

Spectrum Charter School Board of Trustees Policy

STUDENT & EMPLOYEE IMMIGRATION POLICY

Purpose:

In response to increased immigration enforcement by the federal government, the Board of Trustees ("Board") for the Spectrum Charter School ("Charter School") adopts the following policy regarding students and employees who are immigrants to 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 employees' immigration statuses, ensure 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 must 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 shall 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.

The Charter School shall administer a home language survey to all students seeking first time enrollment in its schools in accordance with requirements of the United States Department of Education's Office for Civil Rights.

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. Forms can be retained on paper or microform, or electronically.

Requirements for using an electronic storage system include:

- Reasonable controls to ensure the integrity, accuracy and reliability of the system;
- Reasonable controls to detect and prevent the unauthorized or accidental creation of, addition to, alteration of, deletion or deterioration of an electronically completed or stored I-9 form, including the electronic signature, if used;
- An inspection and quality assurance program evidenced by regular evaluations of the electronic generation or storage system, including periodic checks of the electronically store I-9 form, including the electronic signature, if used;
- In the case of electronically retained I-9 forms, a retrieval system that includes an indexing system that permits searches consistent with the requirements of 8 C.F.R. §274a.2 (e)(6); and
- The ability to reproduce legible and readable hardcopies.

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 shall complete an attestation on the I-9 form under penalty of perjury. 8 C.F.R. §274a.2(b)(i) and (ii).

All I-9 forms and other immigration forms shall be kept in a secure 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 shall 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 shall 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. A copy of the original signed version of the I-9 form must be retained by an employer for three years after the date of the hire or one year after the date the individual's employment is terminated, whichever is later.

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 for civil violations of immigration law, not criminal charges and therefore, 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 who is neutral and detached from enforcement activities. *Coolidge v. New Hampshire*, 403 U.S. 443, 450 (1971). As these ICE administrative warrants are not signed by a judge or neutral party, if presented to the Charter School, these warrants should be reviewed immediately by legal counsel to determine whether the Charter School must comply.

TO THE EXTENT THAT ANYTHING IN THIS POLICY COULD BE CONSTRUED TO CONFLICT WITH THE CHARTER OR APPLICABLE STATE AND/OR FEDERAL LAWS, THE APPLICABLE STATE AND/OR FEDERAL LAWS AND/OR CHARTER CONTROL.

ADOPTED this 18 day of February, 2025

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President

J. Tharp

Secretary