

ISANA

POLICY REGARDING LAW ENFORCEMENT ACCESS TO STUDENTS ON CAMPUS

ISANA and the charter schools it operates (hereafter, "ISANA") shall cooperate with requests from law enforcement while maintaining maximum protection for our students. ISANA shall adhere to the following policies and procedures in the event a law enforcement officer or child protective services agent (referred to collectively as "law enforcement officer") seeks access to a student on campus.

This policy also sets forth guidelines for ISANA staff to follow if U.S. Immigration and Customs Enforcement or other immigration enforcement officials ("ICE") officials arrive on campus and request information or access to students. All references to "parent" in this policy shall mean parent or legal guardian.

NON-IMMIGRATION LAW ENFORCEMENT

Initial Contact and Authentication of Law Enforcement Officer

When a law enforcement officer arrives on campus, ISANA shall:

- Refer Officer to Responsible Person: ISANA staff should first refer a law enforcement officer who visits campus to the Principal, and if he or she is unavailable, his or her designee. These individuals responsible for communicating with law enforcement officers are collectively the "Responsible Person."
- Seek Support of CEO: The Responsible Person should inform the Chief Executive Officer ("CEO") if a law enforcement officer visits campus. The CEO may elect to take on the role of the Responsible Person to respond to the law enforcement officer's requests, and may contact legal counsel for further support.
- Request Information from Law Enforcement Officer: When any law enforcement officer requests access to a student or for information concerning a student, the Responsible Person should request proof of the law enforcement officer's identity and official capacity (e.g., his/her badge number), the reason for the visit, and the legal grounds for the requested access or information. Most law enforcement officials have calling cards with their name, agency, badge, and contact information.
- Authentication of Law Enforcement Officer: If it is unclear that the law enforcement officer is a legitimate law enforcement officer, the Responsible Person should reach out to the law enforcement officer's agency to confirm the officer's identity and need to be on campus.
- Determine Reason for Visit: If after the reasonable inquiry outlined above, the law enforcement officer and his/her visit to campus appears legitimate, the Responsible Person should find out more about why the law enforcement officer is on campus. The Responsible Person should determine what is being requested (e.g., need to question a student, arrest a student, access student records, etc.) and the reason (e.g., to investigate an incident, to meet with student because he/she is a suspected victim of child abuse or neglect, etc.).
- Parental Consent is Not Needed: Parental consent is not required in order for a law enforcement officer to arrest a minor student. Nor is parental consent legally required for questioning a student on-campus. In most cases, ISANA should endeavor to notify parents when a law enforcement officer questions a student, unless

such notification may reasonably impede the law enforcement officer's investigation or may harm the student (e.g., in cases of suspected child abuse or neglect by parents).

- Exception in Case of Emergency: The initial contact and authentication procedures outlined above may be abbreviated or delayed in the event the law enforcement officer is on campus to respond to an emergency or immediate threat to health and safety. However, in any such instance, the Responsible Person should still attempt to authenticate the law enforcement officer's identity and provide appropriate parental notification as soon as practicable once the situation is under control.

If Law Enforcement Officer Seeks to Question a Student

When a law enforcement officer seeks to question a student, the school shall:

- Determine if Questioning is Appropriate: If the law enforcement officer seeks only to *question* a student for issues *unrelated to the school*, the Responsible Person may ask the officer to seek to question the student off campus. However, there are situations where questioning of a student on campus may be appropriate, including when law enforcement officers enter the school premises in "hot pursuit" of a suspect, when investigating a serious crime, when investigating child abuse, when responding to an emergency, or when responding to a crime being committed on school property. The Responsible Person shall determine based on the reason for questioning whether to allow a law enforcement officer to question a student on campus.
- Facilitate Questioning: If the law enforcement officer questions the student on school grounds, the Responsible Person should inform him or her where the questioning may be conducted assuming the student agrees to be questioned. If possible, a non-public area should be identified. The Responsible Person should summon the student in a routine manner in order to minimize any disruptions to educational activities.
- Accommodations Required for Students with Disabilities: If the student requested for questioning by the law enforcement officer is a student with disabilities, the Responsible Person should consult the student's IEP to determine if an accommodation must be made before allowing the questioning. If a law enforcement officer asks about an accommodation provided to a student as part of the questioning, the Responsible Person must avoid revealing information from the student's IEP and just inform the law enforcement officer that the accommodation is provided to ensure the questioning process is done in a safe manner. A disclosure from a student's IEP without parental consent may constitute a violation of the Family Educational Rights and Privacy Act (FERPA).
- Monitoring Role: Before any on-campus questioning, the Responsible Person should inform the law enforcement officer and the student of his or her intention to monitor the questioning process to ensure the questioning is done in a safe manner. The Responsible Person shall monitor the questioning or assign an appropriate staff member who is familiar with this policy to conduct the monitoring. Whoever monitors the questioning on behalf of ISANA cannot require a student to involuntarily sit through questioning and shall not aid the law enforcement officer in questioning.
- Respect Student Requests: If the student asks that the Responsible Person not attend the questioning, the Responsible Person should comply. If the law enforcement officer asks that the Responsible Person not attend the questioning, the Responsible Official should comply *only if the student consents*.

