Information Sheet – 8/21/18 - Board of Trustees Meeting

TO: Board of Trustees Item: 8.3

FR: Celli Coeville

DATE: August 16, 2018

RE: Revised Board Policy & Administrative Regulation, BP/AR 5111, Admission, Consider Adoption as Presented

Admission, BP/AR 5111:

(BP/AR revised) Policy updated to reflect state law prohibiting the collection of social security numbers or the last four digits of the social security numbers of students or their parents/guardians, unless otherwise required by law. Policy also reflects NEW LAW (AB 699) which prohibits districts from inquiring into students' citizenship or immigration status and the California Attorney General's model policy which provides that, under the limited circumstances when such information must be collected to comply with eligibility requirements for special state or federal programs, such information should be collected separately from the school enrollment process. Regulation updated to reflect a requirement of the Attorney General's model policy that prohibits districts from requiring documentation that may indicate a student's national origin or immigration status, such as a passport, to the exclusion of other permissible documentation. Regulation also reflects the authority to accept a parent/guardian affidavit as evidence of a child's age when other documentation is not available.

Recommendation Action: Approve the new Board Policy and Administrative Regulation

ADMISSION

Note: Pursuant to Education Code 48200, all children ages 6-18 years are subject to compulsory full-time education, unless specifically exempted. See BP/AR 5112.1 - Exemptions from Attendance for further information about such exemptions.

Note: Pursuant to Education Code 234.7, as added by AB 699 (Ch. 493, Statutes of 2017), districts are mandated to adopt policy, equivalent to a model policy developed by the California Attorney General, which prohibits the solicitation or collection of information regarding the immigration or citizenship status of students and their families, unless otherwise required by law. See the Office of the Attorney General's publication Promoting a Safe and Secure Learning Environment for All: Guidance and Model Policies to Assist California's K-12 Schools in Responding to Immigration Issues, available on its web site. These requirements are addressed in the following policy and BP/AR 5111.1 - District Residency.

Note: In Plyler v. Doe, the U.S. Supreme Court ruled that, under the Fourteenth Amendment to the U.S. Constitution, students cannot be denied a free public education on the basis of their citizenship or immigration status, including their status as undocumented children. As discussed in a Dear Colleague Letter and fact sheet, Information on the Rights of All Children to Enroll in School, jointly issued by the U.S. Department of Justice's Civil Rights Division and U.S. Department of Education's Office for Civil Rights, it may be a violation of federal law for districts to adopt a policy or procedure that prohibits or discourages children from enrolling in school because they or their parents/guardians are not United States citizens or are undocumented. For further discussion of these issues, see CSBA's Legal Guidance on Providing All Children Equal Access to Education, Regardless of Immigration Status. CSBA's legal guidance also includes a sample board resolution that may be used to inform students, parents/guardians, and the community of students' rights under current law to attend a district school regardless of their citizenship or immigration status.

The Governing Board ~~or Trustees~~ encourages the enrollment and appropriate placement of all school-aged children in school. The Superintendent or designee shall inform parents/guardians of ~~students entering~~ children seeking admission to a district school at any grade level about admission requirements and shall assist them with enrollment procedures.

Note: The following optional paragraph may be revised to reflect district practice. The district should align the application windows for various attendance options in a manner that will allow the district to meet legal requirements pertaining to admissions priorities. See BP/AR 5116.1 - Intradistrict Open Enrollment, AR 5117 - Interdistrict Attendance, and BP/AR 5118 - Open Enrollment Act Transfers for application windows applicable to those options.

The Superintendent or designee shall announce and publicize the timeline and process for registration of students at district schools. Applications for intradistrict or interdistrict enrollment shall be subject to the timelines specified in applicable Board policies and administrative regulations.

ADMISSION (continued)

(cf. 1112 - Media Relations)
(cf. 1113 - District and School Web Sites)
(cf. 1114 - District-Sponsored Social Media)
(cf. 5116.1 - Intradistrict Open Enrollment)
(cf. 5117 - Interdistrict Attendance)
(cf. 5118 - Open Enrollment Act Transfers)

All appropriate staff shall receive training on district admission policies and procedures, including information regarding the types of documentation that can and cannot be requested

Note: Education Code 49452.9 requires that district enrollment forms include an informational item about affordable health care options and available enrollment assistance. Pursuant to Education Code 49452.9, the district could accomplish this by developing its own informational item or using a flier developed by the California Department of Education.

