



EXECUTIVE OFFICE MEMORANDUM

STATE OF
CALIFORNIA



December 06, 2024

EOM 2024-07

TO: High School Counselors
Financial Aid Administrators
Cal-SOAP Program Directors

FROM: Anna Manuel
General Counsel

SUBJECT: **Financial Aid Applications for Mixed-status Students and Families**

To support financial aid administrators, high school counselors, and Cal-SOAP directors in their work to engage and help all students and families to afford higher education, this memo offers guidance with respect to completing the CADAA vs. the FAFSA for mixed-status students and families.¹ Section I provides information which can be disseminated to mixed-status students and families and can aid in deciding which application works best for their individual situations. Section II discusses some aspects of the federal legal and procedural data privacy landscape with regard to student data. Please contact the California Student Aid Commission General Counsel at anna.manuel@csac.ca.gov for questions about this memo.

This information does not constitute legal advice, nor does it attempt to shield any person from detection in any place. This memo shares publicly available information.

I. WORKING WITH STUDENTS AND FAMILIES – INFORMATION FOR MIXED-STATUS STUDENTS AND FAMILIES TO CONSIDER

At this time, there is no definitive answer to the question of whether mixed-status students who submit or have submitted a FAFSA put their undocumented contributors at risk of immigration enforcement. The information below can be shared with students to enable them to make informed decisions whether or not to submit a FAFSA.² This section discusses three topics for consideration: sharing data with the federal government, immigration enforcement priorities, and “know-your-rights” education.

¹ Here, a mixed-status family is one in which the student is a U.S. citizen or eligible noncitizen, and their parent(s) or spouse, also known as FAFSA contributors, do not have a Social Security number (SSN).

² It is important to remind students early that FAFSA-eligible students and families have the option to file the FAFSA later, after the CADAA, if they choose to.

A. Data sharing

Federal Student Aid (FSA) retains information and identifying documents about students and contributors, including undocumented parents and spouses. In general, data collected for the FAFSA is intended to be used only for purposes of determining financial aid. At this time there is no way to know if the incoming federal administration will try to obtain and use FAFSA information for purposes other than financial aid.

- ➔ *Individuals should recognize that on the one hand, their data may already be known or could be known to federal agencies—e.g., through the Internal Revenue Service (IRS), United States Citizenship and Immigration Service (USCIS), California Department of Motor Vehicles (DMV), or others. But on the other hand, limiting the frequency with which data is shared can sometimes help mitigate risk of problems associated with sharing personally identifiable information (PII) and other data.*

B. Immigration enforcement priorities

Certain elements of a person's history can have detrimental impacts on their immigration situation in general, e.g., having an order of deportation, criminal record, restraining order, or others. In addition, each federal administration establishes its own "immigration enforcement priorities," a policy statement detailing which individuals are priorities for deportation. While the enforcement priorities under the current administration are narrowly defined, we must wait to find out how broadly the new administration will define enforcement priorities.

- ➔ *Once the new administration announces its immigration enforcement priorities on or after January 20, 2025, the public will be able to learn who will be considered at heightened risk for deportation.*
- ➔ *An immigration lawyer or Department of Justice (DOJ) Accredited Representative can help individuals to learn more about their immigration and criminal records and to assess individual risk for enforcement. See legal resources in Section IV.*

C. Constitutional "know-your-rights" education

Students and families have rights under the U.S. Constitution regardless of immigration status, this includes right to stay silent, right to be free from unreasonable search, and right to hire an attorney.

- ➔ *Students and families can learn how to exercise their rights if confronted by immigration enforcement by accessing information from the [American Civil Liberties Union](#) and the [Immigrant Legal Resources Center](#).*

II. FEDERAL LEGAL AND PROCEDURAL DATA PRIVACY LANDSCAPE, IN BRIEF

There is no federal legal requirement for any agency or organization to provide information to officers engaged in immigration enforcement without a judicial subpoena or court order. See [20 U.S.C. § 1232g\(b\)\(1\)\(C\)](#). With narrow exception (financial aid-related studies or audits/evaluations), the Family Educational Rights and Privacy Act (FERPA) prohibits agencies who possess student PII from releasing student data, regardless of immigration status. In addition, the Federal Privacy Act of 1974 generally prohibits federal agencies from sharing PII outside of the agency.

Fair Information Practice Principles (FIPPs), which are rooted in the Federal Privacy Act of 1974, are the core principles that federal agencies utilize for their information management practices. The [FSA](#), [Department of Homeland Security \(DHS\)](#), and [IRS](#) all maintain FIPPs specifying that PII should be protected and only used in relation to the purpose for which it was collected. As such, FSA is generally not permitted to share PII with other federal agencies unless it supports the purpose for which the information was obtained—providing student aid.

However, should DHS or Immigration and Customs Enforcement (ICE) serve a subpoena or court order on FSA or IRS, those agencies' responses and likelihood of challenging the demand for information are unknown.³

III. CONCLUSION

While it is yet unknown whether filing the FAFSA will compromise immigrants' data, CSAC will closely follow any developments and keep students and the financial aid community informed.

IV. ADDITIONAL RESOURCES FOR MIXED STATUS FAMILIES

[California Student Aid Commission: New CADAA for Students from Mixed-Status Families](#)

[California Student Aid Commission: Protection of Student Information for CADAA Applicants](#)

[The Campaign for College Opportunity: Undocumented Student Campus Resources](#)

³ Importantly, it has been reported that ICE also engages in nonjudicial surveillance tactics to obtain information. See [American Dragnet | Data-Driven Deportation in the 21st Century and The Wiretap: ICE's Big Spending On Phone Hacking Tech](#)

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Current as of 12/06/2024. CSAC reserves the right to update this guidance as needed.

Legal resources:

[ILRC Find Your Ally, CCC/CSU Legal Services](#)

[UC Immigrant Legal Services Center](#)

[Immigrants Rising: Getting Legal Help](#)

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