

**Capital Area School for the Arts  
Charter School  
150 Strawberry Square  
Harrisburg, PA 17101**

No. 831

**SECTION: OPERATIONS**

**TITLE:  
STUDENT/EMPLOYEE  
IMMIGRATION POLICY**

**ADOPTED: 6/12/2017**

**Purpose:**

In response to increased immigration enforcement by the federal government, the Board of Trustees ("Board") for the Capital Area School for the Arts Charter School ("Charter School") adopts the following policy regarding students who are immigrants to the United States. A Memorandum was issued by the Department of Homeland Security ("DHS") on February 20, 2017 increasing efforts to deport illegal immigrants from the United States.

The purpose of this policy is to advise students, parents, and Charter School board members, administrators, faculty, and staff of the rights of students who are undocumented immigrants. It is also intended to ensure compliance with federal laws that prohibit employers from hiring undocumented immigrants.

**Authority**

The Board declares it to be its policy to provide an equal opportunity and education for all students, including students who are undocumented immigrants. At no time shall the Charter School, including the Board, fail to admit a child conditioned on the child's immigration status. At no time, shall the Charter Schools' board members, administration, faculty or staff, inquire regarding the immigration status of a student as part of the admission process. 22 Pa Code § 11.11(d).

The Board also declares it to be its policy to have updated information regarding its employee's immigration statuses, insure that all employees I-9 forms are up to date, and kept in a separate employee file. If any employees cannot provide updated immigration documents required on an I-9, that employee should be terminated.

Furthermore, if the Charter School is presented with a government warrant for immigration records, it should contact legal counsel for review before providing those records.

## **Undocumented Students:**

Pennsylvania regulations state that a child's right to be admitted to a public school may not be conditioned on the child's immigration status. 22 Pa Code § 11.11(d). Since a child's right to be admitted may not be conditioned on his/her immigration status, a school cannot inquire about the immigration status as part of the admission process.

In 1982, the United States Supreme Court held that students who are undocumented immigrants have an equal right to education as students who are citizens.

The provision does not relieve a student who has obtained an F-1 visa (international students) from the student's obligation to pay tuition under Federal law.

In compliance with Pennsylvania and Federal law, no board member, administrator, faculty or staff member of the Charter School should inquire about a student's immigration status, before or after the admission process. The Charter School may require proof of residency from the student's parents, but that can be shown by means other than government-issued documentation.

## **Immigration Status of Employees:**

The Charter School shall ensure that all of its employees' I-9 forms are up to date and all supporting documentation is on file.

The Charter School shall require all new hires to complete and sign an I-9 form, and present required documentation upon hire. Within three business days of hire, the Charter School shall review the form and supporting documentation. If the I-9 form is compliant and required documentation is presented, a representative from the Charter School should sign the I-9 form. 8 C.F.R. 274a.2(b)(i) and (ii).

All I-9 forms and other immigration forms should be kept in a separate file, or an immigration compliance file. While copies of government-issued documentation (such as Social Security cards, driver's licenses, and birth certificates) may be kept in an employee's regular file, copies should also be kept with the I-9 forms in an employee's immigration compliance file. If an employee at the Charter School is not a citizen, but legally permitted to be in the United States and permitted to work in the United States, then copies of any immigration documents showing legal work status and/or documents required by the I-9 form must be kept in the file.

The Charter School should take note of the expiration of any I-9 form required documents, and if any of those documents are expired or nearing expiration, ask the employee for updated documentation.

It is the policy of the Charter School to not employ undocumented immigrants. If an employee cannot provide the Charter School with documentation that he/she is able to work in the United States legally, the employee shall be terminated. It is a violation of the law for a Charter School to continue to employ an undocumented immigrant. 8 U.S.C.A. § 1324a.

**Warrants:**

If the Charter School is presented with a warrant from the Office of Immigration and Customs Enforcement ("ICE") for immigration purposes, or for any purpose, the Charter School should present that warrant to legal counsel for review before it complies with the warrant.

ICE Administrative warrants are not warrants signed by a judge or judicial officers. These warrants are signed by federal immigration officials, and do not require the same burden of proof that a judicial warrant requires. The United States Supreme Court has held that constitutionally sufficient warrants are issued only upon oath or affirmation of facts submitted to a judicial officer, one who is neutral and detached from enforcement activities. *Coolidge v. New Hampshire*, 403 U.S. 443, 450 (1971). A warrant not signed by neutral judge is not constitutionally sufficient and may not need to be followed. If presented to the Charter School, these warrants should be reviewed by legal counsel to determine whether the Charter School must comply.