The district's enrollment application shall include information about the health care options and enrollment assistance available to families within the district. The district shall not discriminate against any child for not having health care coverage and shall not use any information relating to a child's health care coverage or his/her interest in learning about health care coverage in any manner that would harm the child or his/her family. (Education Code 49452.9)

Verification of Admission Eligibility

Note: Admission requirements include age criteria for grades K-1; see the accompanying administrative regulation. Other admission requirements are addressed in AR 5111.1 - District Residency, BP/AR 5141.31 - Immunizations, and AR 5141.32 - Health Screening for School Entry.

Before enrolling any child in a district school, ~~The~~ the Superintendent or designee shall verify the student's age, residency, immunization, and ~~any~~ other applicable eligibility ~~admission~~ criteria specified in law, the accompanying administrative regulation, or other applicable ~~and in~~ Board ~~policies~~ policy ~~and~~ or administrative ~~regulations~~ regulation.

~~*(cf. 0410 - Nondiscrimination in District Programs and Activities)*~~
(cf. 5111.1 - District Residency)
~~*(cf. 5111.12 - Residency Based on Parent/Guardian Employment)*~~
~~*(cf. 5119 - Students Expelled from Other Districts)*~~
(cf. 5125 - Student Records)
(cf. 5141.3 - Health Examinations)
(cf. 5141.31 - Immunizations)
(cf. 5141.32 - Health Screening for School Entry)
~~*(cf. 6173 - Education for Homeless Children)*~~
~~*(cf. 6173.1 - Education for Foster Youth)*~~
~~*(cf. 6173.2 - Education of Children of Military Families)*~~

ADMISSION (continued)

Note: Although districts may require proof of residency within the district (e.g., utility or phone bill, property tax payment receipt, rental property lease agreement, etc.), they are prohibited, pursuant to Education Code 234.7, as added by AB 699 (Ch. 493, Statutes of 2017), from inquiring into the citizenship or immigration status of students and their families. Consequently, consistent with the Attorney General's model policy, districts may not request a student's or parent/guardian's green card, visa, passport, voter registration, or other documentation that indicates citizenship status and could discourage undocumented children from enrolling in school. Also see BP/AR 5111.1 - District Residency.

Note: In addition, pursuant to Education Code 49076.7, a district is prohibited from soliciting or collecting social security numbers or the last four digits of social security numbers of students or their parents/guardians, unless otherwise required to do so by state or federal law. One such exception is the collection of the last four digits of the social security number for the purpose of establishing eligibility for a federal benefit program. Also see BP/AR 5125 - Student Records.

The district shall not inquire into or request documentation of a student's social security number or the last four digits of the social security number or the citizenship or immigration status of the student or his/her family members. (Education Code 234.7, 49076.7)

(cf. 0410 - Nondiscrimination in District Programs and Activities)
(cf. 5145.13 - Response to Immigration Enforcement)
(cf. 5145.3 - Nondiscrimination/Harassment)

Note: The following paragraph reflects the Attorney General's model policy developed pursuant to Education Code 234.7. Information regarding national origin (e.g., place of birth, date of entry into the United States, and date the student first attended school in the United States) may be collected only when required to comply with state or federal reporting requirements for special programs, such as language instruction programs for English learners, but should not be collected during the admission process to avoid deterring initial school enrollment of immigrant students.

However, such information may be collected when required by state or federal law or to comply with requirements for special state or federal programs. In any such situation, the information shall be collected separately from the school enrollment process and the Superintendent or designee shall explain the limited purpose for which the information is collected. Enrollment in a district school shall not be denied on the basis of any such information of the student or his/her parents/guardians obtained by the district, or the student's or parent/guardian's refusal to provide such information to the district.