It is the responsibility of the law enforcement officer to advise a student of his/her legal rights. However, the Responsible Person can inform the student that the student may have a right to have his or her parent or guardian present, that the questioning is voluntary and the student is not being forced to participate, and that the student may be entitled to receive Miranda warnings.

- Notify Parents: In most cases, ISANA should notify the student's parent of the law enforcement questioning as soon as practicable. However, if the law enforcement officer has articulated a justification not to inform the parents about the questioning that implicates the health and safety of the student or others, such as suspected child abuse by the parents, the Responsible Person should rely on the law enforcement officer's direction and as a result, should not notify.

The Responsible Person should not hesitate to contact legal counsel if there are questions about the appropriateness of notifying parents.

- Student Taken into Custody: In some circumstances, law enforcement officers may need to remove the student from the school premises in order to conduct their investigation. If it is unclear why law enforcement officers seek to take a student into custody for questioning, the Responsible Person must request that the law enforcement officer provide an explanation for the removal. ISANA needs this information to determine next steps and to notify the student's parents.

If the law enforcement officer decides to take a student into custody because the student is a suspected victim of child abuse or neglect, it is the responsibility of the law enforcement officer to notify the student's parent. In this scenario, the Responsible Person should provide the name, address, and phone number of the student's parents to the law enforcement officers.

If a student is taken into custody for reasons unrelated to child abuse or neglect, the Responsible Person should take steps to immediately notify the student's parent or guardian that the student was taken into custody.

If Law Enforcement Officer Seeks to Arrest a Student

When a law enforcement officer seeks to arrest a student, ISANA shall:

- Review Arrest Warrant / Court Order: If a law enforcement officer presents a warrant or court order that indicates a student is to be *arrested*, the Responsible Person should initially review the warrant or court order. The Responsible Person should make sure legal counsel and CEO is informed of the arrest warrant.
- Cooperate In Making Student Available: If the arrest warrant or court order is valid, the Responsible Person should cooperate in making the student available. Aside from an emergency situation, the Responsible Official should provide access to the student in the least disruptive and most protective manner possible.
- Notifying Parents: If a student is taken into custody for reasons unrelated to child abuse or neglect, the Responsible Person must immediately notify the student's parent or guardian that the student was taken into custody.

If Law Enforcement Officer Requests Student Information or Records

When a law enforcement officer seeks student information or records, ISANA shall:

- If Officer Asks if a Student is Present at School: The Responsible Person may confirm to a law enforcement officer whether a student is present on campus. In most cases, revealing the student's presence to a law enforcement officer on campus is appropriate and would not cause harm to the student (e.g., if law enforcement officer wants to speak about child neglect/abuse). However, there may be some scenarios where it would harm the student to reveal if he or she is present. For example, a law enforcement officer may want to know if a student is present at school, but will not reveal the reason for this request. In such cases, the Responsible

Person can request that the law enforcement official provide a subpoena or other similar request in order to provide the requested information.

- Request for Records: If a law enforcement officer requests a student's education records, often through a subpoena, the Responsible Person must inform the officer that he or she needs to first consult with the school's legal counsel in order to respond to the records request appropriately. The Responsible Person can accept service of a subpoena from a law enforcement official. The Responsible Person should not provide the requested records unless in an emergency (described below.) The Responsible Person should forward the request to legal counsel. If the Responsible Person provides a student's education records to law enforcement officers without parental consent, it may be a violation of FERPA.
- Emergency Request: However, if law enforcement officers request a student's education records in an emergency situation where the Responsible Person believes that the disclosure of records is necessary to protect the health or safety of the student or other individuals, the Responsible Person may disclose those records without parental consent. The Responsible Person must document the reason for any emergency disclosure in the student's file as required under FERPA.

