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<b>TITLE:</b>	<b>Immigrant Rights and Non-Discrimination Policy</b>
<b>NUMBER</b>	<b>543</b>
<b>APPROVED BY</b>	<b>Board of Trustees</b>
<b>DATE</b>	<b>January 15, 2025</b>

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This policy, adopted pursuant to the requirements of the Keep Washington Working (KWW) Act, limits immigration enforcement to the fullest extent consistent with federal and state law to preserve access to public higher education for all Washington residents, regardless of immigration or citizenship status. The policy provides clarity about Whatcom Community College's role in ensuring educational opportunities for all individuals, while leaving immigration enforcement efforts to the federal government.

## **A. Applicability of Policies Related to Immigration Enforcement**

1. The College adheres to all requirements of federal and state law.
2. The provisions of this policy shall apply to the College and all school facilities, which include (but are not limited to) adjacent sidewalks, parking areas, sports facilities, and entrances and exits from building spaces.
3. The College's policies prohibiting participation or aid in immigration enforcement shall apply for enforcement activity against students and their families, staff, and volunteers.
4. College personnel shall presume that activities by federal immigration authorities, including surveillance, constitute immigration enforcement.

## **B. Access to Schools**

1. The College does not exclude students from receiving an education or unlawfully discriminate against anyone because of their race, color, national origin, age, disability, gender identity, immigration or citizenship status, sex, creed, use of a trained dog guide or service animal by a person with a disability, sexual orientation, or on any other basis prohibited by federal, state, or local law.
2. The College shall ensure that all school staff and volunteers are aware of the rights of immigrant students to an education.
3. The College shall ensure that information gathered and reviewed to determine eligibility for in-state tuition or other benefits and any reporting requirements is limited only to the information necessary for residency determinations and in compliance with KWW and any other applicable state or federal laws.
4. The College shall separate all information on individuals with foreign student visa status (F, J, and M visas) retained for the purpose of reporting to the Student Exchange and Visitor Information System (SEVIS) as part of the Student and Exchange Visitor Program from general enrollment platforms or other directory information.

## **C. Immigration Enforcement on School Grounds**

1. The College does not grant permission for any person engaged, or intending to engage, in immigration enforcement, including surveillance or access to school grounds or their immediate vicinity. College staff shall direct anyone engaging, or intending to engage, in immigration enforcement, including federal immigration authorities with official business that must be conducted on school grounds, to the **Director**

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**of Safety and Security** prior to permitting entrance. College staff shall presume that activities by federal immigration authorities, including surveillance, constitute immigration enforcement.

2. If anyone attempts to engage in immigration enforcement on or near College grounds, including requesting access to a student, employee, or school grounds:
  - a. Staff shall immediately alert and direct the person to the Director of Safety and Security who shall verify and record the person's credentials (at least, badge number and name), record the names of all persons they intend to contact, collect the nature of their business at the school, request a copy of any court order or judicial warrant, and log the date and time and forward the request to the College President or designee for review.
  - b. Staff shall request that any person desiring to communicate with a student, enter school grounds, or conduct an arrest for immigration enforcement purposes first produce a valid court order or judicial warrant.
  - c. The College President or designee shall review the court order or judicial warrant for signature by a judge and validity. For the College to consider it valid, any court order or judicial warrant must state the purpose of the enforcement activity, identify the specific search location, name the specific person to whom access must be granted, include a current date, and be signed by a judge.
  - d. The College President or designee shall review written authority signed by an appropriate level director of an officer's agency that permits them to enter College property for a specific purpose. If no written authority exists, the College President or designee shall contact the appropriate level director for the officer's agency to confirm permission has been granted to enter College property for the specific purpose identified.
  - e. Upon receipt and examination of the required information, the College President or designee will determine whether access shall be allowed to contact or question the identified individual and shall communicate that decision to the Director of Safety and Security.
  - f. If the requestor is seeking access or information regarding a student under 18 years old, the College President or designee shall make a reasonable effort, to the extent allowed by FERPA, to notify the student's parent/guardian of any immigration enforcement concerning their student, including contact or interview.
  - g. The College President or designee shall request that a College representative be present during any interview. Access to information, records, or areas beyond that specified in the court order or judicial warrant shall be denied.