***Note: The following paragraph is for use by districts that maintain grades K-1. In addition to the methods specified in Education Code 48002 for documenting a child's age for admittance to kindergarten or first grade, as listed in the accompanying administrative regulation, the Governing Board is authorized to prescribe alternative means for proof of a child's age. The following paragraph may be revised to reflect any such alternative means

ADMISSION (continued)

approved by the Board. The following paragraph also reflects the Attorney General's model policy, developed pursuant to Education Code 234.7, requiring that such alternative means be available to all persons regardless of immigration status, citizenship status, or national origin.***

School registration information shall list all possible means of documenting a child's age for grades K-1 as authorized by Education Code 48002 or otherwise prescribed by the Board. Any alternative document allowed by the district shall be one that all persons can obtain regardless of immigration status, citizenship status, or national origin and shall not reveal information related to citizenship or immigrant status.

Note: State and federal law require the immediate enrollment of homeless youth (Education Code 48850, 48852.7; 42 USC 11432), foster youth (Education Code 48853.5), and former juvenile court school students (Education Code 48645.5) regardless of their ability to provide the school with records normally required for enrollment; see BP/AR 6173 - Education for Homeless Children, AR 6173.1 - Education for Foster Youth, and AR 6173.3 - Education for Juvenile Court School Students. In addition, Education Code 49701 requires the district to facilitate the enrollment of children of military families and to ensure that they are not placed at a disadvantage due to difficulty in the transfer of their records from previous school districts and/or variations in entrance or age requirements; see BP/AR 6173.2 - Education of Children of Military Families.

The Superintendent or designee shall immediately enroll a homeless student, foster youth, student who has had contact with the juvenile justice system, or a child of a military family regardless of outstanding fees or fines owed to the student's last school, lack of clothing normally required by the school, such as school uniforms, or his/her inability to produce previous academic, medical, or other records normally required for enrollment. (Education Code 48645.5, 48850, 48852.7, 48853.5, 49701; 42 USC 11432)

(cf. 6173 - Education for Homeless Children)
(cf. 6173.1 - Education for Foster Youth)
(cf. 6173.2 - Education of Children of Military Families)
(cf. 6173.3 - Education for Juvenile Court School Students)

~~All resident students who are enrolling either in the school in their attendance area or in another district school shall be subject to the timelines established by the Board in BP/AR 5116.1 - Intradistrict Open Enrollment. Nonresident students may apply for interdistrict attendance in accordance with the timelines specified in applicable Board policies and administrative regulations.~~

~~*(cf. 5116.1 - Intradistrict Open Enrollment)*~~
~~*(cf. 5117 - Interdistrict Attendance)*~~
~~*(cf. 5118 - Open Enrollment Act Transfers)*~~

ADMISSION (continued)

Legal Reference:

EDUCATION CODE
234.7 Student protections relating to immigration and citizenship status
46300 Computation of average daily attendance, inclusion of kindergarten and transitional kindergarten
46600 Agreements for admission of students desiring interdistrict attendance
48000 Minimum age of admission (kindergarten)
48002 Evidence of minimum age required to enter kindergarten or first grade
48010 Minimum age of admission (first grade)
48011 Admission from kindergarten or other school; minimum age
48050-48053 Nonresidents
48200 Children between ages of 6 and 18 years (compulsory full-time education)
48350-48361 Open Enrollment Act
48645.5 Enrollment of former juvenile court school students
48850-48859 Educational placement of foster youth
49076 Access to records by persons without written consent or under judicial order
49076.7 Student records; data privacy; social security numbers
49408 Information of use in emergencies
49452.9 Health care coverage options and enrollment assistance
49700-~~49704~~ 49703Education of children of military families
HEALTH AND SAFETY CODE
120325-120380 Education and child care facility immunization requirements
121475-121520 Tuberculosis tests for students
CODE OF REGULATIONS, TITLE 5
200 Promotion from kindergarten to first grade
201 Admission to high school
CODE OF REGULATIONS, TITLE 17
6000-6075 School attendance immunization requirements
UNITED STATES CODE, TITLE 5
552a Note Refusal to disclose social security number
UNITED STATES CODE, TITLE 42
11431-11435 McKinney Homeless Assistance Act
COURT DECISIONS
Plyler v. Doe, 457 U.S. 202 (1982

Management Resources:

