

Date: February 3, 2025
To: Principals, OTEC Directors
From: John C. Palmerini, B.C.S., General Counsel
Office of Legal Services
Recipients: Cabinet, Executive Leaders, Principal Leaders, Assistant Principals
Subject: Frequently Asked Questions on visits and enforcement by Immigration and Customs Enforcement

All Principals/Technical College Directors – please distribute a copy of this memorandum to all employees and/or contractors who work on your school site.

Our mission is to educate all children who attend our schools, regardless of the child’s immigration status. We will continue to do everything we can to prioritize and protect the safety of all children who attend our schools, regardless of the child’s immigration status, while complying with both federal and state law regarding immigration. This document contains answers to frequently asked questions regarding visits and enforcement actions by Immigrations and Customs Enforcement (“ICE”) agents.

1. Are undocumented children entitled to a public education?

Answer: Yes. Children are entitled to a public education regardless of their immigration status. This is based upon the Supreme Court decision of Plyler v. Doe, 457 U.S. 202 (1982).

2. Is the District legally entitled to collect immigration information on students?

Answer: No. The District must comply with the order of the court in the case of League of United Latin American Citizens, et al. v. Florida Board of Education, et al., Case No. 9—1913 (S.D. Fla. 1990). This order, known as the Meta Consent Decree, binds the District’s actions. It states the following:

- “No district shall in any case elicit, compile, nor maintain lists of students with alien registration numbers and those without.”
- “No personally identifiable data of any kind shall be elicited, compiled or maintained as to any individual student's immigration status except as described above.”
- “No prospective students nor student shall be referred or reported to the U.S. [Immigration and Customs Enforcement (ICE)] for any reason prior or subsequent to admission.”
- “No student shall be denied any federally funded educational services unless that program's statutes and regulations specifically require such exclusion. No eligible student shall be denied services under any state or locally funded program.”

3. I thought ICE’s policy is that it would not engage in immigration enforcement at schools. Isn’t that still the case?

Answer: No. On January 21, 2025, the Acting Secretary of Homeland Security issued a directive ICE could engage in enforcement activities in or near “sensitive” areas, including schools and churches.

4. Must the District release student information upon request to ICE agents without a subpoena?

Answer: Since the District does not maintain records on student immigration status, we would generally have no documents to produce to ICE on immigration status. However, should ICE ask for student records, federal law requires ICE to produce a lawfully issued subpoena. The Family Educational Rights and Privacy Act (“FERPA”) states that school districts must not release student records without parental consent, unless such record is “furnished in compliance with a lawfully issued subpoena, upon condition that parents and the students are

notified of all such orders or subpoenas in advance of compliance.” Florida law requires school districts to comply with FERPA with regard to immigration enforcement. (See §908.108, Fla. Stat.) Florida law also states that students and parents have the right to privacy with respect to the student’s education records and reports. (See §1002.22, Fla. Stat.)

5. What do I do if an ICE agent shows up at my school?

Answer: You are to ask the ICE agent for identification, including any badge or business card the agent may have. If there are any questions about the ICE agent’s credentials, you may contact the Office of Legal Services for assistance at extension 2003411. Once you verify the agent’s identity, then ask for the reason for the visit and if they have any documents, such as a warrant or a subpoena.

6. What if the ICE agent produces a warrant or a subpoena for a student and/or the student’s records?

Answer: If an ICE Agent shows up with a warrant or a subpoena, you should take the following actions:

- Ask for the warrant or subpoena and then tell the agent that you have to obtain the guidance of the Office of Legal Services regarding response to the warrant or subpoena.
- Scan the document and email it to legalservices@ocps.net.
- Follow up with a call to extension 2003411 and indicate that an ICE agent is at the school and has produced a warrant or subpoena and that such warrant or subpoena has been sent to legalservices@ocps.net.
- An attorney in the Office of Legal Services will review the warrant or subpoena and will then call school administration to provide direction on what to do next.