#### **D. Gathering Immigration Related Information**

1. College staff shall not inquire about, request, or collect any information about the immigration or citizenship status or place of birth of any person accessing services provided by, or in connection with the school. College staff shall not seek or require information regarding or probative of any person's citizenship or immigration status if other information is sufficient for the College's purposes. This does not prohibit residency officers or related staff from reviewing information from students or others on a voluntary basis in order to determine that a student is qualified for in-state tuition rates.

2. College policies and procedures for gathering and handling student information during enrollment or other relevant periods shall be made available in writing to students and their guardian(s) at least once per school year in a manner that Limited English Proficient (LEP) individuals will understand.
3. If the College is required to collect and provide information related to a student's national origin (e.g., information regarding a student's birthplace, or date of first enrollment in a U.S. school) to satisfy certain federal reporting requirements for special programs, prior to collecting any such information or reporting it, the College shall (except with respect to reporting requirements necessary for compliance with the Student and Exchange Visitor Program):
  - a. If feasible, consult with legal counsel regarding its options, including alternatives to the specific program or documents accepted as adequate proof for the program;
  - b. Explain reporting requirements to the student and student's parent(s) and/or guardian(s), in their requested language, including possible immigration enforcement impact;
  - c. If moving forward with collection of information, receive and collect written consent from the student, if over the age of 18, or the student's parent(s) and/or guardian(s); and
  - d. Collect and maintain this information separately from the school/class enrollment process and student's records in order to avoid deterring enrollment of immigrants or their children.
4. When the College reviews information related to immigration status in order to make residency determinations, the residency officer's written confirmation that a student meets any applicable immigration status requirement shall be considered sufficient written evidence that a student meets the requirements of RCW 28B.15.012. All other documents used to prove student or other individual immigration status, aside from those independently required by law to be kept, shall be designated as transitory and disposed of in accordance with the College's records retention policy. Any College staff maintaining said information in any other way shall report their retention procedure and basis to the College President or designee prior to collecting the information.

#### **E. Responding to Requests for Information**

1. College staff shall not share, provide, or disclose personal information about any person for immigration enforcement purposes without a court order or judicial warrant requiring the information's disclosure or approval by the College President or designee except as required by law. Requests by federal immigration authorities shall be presumed to be for immigration enforcement purposes.
2. College staff shall immediately report receipt of any information request relating to immigration enforcement to the College President or designee, who shall document the request.
3. The College shall, to the extent allowed by FERPA or as otherwise advised by legal counsel, notify the student's parent(s) and/or guardian(s) of the request for information at the earliest extent possible.

#### **F. Use of School Resources**

1. The College's resources shall not be used to engage in, aid, or in any way assist with immigration enforcement.

2. The College’s resources and policies regarding immigration enforcement shall be published and distributed to students and their parent(s) or guardian(s) on an annual basis. These resources shall include, at minimum;
  - a. Information about accommodations for limited English proficiency, disability accommodations, special education programs (if applicable), and tuition assistance grant or loan programs that may be available regardless of immigration or citizenship status;
  - b. General information policies including the types of records maintained by the College, a list of the circumstances or conditions under which the College might release student information to outside people or entities, including limitations under FERPA and other relevant law;
  - c. Policies regarding the retention and destruction of personal information;
  - d. The process of establishing consent from students and their parent(s) or guardian(s), as permitted under federal and state law, prior to releasing a student’s personal information for immigration enforcement purposes;
  - e. Name and contact information for the College’s designated point of contact on immigration related matters; and
  - f. “Know Your Rights” resources and emergency preparedness forms to have completed in the event of a family separation.

## G. Definitions

“**Civil immigration warrant**” means any warrant for a violation of federal civil immigration law issued by a federal immigration authority. A “civil immigration warrant” includes, but is not limited to, administrative warrants entered in the national crime information center database, warrants issued on ICE Form I-200 (Warrant for Arrest of Alien), Form I-205 (ICE Administrative Warrant), or prior or subsequent versions of those forms, which are not court orders.

“**Court order**” and “**judicial warrant**” mean a directive issued by a judge or magistrate under the authority of Article III of the United States Constitution or Article IV of the Washington Constitution or otherwise authorized under the Revised Code of Washington. A “court order” includes, but is not limited to, judicially authorized warrants and judicially enforced subpoenas. Such orders, warrants, and subpoenas do not include civil immigration warrants, or other administrative orders, warrants or subpoenas that are not signed or enforced by a judge or magistrate as defined in this section.

