

# RESPONDING TO IMMIGRATION ISSUES

## STUDENT AND INSTRUCTION POLICY #3.26

**Adopted: 06.04.2018**

### **Collecting and Retaining Student Information**

- The Executive Director shall maintain in writing Vista Oaks Charter School's policies and procedures for gathering and handling sensitive student information, and appropriate personnel shall receive training regarding those policies and procedures.
- If the Vista Oaks Charter School possesses information that could indicate immigration status, citizenship status, or national origin information, Vista Oaks Charter School shall not use the acquired information to discriminate against any students or families or bar children from enrolling in or attending school.
- 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, the Vista Oaks Charter School shall not use such actions as a basis to discriminate against any students or families or bar children from enrolling or attending school.
- Vista Oaks Charter School 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.

### **Inquiries Regarding Immigration Status, Citizenship Status, and National Origin Information**

- Vista Oaks Charter School 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.
- Where any law contemplates submission of national origin related information to satisfy the requirements of a special program, Vista Oaks Charter School personnel shall solicit that documentation or information separately from the school enrollment process.
- Where permitted by law, the school personnel of Vista Oaks Charter School 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.
- 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, Vista Oaks Charter School procedures and forms shall describe to the applicant, and accommodate, all alternatives specified in law and all alternatives authorized under this policy.

### **Inquiries About Social Security Numbers or Cards**

- Vista Oaks Charter School shall not solicit or collect entire Social Security numbers or cards.
- Vista Oaks Charter School 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.
- When collecting the last four digits of an adult household member's Social Security number to establish eligibility for a federal benefit program, Vista Oaks Charter School 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.
- Vista Oaks Charter School 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.

### Information Sharing

- Vista Oaks Charter School 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).
- Vista Oaks Charter School personnel shall take the following action steps upon receiving an information request related to a student's or family's immigration or citizenship status:
  - Notify a designated Vista Oaks Charter School official about the information request.
  - Provide students and families with appropriate notice and a description of the immigration officer's request.
  - Document any verbal or written request for information by immigration authorities.
  - Unless prohibited, provide students and parents/guardians with any documents issued by the immigration-enforcement officer.
- Except for investigations of child abuse, child neglect, or child dependency, 61 or when the subpoena served on Vista Oaks Charter School prohibits disclosure, 62 Vista Oaks Charter School shall provide parental or guardian notification of any court orders, warrants, or subpoenas before responding to such requests.
- Vista Oaks Charter School 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.
- Vista Oaks Charter School 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) if requested by the parents, guardians or eligible student, a copy of the records to be released. The Vista Oaks Charter School shall permanently keep the consent notice with the record file.

- 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 this not otherwise subject to release, Vista Oaks Charter School shall not release the information.

#### Annual Information Notice to Parents and Guardians General Information Policy

- Vista Oaks Charter School must provide an annual notice to parents and guardians of the school's general information policies that includes:
  - Assurances that Vista Oaks Charter School will not release information to third parties for immigration-enforcement purposes, except as required by law or court order.
  - A description of the types of student records maintained by Vista Oaks Charter School.
  - A list of the circumstances or conditions under which Vista Oaks Charter School might release student information to outside people or entities.
  - A statement that, unless Vista Oaks Charter School is providing information for a legitimate educational purpose under FERPA and the California Education Code or directory information, Vista Oaks Charter School shall notify parents or guardians and eligible students—and receive their written consent—before it releases a student's personally identifiable information.

#### Monitoring and Receiving Visitors onto Campus

- No outsider—which would include immigration-enforcement officers—shall enter or remain on school grounds of Vista Oaks Charter School during school hours without having registered with the Executive Director 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 Executive Director or designee:
  - Name, address, occupation;
  - Age, if less than 21;
  - Purpose in entering school grounds;
  - Proof of identity; and
  - Any other information as required by law.
- Vista Oaks Charter School 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.
- Vista Oaks Charter School shall post signs at the entrance of its school grounds to notify outsiders of the hours and requirements for registration.
- Vista Oaks Charter School personnel shall report entry by immigration-enforcement officers to any on-site school police or other appropriate administrator as would be required for any unexpected or unscheduled outside visitor coming on campus.

#### Responding to On-Campus Immigration Enforcement

As early as possible, Vista Oaks Charter School personnel shall notify the 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.).

- In addition to notifying the Executive Director, Vista Oaks Charter School 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 Executive Director
  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, Vista Oaks Charter School personnel should comply with the officer's orders and immediately contact the Executive Director.
  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:
    - an ICE (Immigrations and Customs Enforcement) administrative warrant, Vista Oaks Charter School personnel shall inform the agent that he or she cannot consent to any request without first consulting with Vista Oaks Charter School counsel.
    - 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 Vista Oaks Charter School legal counsel before providing the agent 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, Vista Oaks Charter School personnel shall inform Vista Oaks Charter School legal counsel or other designated official of the subpoena, and await further instructions on how to proceed
  8. While Vista Oaks Charter School 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, Vista Oaks Charter School personnel shall document his or her actions while on campus.
  9. After the encounter with the officer, Vista Oaks Charter School personnel shall promptly take written notes of all interactions with the officer. 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 officer;
    - Details of the officer's request;
    - 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;
    - Vista Oaks Charter School personnel's response to the officer's request;
    - Any further action taken by the agent; and
    - Photo or copy of any documents presented by the agent.

10. Vista Oaks Charter School personnel shall provide a copy of those notes, and associated documents collected from the officer, to Vista Oaks Charter School legal counsel.

11. In turn, the legal counselor shall submit a timely report to Vista Oaks Charter School governing board regarding the officer's requests and actions and Vista Oaks Charter School response(s).

12. E-mail the Bureau of Children's Justice in the California Department of Justice, at [BCJ@doj.ca.gov](mailto:BCJ@doj.ca.gov), regarding any attempt by a law-enforcement officer to access a school site or a student for immigration-enforcement purposes.

#### Parental Notification of Immigration-Enforcement Actions

- Vista Oaks Charter School 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.
- Vista Oaks Charter School 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.