7. I’ve heard that the District does not have to comply with ICE warrants or subpoenas. Is that true?

Answer: No. A federal statute (8 U.S.C. §1357) and federal regulations (8 C.F.R. §287.4 and 8 C.F.R. §287.5) allows ICE agents to execute search and arrest warrants, as well as to issue subpoenas requiring the production records and evidence for use in criminal or civil immigration investigations. If we do not comply with warrants or subpoenas, then ICE can go to federal court and obtain an order requiring compliance with the ICE warrant or subpoena.

8. Can an employee voluntarily disclose immigration information to ICE?

Answer: No. Because students and parents have a right to privacy with regard to the education records and reports, as well as information shared in the classroom, employees may not violate the right of students and parents to privacy by voluntarily disclosing information to ICE absent a subpoena. If employees voluntarily disclose information to ICE agents without being directed to do so, they could be subject to disciplinary action up to and including termination of employment for violating the student’s and/or parent’s right to privacy in education records, reports or information.

9. If an ICE agent requests to interview a child, do I let the ICE agent go to the classroom?

Answer: No. The student will be brought to a private area in the front office for the ICE agent to interview the child. All steps should be taken to ensure that ICE is not allowed to take enforcement actions in classrooms where instruction is taking place or in other student gathering places, such as the cafeteria.

10. What steps should be taken if an ICE agent requests to interview a student?

Answer: The guidance previously given to principals via email on January 22, 2025, regarding visits from law

enforcement will be followed with respect to ICE agents seeking to interview a student:

- Administrators will ask the ICE agent if the parent/legal guardian can be contacted prior to interview of the student. If ICE states parent/legal guardian may be contacted, the administrator will call the parent/legal guardian to see if the parent consents to such interview prior to the interview commencing.
- If the parent/legal guardian consents to the student speaking to the ICE agent without a parent/legal guardian or attorney present, the ICE agent will proceed. If the parent/legal guardian declines to allow such interview, the administrator will inform the ICE agent and the student that the parent/legal guardian does not want the student interviewed.
- The student may choose not to speak to the ICE agent and state to the ICE agent that he or she desires to speak to a lawyer before answering any questions. However, that is a decision to be made by the student, not the administrator on the student's behalf.
- If the ICE agent states that parent/legal guardian may not be contacted, the administrator will tell the ICE agent that all questions from the parent/legal guardian will be referred to the ICE agent. The ICE agent will be asked to fill out the Parental Non-Notification Form for Official Investigations linked below.
- In the event ICE states the parent/legal guardian may not be contacted, the administrator should ask if he or she may remain with the student during questioning. If the answer is yes, the administrator shall stay in the room with the student. If the ICE agent states the administrator may not remain, the administrator should vacate the room and allow questioning by the ICE agent. The administrator should get in writing from the ICE agent that the ICE agent did not permit the administrator to remain in the room during the questioning.

11. What steps should be taken if an ICE agent indicates he or she will be arresting a student?

Answer: The guidance previously given to principals via email on January 22, 2025 regarding visits from law enforcement will be followed with respect to ICE agents who want to arrest a student:

- As stated previously, if the ICE agent presents a warrant for arrest, the administrator should send the warrant to the Office of Legal Services for review. It should be emailed to legalservices@ocps.net. The Administrator should call extension 2003411 to alert the Office of Legal Services that a warrant has been sent to be reviewed.
- The administrator should ask the ICE agent if the parent/legal guardian or the administrator can be present when the student is arrested. If the ICE agent states no, then the administrator should not interfere with the arrest.
- If a student is arrested, the parent should be notified immediately after the arrest and provided the contact information of the ICE agent and the agency. Such information should be printed on the warrant.
- The arrest should take place in a private space in the front office. Arrests in classrooms and other areas where students gather, such as the cafeteria, should be avoided.