CSBA PUBLICATIONS
~~Transitional Kindergarten, Issue Brief, July 2011~~
Legal Guidance on Providing All Children Equal Access to Education, Regardless of Immigration Status, February 2017
~~OFFICE FOR CIVIL RIGHTS, U.S. DEPARTMENT OF EDUCATION PUBLICATIONS~~
~~Dear Colleague Letter, May 6, 2011~~
CALIFORNIA OFFICE OF THE ATTORNEY GENERAL PUBLICATIONS
Promoting a Safe and Secure Learning Environment for All: Guidance and Model Policies to Assist California's K-12 Schools in Responding to Immigration Issues, April 2018
U.S. DEPARTMENT OF JUSTICE CIVIL RIGHTS DIVISION AND U.S. DEPARTMENT OF EDUCATION OFFICE FOR CIVIL RIGHTS JOINT PUBLICATIONS
Dear Colleague Letter: School Enrollment Procedures, May 8, 2014
Fact Sheet: Information on the Rights of All Children to Enroll in School, May 8, 2014
Information on the Rights of All Children to Enroll in School: Questions and Answers for States, School Districts and Parents, May 8, 2014
WEB SITES
CSBA: http://www.csba.org
California Department of Education, Health Care Coverage and Enrollment Assistance: http://www.cde.ca.gov/ls/he/hc
California Office of the Attorney General: http://oag.ca.gov

ADMISSION (continued)

WEB SITES (continued)

U.S. Department of Education, Office for Civil Rights, ~~U.S. Department of Education~~: http://www2.ed.gov/about/offices/list/ocr
U.S. Department of Justice: http://www.justice.gov

ADMISSION

Note: The following optional administrative regulation is for use by districts offering grades K-1.

Age of Admittance to ~~Grades K-1~~ Kindergarten and First Grade

~~A child shall be eligible for enrollment in kindergarten or first grade, at~~ At the beginning of ~~the~~ each school year ~~or at a later time in the same year~~, the Superintendent or designee shall enroll any eligible child ~~if the child has~~ who will have his/her fifth or sixth birthday~~, respectively,~~ on or before ~~one of the following dates:~~ September 1 of that year into kindergarten or first grade, as applicable. (Education Code 48000, 48010)

~~1. December 2 of the 2011-12 school year~~

~~2. November 1 of the 2012-13 school year~~

~~3. October 1 of the 2013-14 school year~~

~~4. September 1 of the 2014-15 school year and each school year thereafter~~

Any child who will have his/her fifth birthday ~~between the date listed above for the applicable school year~~ from September 2 through ~~and~~ December 2 of the school year shall be offered a transitional kindergarten (TK) program in accordance with law and Board policy. (Education Code 48000)

(*cf. 5123 - Promotion/Acceleration/Retention)*
(cf. 6170.1 - Transitional Kindergarten)

Documentation of Age/Grade

Prior to the admission of a child to kindergarten or first grade, the parent/guardian shall present proof of the child's age. (Education Code 48002)

Note: Education Code 48002 specifies that the method of proof of age may include any appropriate means prescribed by the Governing Board. The following items reflect examples in Education Code 48002 and may be revised to reflect district practice.

Note: Although Education Code 48002 includes a passport as a possible means for determining a child's age, the California Attorney General's model policy developed pursuant to Education Code 234.7, as added by AB 699 (Ch. 493, Statutes of 2017), states that districts should not require documentation that may indicate a student's national origin or immigration status, such as a passport, to the exclusion of other permissible documentation. See the Office of the Attorney General's publication Promoting a Safe and Secure Learning Environment for All: Guidance and Model Policies to Assist California's K-12 Schools in Responding to Immigration Issues.

Evidence of the child's age may include: (Education Code 48002)

1. A certified copy of a birth certificate or a statement by the local registrar or county recorder certifying the date of birth

2. A duly attested baptism certificate

3. Passport

4. When none of the above documents is obtainable, an affidavit of the parent/guardian

5. Other means prescribed by the Board

~~When none of the foregoing is obtainable, the parent/guardian may provide any other appropriate means of proving the age of the child. (Education Code 48002)~~

~~*(cf. 5125 - Student Records)*~~
~~*(cf. 6146.3 - Reciprocity of Academic Credit)*~~