

Adult Charter School Knowledge Center

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Collecting Social Security Numbers for WIOA Title II in California A Legal Research Report

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Background

In the 2017-18 FAQ's for California WIA Title II Agencies¹, it states that:

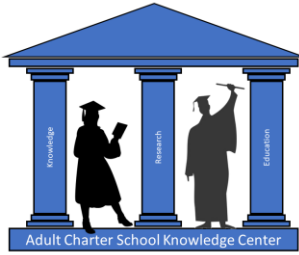
Social Security Numbers will be the only student identifier that is used in the WIOA II data match with the EDD to determine follow up outcomes related to employment. As such, it is recommended that agencies collect SSN from the students willing to provide it, as it will most likely improve outcomes at both the state and local level. SSN's will not be required for students to receive instruction and services from WIOA Title II agencies, however

- *If the student does not wish to provide SSN, the student is not required to*
- *If the local agency does not wish to initiate the process of asking students for this information, it is not required to*
- *If the student does not have a SSN, then the agency should go ahead and provide services to that student anyway*

If agencies do use student SSN's, they need to ensure that they have each student complete a signed consent form granting their permission for the agency to share this information. The CDE will be providing more guidance on this issue through a new CDE Management Bulletin, which includes a sample consent form, and have this new policy available by July 1, 2017.

This appears to be in conflict with Assembly Bill 2097, which implemented Education Code § 49076.7(b), which states:

A school district, county office of education, or charter school shall not collect or solicit social security numbers or the last four digits of social security numbers from pupils or their parents or guardians unless otherwise required to do so by state or federal law.



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Research

To seek clarification, an email was sent to privacy@cde.ca.gov which shared the discrepancy between what the WIOA Title II FAQ stated and what the law stated. The result of the ensuing conversation was that the privacy division of CDE could not provide legal advice, because of the local control nature of California schools, and recommended talking with legal counsel. Some links were provided, including the news story “Some schools asked parents for Social Security numbers. Now schools are on state’s radar” from the Fresno Bee, which stated that there has been a complaint filed with the California Attorney General’s office about schools collecting Social Security Numbers.

Conclusion

It is clear that CDE’s currently provided information does not *require* the collection of Social Security Numbers, thus it is not exempted from Education Code § 49076.7(b). And a plain reading of the law would appear to have no other interpretation than that a school should “not collect or solicit social security numbers”, even if part of CDE recommended it. And it is every citizen’s duty to uphold the law.

The response from the privacy division of CDE was vague, and so it is hard to determine whether they would enforce the privacy law, and if a school broke this law, whether there would be any penalty against the school from CDE itself; especially given that information from CDE conflicts.

But, as the plain reading of the law highly suggests that collecting or even soliciting Social Security Numbers from students is not legal, then it would appear that collecting such numbers could set a school up for civil lawsuits, especially if there should ever be a point where their data system was compromised. And given the current problem with many organizations having their databases hacked, including the recent Equifax hack; this seems to be a liability that is not worth the risk.

It would behoove the office of CDE that oversees WIOA Title II to conduct their own legal analysis.

Disclaimer

While all attempts have been made to comprehensively research the matter at hand, there is always a possibility that something was missed during the research process. Further, laws and regulations change regularly, so the information used may be outdated at the time of reading. And last, this research was not conducted by a lawyer, and should not be considered legal advice. It is recommended you bring this research paper to your legal counsel, and have them give a legal opinion.

¹ 2017-18 FAQ’s for California WIA Title II Agencies, (2017),
<http://www.casas.org/docs/caacct/caadminhandbook2011-12.pdf>.