Recordkeeping for Law Enforcement Officer Visits

The Responsible Person should document any questioning of students by law enforcement officers and place it in the student's file. The Responsible Person should record the following information at a minimum:

- Name, form of official identification (e.g., badge number), and agency/department of law enforcement officer(s);
- Arrival and departure time of the law enforcement officer(s);
- Whether and which school official witnessed the questioning;
- Notes taken from the student questioning; and
- Other information the Responsible Person considers relevant.

Immigration Enforcement at Campus

If ICE Officials Visit Campus

ISANA recognizes that ICE has a longstanding policy that it will not conduct immigration enforcement activity at any “sensitive location”, which includes schools, without special permission by specific federal law enforcement officials and unless urgent circumstances exist.

- Notify CEO: As early as possible, ISANA staff must notify the CEO of any request by an ICE official or 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.).
- If No Emergency, Advise ICE Officials to Wait for CEO: ISANA staff should advise the ICE officials that before proceeding with his or her request, and absent emergency or exigent circumstances, staff must first notify and receive direction from the CEO. ISANA staff should not give permission to enter the school or conduct a search without a warrant. As in other circumstances, school staff should not sign any documents on behalf of the school without approval from the CEO.
- Collecting Information: ISANA staff should ask for and write down the following information if an ICE official comes to campus:
 - ICE official’s credentials (name and badge number).
 - Phone number of the officer’s supervisor.
 - Ask the ICE official for his/her reason for being on school grounds and document it.
 - Ask the ICE official to produce any documentation that authorizes school access.
 - Make a copy of all documents provided by the ICE official(s). Retain one copy of the documents for school records.
- If an Emergency, Provide Access and Tell CEO: If the ICE official declares that emergency or exigent circumstances exist (e.g., they need to come on campus to address a health or safety emergency) and demands immediate access to the campus, the ISANA staff should comply with the officer’s orders and notify the CEO immediately.
- If there is No Emergency, Ask for ICE Official’s Documentation: If the ICE official does not declare that exigent or emergency circumstances exist, respond according to the requirements of the ICE official’s documentation. ICE representatives need a warrant or court order to arrest or question someone on school campus. You should be able to tell the type of documentation from the cover page.

If the ICE official has:

- An ICE Administrative Warrant - ISANA staff shall inform the ICE officer that he or she cannot consent to any request without first consulting with legal counsel.
- A Federal Judicial Warrant - (e.g., search-and-seizure warrant or arrest warrant) - prompt compliance with such a warrant is usually legally required. If possible, consult with legal counsel before providing the ICE official access to the person or materials specified in the warrant.
- A Subpoena for Production of Documents or Other Evidence - immediate compliance is not required. Therefore, ISANA personnel shall inform legal counsel of the subpoena, and await further instructions on how to proceed.

- If there is No Emergency and ICE Official has no Warrant or Subpoena, Just Collect Information: If there are no exigent circumstances necessitating immediate action, and if the ICE official does not possess a judicial warrant or similar documentation that provides a basis for the visit, the officer must also provide the following information to ISANA staff:
 - Name, address, occupation;
 - Ask if the ICE official is younger than 21, and if he/she says yes, ask for their age;
 - Purpose in entering school grounds; and
 - Proof of identity (if there is no badge).

- Do Not Impede ICE Activity: If an ICE official presents valid documentation (warrant) or an emergency occurs, ISANA staff should not obstruct or otherwise impede ICE activity. ISANA staff should not attempt to physically impede the ICE official, even if the ICE official appears to be exceeding the authorization given under a warrant or other document. If an ICE official enters the premises without consent, ISANA staff must document his or her actions while on campus.

- Document Interactions with ICE Official: After the encounter with the ICE official, the CEO or his/her designee shall promptly take written notes of all interactions with the ICE official. The notes shall include the following items:
 - List or copy of the officer's credentials and contact information;
 - Identity of all school personnel who communicated with the ICE official;
 - Details of the ICE official's request;
 - Whether the ICE official 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;
 - ISANA staff's response to the ICE official's request;
 - Any further action taken by the ICE official; and
 - Photo or copy of any documents presented by the ICE official.

ISANA staff shall provide a copy of those notes, and associated documents collected from the ICE official, to the legal counsel.

- Notify Board and DOJ: In turn, the legal counsel and/or CEO shall submit a timely report to ISANA's governing board regarding the ICE official's requests and actions and ISANA's response(s). 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 purpose.

Parental Notification of Immigration Enforcement Actions

ISANA staff 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. ISANA staff 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.