



EXECUTIVE OFFICE MEMORANDUM

STATE OF
CALIFORNIA



November 19, 2024

EOM 2024-04

TO: High School Counselors
Financial Aid Administrators
Cal-SOAP Directors

FROM: Anna Manuel
General Counsel

SUBJECT: **Undocumented Student Data Privacy**

The California Student Aid Commission and California public institutions of higher education have a duty to protect student data, regardless of immigration status. This memo briefly reviews key laws that protect undocumented student data privacy and provides brief guidance on judicial subpoenas. Please contact the California Student Aid Commission General Counsel at anna.manuel@csac.ca.gov or (916) 698-4656 for questions about this memo.

Laws that Protect Undocumented Student Data Privacy¹

First, the Family and Educational Rights and Privacy Act (FERPA), [20 U.S.C. Section 1232\(g\)](#), with narrow exception, strictly prohibits agencies who possess student Personally Identifiable Information (PII) from releasing student data.²

Second, California has clear Sanctuary law. [Senate Bill No. 54 \(SB 54\)](#), a.k.a. the California Values Act (2017), mandated that the California Attorney General publish Model Policies to assist [California colleges and universities, K-12 schools, and other entities](#) in responding to immigration issues. The guidance centers on “limiting assistance with immigration enforcement to the fullest extent possible consistent with federal and state law at public schools . . . and ensuring that they remain safe and accessible to all California residents, regardless of immigration status.” [California Government Code Section 7284.8\(a\)](#). The Model Policies also provide guidance on how to gather and handle student information and how to respond to law enforcement requests to access student records for immigration enforcement purposes (this includes ICE, CBP, and any other law enforcement agency).³ SB 54 further required that public schools implement

¹ There are several state and federal laws and policies not included here that protect student PII, including but not limited to: [Assembly Bill No. 21](#); [California Civil Code Section 1798, et seq.](#) (Information Practices Act); [California Education Code Section 76200, et seq.](#); [California Education Code Section 49073, et seq.](#); [California Penal Code Section 502](#) (Comprehensive Computer Data Access and Fraud Act); [5 U.S.C. Section 552a](#) (Federal Privacy Act); [Title 18, U.S.C. Section 1905](#) (Disclosure of Confidential Information); [34 CFR Part 99](#) (FERPA).

² For a helpful FERPA Overview, visit [the Presidents' Alliance Higher Ed Immigration Portal](#).

³ The SB 54 Model Policies also include guidance on responding to law enforcement requests for access to campus and residential units for immigration enforcement purposes.

the Model Policies, or equivalent policies, and encouraged the UC and all other organizations and entities that provide postsecondary education to adopt the model policies. The deadline for implementation was March 1, 2019.

The Judicial Subpoena

In light of laws strictly prohibiting information sharing to immigration agencies, the only scenario in which a request for student data demands a response is under a judicial order or subpoena.⁴ However, an agency or institution can, and likely should, legally challenge such a request on grounds including improper purpose, insufficient specificity, or Fourth Amendment violation, among others.

Conclusion

In conclusion, there is no federal or state legal requirement to provide information to officers engaged in immigration enforcement, DHS, ICE, or any other agency within DHS, without a judicial subpoena or court order, and doing so would violate state and federal data privacy law. CSAC fully complies with data privacy law and policy, and promises to protect all student data, regardless of immigration status.

Student Resources

Students can access free immigration legal assistance at each public segment of higher education:

[Legal Services | California Community Colleges Chancellor's Office](#)

[Legal Support Services | CSU](#)

[University of California Immigrant Legal Services Center](#)

Students can also locate their campus undocumented student programs, a.k.a. Dream Resource Centers, by using the [Campaign for College Opportunity's interactive map](#). The CSAC [Undocumented Students](#) landing page also provided several resources for students, including but not limited to [CADAA Resources](#) and [Undocumented Student Information Safety](#).

CC: Executive Director Dr. Daisy Gonzales
Chief Deputy Catalina Mistler
All Division Deputy Directors

Promoting educational equity by making postsecondary education affordable for all Californians.

⁴ In general, there is no immediate requirement to comply with an *administrative* immigration subpoena. For more detailed information, visit this [National Immigrant Law Center resource](#).