12. Can ICE ask a person about their immigration status or arrest a person who is undocumented without a warrant?

Answer: Yes. Under federal law, ICE agents have the right to ask persons who they believe to be in the country unlawfully about their immigration status and may arrest persons who are in the country unlawfully without a warrant. Pursuant to 8 U.S.C. §1357(a)(1), an ICE agent may, without a warrant, interrogate any person believed to be undocumented about his or her right to be or remain in the United States. Under 8 U.S.C. §1357(a)(2), an ICE agent may, without a warrant, arrest any person the agent believes to be in the United States in violation of the law regulating entry into the United States if, in the agent's estimation, the person is likely to escape before a warrant can be obtained for the person's arrest.

13. Are there potential penalties for interfering in the enforcement actions of ICE agents?

Answer: Yes, there are potential criminal penalties for any administrator who interferes with the actions of ICE. If an administrator informs the parent/legal guardian of an interview after being told not to do so by the ICE agent, if the administrator refuses to leave the room when directed by the ICE agent, or if the administrator interferes with the arrest of a student by the ICE agent, the administrator may be subject to arrest on charges of tampering with a law enforcement investigation or obstructing a law enforcement official.

14. Can the District adopt sanctuary or safe haven policies to protect students from immigration actions?

Answer: No. Under §908.103, Fla. Stat., local governments such as the District are prohibited from adopting sanctuary or safe haven policies. The School Board (under §1001.42(15), Fla. Stat.) and the Superintendent (under §1001.51(14), Fla. Stat.) must comply with state statute. State case law states that the School Board and Superintendent cannot sue to invalidate state law.

15. What if I am a teacher or a member of support staff and I am approached by an ICE agent seeking to take an enforcement action?

Answer: Teachers and support staff who are approached by an ICE agent on campus should immediately seek out an administrator so the administrator can speak with the agent. If for any reason an administrator is not on campus (e.g. before or after school during a sports practice or a band concert, etc.), the teacher or support staff member should contact their administrator to inform the administrator that ICE is on campus. Teachers and support staff members who have to speak with the ICE agent when an administrator is not on campus have to follow the directions on this memorandum. Teachers and support staff who interfere with ICE as described in Question 13 may be subject to the same penalties of arrest and criminal charges of tampering with a law enforcement investigation or obstructing a law enforcement official.

Attachments:

- [Quick Reference to Visits by Government Officials and Non-Parents](#)
- *Parental Non-Notification Form for Official Investigations*

PARENTAL NON-NOTIFICATION FORM FOR OFFICIAL INVESTIGATIONS

DIRECTIONS: This *Parental Non-Notification Form for Official Investigations* shall be used when it becomes necessary for a law enforcement officer (“LEO”) or Department of Children and Families (“DCF”) investigator to confer with a student, or take a student into custody, while the student is subject to the control or is in the care of Orange County Public Schools (“OCPS”).

Date: _____ School: _____

I, _____, am a (select one): LEO DCF Investigator

I am conducting official business involving the student(s) identified below. I have directed the school administrator/designee of the above named school to not contact the student’s parent(s)/legal guardian(s) regarding my investigation or inform them of my investigation or actions taken while the students are subject to the control or are in the care of OCPS.

Official’s Signature Date

Print Name

Agency Badge/ID Number

Agency Phone Number Supervisor’s Name

Student(s) Involved

Staff Taking Direction from Official

Board Policy J1H, Student Interrogations and Arrests, provides:
“(2) (c) If the parent cannot be contacted, the principal or designee shall explain to the student that the student may have the right to his/her parent and/or attorney being present during the questioning. If the student wishes to speak with the law enforcement officer without a parent or attorney present, the law enforcement officer may proceed. The principal or designee may remain with the student during the questioning. If the student does not wish to speak to the enforcement officer without the parent or attorney present, the officer shall not be allowed to speak with the student at that time unless the officer demands, in writing, that the student speak with the officer.”