

INTRODUCED 1/10/17. ADOPTED, AS AMENDED, BY THE BOARD OF EDUCATION AT ITS REGULAR MEETING OF MAY 23, 2017

Subject: Resolution No. 171-10A1

Undocumented, Unafraid and United Students Resolution

- Commissioners Matt Haney, Shamann Walton, Stevon Cook,
Hydra Mendoza-McDonnell, Emily M. Murase, Rachel Norton, Mark Sanchez,
and Student Delegates Maria Zaragoza and Jessica Eng

WHEREAS: It is the mission of the San Francisco Unified School District to provide each and every student the quality instruction and equitable support required to thrive in the 21st century; and

WHEREAS: The City and County of San Francisco, just like many major cities in the United States, is the home and workplace of large immigrant communities with citizens and immigrants of all statuses; and

WHEREAS: The United States Supreme Court in 1982 ruled in *Plyler v. Doe* that public schools were prohibited from denying immigrant students access to elementary and secondary public education, citing the harm it would inflict on the child and society itself, and the equal protection rights of the Fourteenth Amendment. The Court stated that undocumented children have the same right to a free public education as citizens of the United States and permanent residents; and

WHEREAS: Support and protection of undocumented children and their families and a commitment to assure that undocumented and other children in immigrant families have the same right to a free public education as citizens of the United States is the established policy of the San Francisco Unified School District as an expression of our legal, moral, social and educational responsibilities; and

WHEREAS: There are no accurate numbers of how many undocumented children are enrolled in San Francisco's public schools, approximately 49% of San Francisco Unified School District's students are English Language Learners or "Reclassified" former English Language Learners; and

WHEREAS: Federal, state and local government officials throughout the country have proposed or passed laws and ordinances that propose stemming the tide of undocumented immigrants by cutting off opportunities for jobs, government benefits, housing, and imposing fines on companies employing undocumented immigrants, thereby increasing tensions in immigrant communities; and

WHEREAS: Threats and reports of ICE [U.S. Immigration and Customs Enforcement Office] raids in San Francisco and Bay Area cities and elsewhere have caused immigrant communities to fear sending their children to schools and leaving their homes, even for needed medical services; and

WHEREAS: These stresses, tensions, hardships and barriers to health and educational engagement exist not only for students who are themselves undocumented but also for students, whether undocumented immigrants or not, who have family members, friends and schoolmates at risk and thus creates concerns that pervasively affect students in our schools whatever their background and status; and

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WHEREAS: Threats of legal action, and particularly of separation and deportation, against students and their families create severe emotional, psychological and physical barriers to learning and education that can and should be allayed or reduced through support systems referrals to legal resources provided by the school district; and

WHEREAS: In 1989, after organizing by immigrant communities and the Coalition for Immigrant and Refugee Rights and Services, the SF Board of Supervisors passed Ordinance 375-89 making San Francisco a “City of Refuge” for undocumented workers anywhere from the world and the San Francisco Bay Area. In January 2006, the Board of Supervisors passed a Resolution 060067 Affirming the San Francisco’s City of Refuge Ordinance. The ordinance forbids city resources from being used to enforce federal immigration laws or to gather or disseminate information regarding the immigrant status of residents of the City unless such assistance is required by federal or state statute, regulation or court decision; and

WHEREAS: Officials of the City and County of San Francisco have repeatedly affirmed San Francisco’s commitment, as a sanctuary city, to provide safe haven to those in need; and

WHEREAS: Students, staff, parents and community organizations from across the San Francisco Unified School District have petitioned the Board of Education to reaffirm and strengthen district policies designed to protect and support immigrant students and their families. The petitioners include not only members of the immigrant community but also allies and advocates from many sectors of our population.

WHEREAS: In 2007, the SF Board of Education resolved that all District students, who register for the following services and meet the need criteria, are entitled to receive all school services, including free lunch, free breakfast, transportation, and educational services, even if they or their family members are undocumented or do not have a social security number; that no school district staff shall take any steps that would deny students access to education based on their immigration status or any steps that would “chill” the rights of these students to public education; that District personnel and school personnel shall not ask for documentation such as a green card or citizenship papers, which may expose the immigration status of a student or member(s) of a student’s family, at initial registration or at any other time; and that District personnel and school personnel shall not require students or member(s) of a student’s family to apply for or provide social security numbers.

