



Federal Executive Order on Immigration: FAQs Regarding Impact on K-12 School Districts and Institutions of Higher Education

On January 21, 2025, the Department of Homeland Security ("DHS") announced ¹ that it was rescinding a Biden-era policy preventing immigration enforcement actions at "sensitive locations," including schools. The impact of this policy change is to remove limitations on enforcement at such sites. Immigration and Customs Enforcement ("ICE") now has greater reach. State laws still direct local educational agency governing boards to adopt policies that create a safe and respectful environment for students. (Iowa Code § 279.66).

Frequently Asked Questions

Below are some common concerns clients have noted in response to the policy change, as well as our current recommendation based on the information we have now. This is an evolving situation, and we will revise this guidance based on any new information that becomes available.

Does this mean we have to let ICE agents in any space at any time?

No. This policy change does not impact schools' ability to maintain closed campuses and does not require schools become completely open to the public. Policies requiring visitors to sign in at the front office remain enforceable. We recommend reviewing and, if needed, updating your visitor policy. We also recommend ensuring each campus has appropriate signage directing visitors to the front office, noting that the space beyond a certain point is not open to the public, and that trespassing is not permitted. If necessary, we recommend doing a walkthrough of the campus to make sure all areas are clearly marked and identify where additional signage may be required to clarify which areas are off-limits to the public. Finally, we recommend enforcing your visitor policy consistently and equally as to all visitors.

When making these decisions, we recommend keeping in mind your obligation to provide students with a safe place to learn. This includes ensuring unobstructed entrances and exits to campus.

How does this effect our current policies and practices?

This policy applies to the location of ICE enforcement actions; it does not change the districts/institutions' rights and responsibilities under state law and, if applicable, board policy. The district/institution is still permitted to enact and enforce policies that limit classroom interruptions. Students – regardless of their immigration status – are still protected from unreasonable detentions by law enforcement under the Fourth Amendment of the US Constitution.

For K-12 School Districts: Subject to limited exceptions, districts can still notify parents when they release a student to law enforcement to be removed from school premises; they may still notify parents when a law enforcement officer questions their child. School sites may still request to see warrants or subpoenas from law enforcement – including ICE – seeking access to campus.

If ICE agents arrive at a school/campus site, program or activity, we recommend directing staff to remain calm, gather an understanding of the purpose for law enforcement, and notify the appropriate personnel so the district/institution can take appropriate legal action.

What should we tell our school community?

For K-12 School Districts: All students who live within the district's attendance boundaries may enroll in their local public school – immigration status does not change that – and this latest policy does not change that.

For Institutions of Higher Education: Institutions are not required by law to ask for information related to immigration status; however, institutions may collect this type of information for some purposes such as determining financial aid. Under federal law, this information is deemed confidential and cannot be disclosed by the institution unless given consent by the student's parent or guardian, or ordered by a warrant or judicial subpoena.

We recommend reassuring families that the district/institution does not and, consistent with applicable law, will not maintain information on students' or families' immigration status. We also recommend reminding families to update their emergency contact cards to make sure that there is clear and current contact information identifying who a student can be released to if a parent or guardian is unavailable. Finally, we recommend reminding the school community that bullying and harassment based on race, color, and/or national origin is not permitted.

What are the relevant legal authorities on this issue?

The Family Educational Rights and Privacy Act ("FERPA") prevents districts/institutions from disclosing a student's personally identifiable information without either a parent or guardian's consent, or a warrant or judicial subpoena. One exception to this is that districts/institutions may share directory information without consent as long as they give notice of what is designated as directory information and provide a reasonable opportunity for the parents or students to restrict that disclosure. FERPA defines directory information as information included in a student's education records that "would not generally be considered harmful or an invasion of privacy if disclosed." This would include a student's name, address, telephone number, etc., but does not include sensitive information such as national origin, citizenship status, or immigration status. To the extent law enforcement requests a student's personally identifiable information without a warrant or subpoena, institutions/districts are restricted from sharing that information under FERPA.

In the case *Plyler v. Doe*, the United States Supreme Court ruled that a person cannot be denied access to public education on the basis of their immigration status. This holding is still law today. Under the Equal Protection Clause of the Fourteenth Amendment, no State shall "deny to any person within its jurisdiction the equal protection of the laws." The Court in *Plyler* highlighted the role that education serves in our society and reiterated that the scope of these protections includes those who are not citizens of the United States.

Access to Referenced Documents

Scan this QR code to access the documents referenced in this tipsheet.

1. Department of Homeland Security ("DHS") Statement
2. Department of Justice ("DOJ") Memo dated January 21, 2025



F3 will continue to monitor this ongoing situation. If you would like assistance with or advice regarding specific situations, please reach out to legal counsel.

THIS IS A GUIDE IS A SUMMARY ONLY AND NOT LEGAL ADVICE. WE RECOMMEND THAT YOU CONSULT WITH LEGAL COUNSEL TO DETERMINE HOW THIS MAY APPLY TO YOUR SPECIFIC FACTS AND CIRCUMSTANCES