“**De-identified**” means information that does not identify an individual and with respect to which there is no reasonable basis to believe that the information can be used to identify an individual.

“**F-1 Visa**” is a United States (U.S.) visa for foreign national students who wish to attend educational institutions in the U.S., of these levels:

- Private elementary school (non-U.S. citizens are not allowed to attend U.S. public

- elementary schools on an F-1 visa);
- High school;
- Seminary;
- Conservatory;
- University and college; and
- Other institutions, such as a language training program.

**“Federal immigration authority”** means any on-duty officer, employee, or person otherwise paid by or acting as an agent of the United States Department of Homeland Security (DHS) including, but not limited to, its sub-agencies, Immigration and Customs Enforcement (ICE), Customs and Border Protection (CBP), United States Citizenship and Immigration Services (USCIS), and any present or future divisions thereof charged with immigration enforcement. “Federal immigration authority” includes, but is not limited to, the Enforcement & Removal Operations (ERO) and Homeland Security Investigations (HSI) of ICE, or any person or class of persons authorized to perform the functions of an immigration officer as defined in the Immigration and Nationality Act.

**“Immigration or citizenship status”** means as such status as has been established to such individual under the Immigration and Nationality Act.

**“J-1 Visa”** is the visa designated for students and exchange program participants who belong to: Au Pairs, Camp Counselor, Government Visitors, Interns, International Visitors, Interns, International Visitors, Physicians, Professors and Research Scholars, Short-term scholars, specialists in different areas, university students, secondary school students, teachers, trainees, work and travel participants. Those who come to the U.S. under this visa program cannot bring dependents to the U.S.<sup>13</sup>

**“Language services”** includes but is not limited to translation, interpretation, training, or classes. “Translation” means written communication from one language to another while preserving the intent and essential meaning of the original text. “Interpretation” means transfer of an oral communication from one language to another.

**“Law enforcement agency”** or **“LEA”** means any agency of the state of Washington (state) or any agency of a city, county, special district, or other political subdivision of the state (local) that is a “general authority Washington law enforcement agency,” as defined by RCW 10.93.020, or that is authorized to operate jails or maintain custody of individuals in jails; or to operate juvenile detention facilities or to maintain custody of individuals in juvenile detention facilities; or to monitor compliance with probation or parole conditions.

**“Local government”** means any governmental entity other than the state, federal agencies, or an operating system established under chapter 43.52 RCW. It includes, but is not limited to, cities, counties, school districts, and special purpose districts. It does not include sovereign tribal governments.

**“Notification request”** means a federal immigration authority’s request for affirmative notification from a state or local law enforcement agency of an individual’s release from the LEA’s custody. “Notification request”

includes, but is not limited to, oral or written requests, including DHS Form I-247A, Form I-247N, or prior or subsequent versions of those forms.

**“M-1 Visa”** is designed for students enrolled in vocational and non-academic education, excluding language courses. This includes, but is not limited to, technical courses, cooking classes, flight school, cosmetology, etc.

**“Personal information”** means names, date of birth, addresses, GPS [global positioning system] coordinates or location, telephone numbers, email addresses, social media handles or screen names, social security numbers, driver’s license numbers, parents’ or affiliates’ names, biometric data, or other personally identifiable information. “Personal information” does not include immigration or citizenship status.

**“Public schools”** or **“Local education agency”** means any and all public elementary and secondary schools under the jurisdiction of local governing boards or a charter school board and all institutions of higher education as defined in RCW 28B.10.016.

**“Sensitive location”** refers to the 2011 U.S. Immigration and Customs Enforcement (ICE) and 2013 Customs and Border Enforcement (CBP) policies which categorize certain locations as sensitive locations that should generally be avoided for immigration enforcement purposes. Accordingly, “sensitive location” includes health facilities, places of worship, and schools.

**“School resource officer”** means a commissioned law enforcement officer in the state of Washington with sworn authority to uphold the law and assigned by the employing police department or sheriff’s office to work in schools to ensure school safety. By building relationships with students, school resource officers work alongside public school administrators and staff to help students make good choices. School resource officers are encouraged to focus on keeping students out of the criminal justice system when possible and not impose criminal sanctions in matters that are more appropriately handled within the educational system.

**“State agency”** has the same meaning as provided in RCW 42.56.010.