable time and as promptly as the circumstances permit and warrant, the principal shall investigate and resolve complaints of discrimination, harassment, intimidation, or bullying; and
 3. Should a complainant disagree with the resolution of a complaint, the complainant shall have thirty (30) days to appeal the resolution to the Superintendent/Executive Director. Said appeal shall be in writing, and

resolved within a reasonable time and as promptly as the circumstances permit and warrant.

4. TECA shall ensure that complaint procedures contain confidentiality safeguards for immigration status information.
 5. TECA prohibits retaliation against a person who submits a complaint of discrimination, harassment, intimidation, or bullying.
- E. TECA shall educate students about the negative impact of bullying other students based on their actual or perceived immigration status or their religious beliefs or customs.
- F. TECA shall also train teachers, staff, and personnel to ensure that they are aware of their legal duty to take reasonable steps to eliminate a hostile environment and respond to any incidents of harassment based on the actual or perceived characteristics noted above. Such training should, at minimum, provide TECA personnel with the skills to do the following:
1. Discuss the varying immigration experiences among members of the student body and school community;
 2. Discuss bullying-prevention strategies with students, and teach students to recognize the behavior and characteristics of bullying perpetrators and victims;
 3. Identify the signs of bullying or harassing behavior;
 4. Take immediate corrective action when bullying is observed; and
 5. Report incidents to the appropriate authorities, including law enforcement in instances of criminal behavior.

Know Your Educational Rights

Your Child has the Right to a Free Public Education

- All children in the United States have a Constitutional right to equal access to free public education, regardless of immigration status and regardless of the immigration status of the students' parents or guardians.
- In California:
 - All children have the right to a free public education.
 - All children ages 6 to 18 years must be enrolled in school.
 - All students and staff have the right to attend safe, secure, and peaceful schools.
 - All students have a right to be in a public school learning environment free from discrimination, harassment, bullying, violence, and intimidation.
 - All students have equal opportunity to participate in any program or activity offered by the school, and cannot be discriminated against based on their race, nationality, gender, religion, or immigration status, among other characteristics.

Information Required for School Enrollment

- When enrolling a child, schools must accept a variety of documents from the student's parent or guardian to demonstrate proof of child's age or residency.
- You never have to provide information about citizenship/immigration status to have your child enrolled in school. Also, you never have to provide a Social Security number to have your child enrolled in school.

Confidentiality of Personal Information

- Federal and state laws protect student education records and personal information. These laws generally require that schools get written consent from parents or guardians before releasing student information, unless the release of information is for educational purposes, is already public, or is in response to a court order or subpoena.
- Some schools collect and provide publicly basic student "directory information." If they do, then each year, your child's school district must provide parents/guardians with written notice of the school's directory information policy, and let you know of your option to refuse release of your child's information in the directory.

Family Safety Plans if You Are Detained or Deported

- You have the option to provide your child's school with emergency contact information, including the information of secondary contacts, to identify a trusted adult guardian who can care for your child in the event you are detained or deported.

- You have the option to complete a Caregiver’s Authorization Affidavit or a Petition for Appointment of Temporary Guardian of the Person, which may enable a trusted adult the authority to make educational and medical decisions for your child.

Right to File a Complaint

- Your child has the right to report a hate crime or file a complaint to the school district if he or she is discriminated against, harassed, intimidated, or bullied on the basis of his or her actual or perceived nationality, ethnicity, or immigration status.