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THEREFORE BE IT RESOLVED: That the San Francisco Board of Education, in solidarity with students, families, staff and communities across our school district, and consistent with the City and County’s designation of San Francisco as a City of Refuge, and in light of the increasing tensions in immigrant communities, and the possible chilling effect on the educational rights of immigrant students by the enactment of the aforementioned laws and ordinances, hereby restates its position that all students have the right to attend school regardless of the immigration status of the child or of the child's family members; and

BE IT FURTHER RESOLVED: In order to provide equitable access to a quality public education, regardless of a child’s or family member’s immigration status, the District shall abide by the following conduct:

1. District personnel and school personnel shall not treat students disparately for residency determination purposes or any other purpose on the basis of their or their parent’s or guardian’s undocumented status;
2. District personnel and school personnel shall not require disclosure of the immigration status of a student or member(s) of a student’s family, including but not limited to the following:
 - a. Any disclosure of immigration status by students or member(s) of a student’s family shall be voluntary and only used by district personnel and school personnel to support the student and family or to develop support programs; and
 - b. If students or member(s) of a student’s family have questions about their immigration status, district personnel and school personnel shall not refer them to the Immigration and Customs Enforcement Office (ICE) or any other law enforcement or immigration enforcement agency.
3. If district personnel or school personnel learn about the immigration status of a student or member(s) of a student’s family, those personnel shall keep that information private and confidential, including but not limited to the following:
 - a. District personnel and school personnel shall not voluntarily share information about the immigration status of a student or member(s) of a student’s family;
 - b. District personnel and school personnel shall not make or maintain any records relating to immigration status, except records protected by attorney-client privilege; and
 - c. District personnel and school personnel shall treat all information connected in any

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way to the immigration status of a student or member(s) of a student's family as private and confidential educational information subject to protection from disclosure under federal and state privacy law and the policies of the San Francisco Unified School District; and

4. District personnel and school personnel shall not cooperate with Immigration and Customs Enforcement (ICE), Customs & Border Patrol (CBP), or any other immigration enforcement agency, or any law enforcement agency other than the San Francisco Police or Sheriff's Departments, including not enforcing immigration laws, not assisting or cooperating with any investigation, detention, or arrest procedures, not providing information or consenting to access to student records, and not consenting to access to students, school campuses, or any lands or buildings owned or controlled by the District unless immigration enforcement agents present a valid warrant or court order signed by a federal or state judge.

- - a. Any agent of ICE, CBP, or any other immigration enforcement agency, or any law enforcement agency other than the San Francisco Police or Sheriff's Departments, who requests cooperation or access to students, records, or lands or buildings, shall be immediately referred to the Superintendent and Legal Department;
 - b. If the Superintendent and the Legal Department determine that a warrant or court order is valid, then cooperation or access shall be strictly limited to the terms of the warrant or court order signed by the federal or state judge;
 - c. As soon as possible, the District shall explore all options for legal challenges to the agency's demand for access to students, records or property. If applicable procedural rules permit the District to challenge the demand before complying, the District shall take all necessary and lawful steps to oppose requests or demands that the District assist or cooperate with immigration enforcement actions;
 - d. In exploring a legal challenge, the District may consider a number of factors, including but not limited to:
 - i. Whether the terms of the warrant or court order conflicts with the District's responsibilities under Plyler v. Doe and other applicable laws;
 - ii. Whether the terms of the warrant or court order conflict with federal and state privacy laws; and
 - iii. Whether the District can honor the terms of the warrant or court order while providing for the emotional and physical safety of its students and staff.

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- e. Nothing in this section shall be construed to direct district personnel or school personnel to violate state or federal law;

5. From the adoption of this resolution here on forth, language prohibiting the collection of immigration status and establishing a protocol for law enforcement inquiries will be included in future contracts, memorandum of understanding, or other contractual arrangements that may permit access to school grounds, students or their families, or information regarding students or their families; and

BE IT FURTHER RESOLVED: In order to provide equitable access to a quality public education, regardless of a child's or family member's immigration status, the District shall direct resources to implement and maintain the following policies, practices and programs:

1. Establish or expand a central resource with the necessary expertise to:
 - a. Specifically support undocumented students and mixed-status families, as distinct from newcomer students or English language learners, including undocumented students who may have lived in the U.S. since a young age;
 - b. Train counselors and teachers on working with immigrant and undocumented students and their families;
 - c. Provide information and assistance to counselors and teachers to answer undocumented student questions regarding their rights to college access, financial assistance for college, working and career, and other issues that may arise;
 - d. Gather and provide information regarding earning opportunities, internships and trainings that do not require a social security number;
 - e. Provide information regarding laws and regulations regarding the educational needs, equitable access to educational opportunities, and access to a school environment free from bullying and discrimination for undocumented students;
 - f. Provide contacts for resources for legal, medical, housing or other assistance;
 - g. Make information regarding resources and supports for immigrants and identifying opportunities for alliances with immigrants available to all students, including but not limited to posters, pamphlets, contact information for community resources, and a toolkit with resources, including medical, legal and housing; and
 - h. Partner with organizations that have expertise, and are culturally and linguistically appropriate, in providing supports and opportunities for undocumented students;

