



### **Immigration Guidance K-12:**

On January 20, 2025, Executive Order 14159 Protecting the American People Against Invasion was issued by President Trump. Pursuant to this Executive Order, Department of Homeland Security issued directives rescinding Biden Administrative to thwart enforcement in or near “sensitive” areas, which includes schools. Below is best practice guidance for dealing with any U.S. Immigration and Customs Enforcement (“ICE”) interactions at the K-12 schools.

### **Relevant law:**

- The Supreme case of **Plyer v. Doe** is still valid, and specifically holds that all children are entitled to a public education regardless of immigration status.
  - Under this case law, schools should not inquire about students’ or their parents’ immigration status.
  - Schools are allowed to require proof of residency and/or proof of age for enrollment.
  - If you don’t know the immigration status, **don’t inquire.**
- **The Family Educations Rights and Privacy ACT (FERPA)** – is a federal law that provides student information protections and require parental consent before releasing a student’s information. FERPA does not permit disclosure of information that could identify students to third parties, including federal immigration officials and require written consent from parents must be obtained BEFORE releasing information except in response to court order or subpoena.
  - Any information requests should go through your District Superintendent and legal office to ensure compliance with FERPA.
  - FERPA does allow the school directory information to be provided.
- **Constitutional Considerations:**
  - **4<sup>th</sup> amendment right** to unreasonable searches and seizures without a warrant absent exigent circumstances.
    - It is important to understand ICE are being provided with warrants. The above is related to warrantless searches.

### **What to know:**

- **Your District/Superintendent should have a policy in place to protect the students from interruptions, whether or not it is related to ICE.**
  - If no policy, ask for the protocol and get it in writing.
    - Districts are required to have a policy that generally protects schools and classes from third parties interrupting instruction and disrupting school.



- Most are creating ICE specific guidance that direct any employees who have ICE agent interaction to the Superintendent and/or their legal counsel.
  - The burden is on the District/Administration to ensure the protection of the students by implementing the policies.
- **Review your local policy in detail.** The employees have the burden to implement the policies.
  - Know who to contact if an agent approaches you and direct the agent to that person or place.
  - If they refuse to go, ask for name, badge number, and supervisor phone number for verification and contact your administration/legal department immediately.
  - Ask for the warrant and advise you are NOT the one who makes the decision. The warrant is only to verify they have some type of permission to be on campus. The agent still needs to go through (administration/superintendent/legal, etc).
    - Court order/subpoena must be signed and executed.
    - DO NOT INTERPRET THE WARRANT – follow the school policy on who it should go to.
      - Most Superintendents are working with legal counsel so they are able to distinguish between types of warrants and advise properly.
  - Principals should be in compliance with District policies
    - Report any issues to Superintendent if your local Principal is not adhering to the policy in place to ensure school safety.
  - School personnel are not obligated to report an undocumented student or family member to ICE, or to assist ICE in apprehending that student, and have the common law responsibility to care for children in place of their parents while children are at school. The relevant laws governing schools and students give the school the authority and the obligation to protect undocumented students, including from ICE.
    - **IMPORTANT – know your local policy!** If the local policy requires you to speak and assist ICE in detainment, please reach out to FEA legal.
- **ICE can only enter:**
  - With consent,
  - Properly executed warrant, OR
  - Exigent circumstances
- **Providing basic information is NOT obstruction**
  - Below are several resources that include family planning kits, red cards, and many other immigration resources. Information can be provided to anyone. However, be careful not to make assumptions about someone or their family's immigration status.



**AVOID:**

- **Obstructing the investigation of any officer or agent.**
  - Obstruction of the investigation may be considered federal criminal violation and will NOT be covered under Unified Legal Services Program guidelines.
    - This includes shielding a student or colleague from being taken, or providing them with warning that the agent is on premises and looking for them.
- **Taking active or affirmative steps to lie or falsify information.**
  - It may be prosecuted as a federal crime to take affirmative and active steps to conceal, harbor, or shield from detection an undocumented person, with knowledge of or reckless disregard for that person's undocumented states.
    - This includes providing alternative housing. Per DHS, 4 FEMA employees were immediately terminated the week of February 10, 2025 for making payments to hotels for migrant housing.
- **Destroying or tampering with evidence, engaging in fraudulent, deceitful or dishonest conduct.**
  - If you decide to speak, make sure you are in compliance with the District policy and do not provide misinformation. You are best to direct them to Administration.
- **Unintentionally discriminating/stereotyping.**
  - As educators and support professionals, we are compelled to protect the students in their safe learning environment. While you want to try and help, you don't want to make assumptions about who may or may not need the information. It is best to have the information available should you be asked for it.
- **Engaging in any political speech on campus.**
  - Don't forget you are subject to the laws, rules, and policies while within the scope of employment. You can actively participate outside of employment as long as you are not derogatory, discriminatory, or offensive in nature. You are still subject to Pickering test in your first amendment speech rights. The Pickering test is the legal standard balancing test that weighs employee's 4<sup>th</sup> amendment free speech rights with the interests of the employer.



### **Know Your Rights:**

For those who may have concerns for those around them, there are basic constitutional rights that still apply when being detained. You have a right to provide anyone with information. [Red Cards / Tarjetas Rojas | Immigrant Legal Resource Center | ILRC](#) is a great printable resource.

- 1. You are not required to open the door to your home unless there is a validly executed warrant.**
  - a. Only exceptions are if you provide consent or they hear an emergency happening inside
- 2. Have any valid documentation to legally reside, keep it nearby.**
- 3. If you approached in a public place, stay calm and assert your rights.**
  - a. If they are searching on your person or vehicle, verbally advise if you do not consent.
- 4. Do not answer any questions – you have the right to remain silent.**
- 5. Do not sign anything without consulting with a lawyer.**

### **Resources:**

- [Know Your Rights: Expedited Removal Expansion - NILC](#)
- [Immigrant Legal Resource Center | ILRC |](#)
- [Legal Resource Packet\\_English August 27.2021 update.pdf](#)
- [Guidance on Immigration Issues | NEA](#)
- [Immigration | American Federation of Teachers](#)
- [immigration\\_assistance\\_contact\\_list.pdf](#)
- [Legal Service Organizations, Community Groups, and Civil Rights Groups Unite to Form the Florida Rapid Response Alliance for Immigrant Safety and Empowerment \(RAISE\) - Americans for Immigrant Justice](#)
- [Immigration Enforcement - Guidance for Schools | ACLU of Florida | We defend the civil rights and civil liberties of all people in Florida, by working through the legislature, the courts and in the streets.](#)