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2. Establish a stipend position at each middle and high school for an Immigrant & Refugee Liaison, with expertise necessary to:
 - a. Specifically support undocumented students and mixed-status families, as distinct from newcomer students or English language learners, including undocumented students who may have lived in the U.S. since a young age;
 - b. Establish school clubs to support undocumented students and students in mixed-status families, such as a Dreamer's Club and establish confidential support groups as part of Wellness programs;
 - c. Gather and provide information regarding earning opportunities, internships and trainings that do not require a social security number;
 - d. Provide contacts for resources for legal, medical, housing or other assistance;
 - e. Make information regarding resources and supports for immigrants and identifying opportunities for alliances with immigrants available to all students, including but not limited to posters, pamphlets, contact information for community resources, and a toolkit with resources, including medical, legal and housing;
 - f. Partner with organizations that have expertise, and are culturally and linguistically appropriate, in providing supports and opportunities for undocumented students;
 - g. Connect with local community partners to provide multilingual workshops designed to teach students their rights, how to remain as safe as possible depending on different legal statuses, and how to organize their communities and allies;
 - h. Make information regarding resources and supports for undocumented immigrants available to families, including distributing information in multiple languages; distributing information to families of English language learners; and family nights and conferences focused on supports for immigrants and how parents can support their children; and
 - i. Establish equivalent age-appropriate support programs in elementary schools;
3. Provide mandatory training for all counseling staff on:
 - a. Sensitivity and inclusivity in working with immigrant and undocumented students and their families; and
 - b. Information, strategies, practices and programs to assist undocumented students pursue college and career, including access to colleges, financial assistance, internships, and careers;

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4. Establish bullying prevention and intervention programs including, but not limited, to the following:
 - a. Incorporate anti-bullying strategies that address the experiences of immigrant children and their families into Wellness programs;
 - b. Issue statements of intolerance of acts of harassment or bullying against immigrants and/or undocumented immigrants; and
 - c. Organize solidarity rallies and events;
5. Provide information to all students regarding the role of immigrants, including undocumented immigrants, in the history and economics of California and the United States and inviting them to be allies with their immigrant schoolmates;
6. Explore processes to ensure that undocumented students have the same access as other high school students to internships, jobs, and other work opportunities, paid and unpaid, including:
 - a. Assuring equitable access to District stipend programs, such as Youth Outreach Workers (YOWs); and
 - b. Encouraging outside organizations and agencies to provide equal access to internships;
7. Continue and expand community partnerships to provide legal screenings, advice, and representation for students and their families who may be undocumented or facing deportation, including:
 - a. Making opportunities available for legal clinics and screenings for students and families; and
 - b. Continue connections and communication with the San Francisco citywide rapid response network to assist students who have been detained by ICE or whose families have been detained;

BE IT FURTHER RESOLVED: In order to advance the commitment of the San Francisco Unified School District to support our graduates attending college, the District shall

1. Express its public support for continuation and expansion of the Deferred Action for Childhood Arrivals (DACA) Program and all other pro-immigrant legislation that may be proposed at the local, state, and federal level;
2. Through partnerships with appropriate community based, government, or non-profit organizations, provide free or low-cost legal assistance for DACA applications and renewals and access to available scholarship opportunities to subsidize DACA application fees;
3. Actively assist students to find scholarships that do not require social security numbers;
4. Encourage community organizations and other private organizations to establish a fund for college scholarships for undocumented SFUSD graduates.

FURTHER BE IT RESOLVED: That to ensure effective implementation of this policy:

1. Copies of this resolution shall be distributed to all school sites;
2. Central office staff and school-based staff will be adequately trained on how to implement this policy, including training for security staff, office staff, and administrators on how to respond to ICE, CBP, any other immigration enforcement agency, or any law enforcement agency other than the San Francisco Police Department;
3. Parents will receive notification in various languages of the new District policy to fully inform families of their rights in the SFUSD;
4. The District shall establish procedures for complaints or concerns that the policies set forth in this resolution are not being followed; and
5. Staff will update Board Policy 5145.1 to reflect the requirements of this Resolution;

BE IT FURTHER RESOLVED: That the District shall continue to consult with the Mayor's Office, the Board of Supervisors, other local and state agencies, and non-governmental organizations focused on immigration rights, to renew and deepen the commitment to protect and support undocumented residents.