

To: AESA Members

From: Tara Thomas

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Subject: FAQ Immigration and Enforcement Policy in 2025

Last week, the Trump administration signaled rescission of a 2021 memo by DHS Secretary Alejandro Mayorkas that designated schools, as well as other community services as “protected areas”. This 2021 rule stated that to the extent possible, ICE agents should not carry out any enforcement activities in these locations. This policy change was reported early by [Fox News](#), who was provided with a draft of the memo, and [referenced in a statement](#) by Acting Homeland Security Secretary Benjamin Huffman.

Legal Protections

What legal protections exist for students and student data?

The landmark *Plyler v. Doe* Supreme Court case established that all children, regardless of immigration status, have the right to a public education. Schools cannot deny a student a public education based on immigration status.

The Family Educational Rights and Privacy Act (FERPA) protects the privacy of student education records and restricts the sharing of personally identifiable information (PII) without parental consent. These privacy protections apply to undocumented students and their families. [FERPA’s data protections include information that might indirectly reveal a student’s immigration status](#). FERPA applies to all educational institutions that receive funding under any program administered by the U.S. Department of Education, including K-12 schools and colleges/universities.

Importantly, FERPA explicitly supersedes any conflicting state laws that attempt to mandate the release of protected student data. Additionally, FERPA generally prohibits schools from sharing student records with immigration or law enforcement agencies without consent or a judicial order. For more information: [Law Enforcement Access to Student Records – A guide for School Administrators & Ed Service Providers](#)

It is anticipated that ICE agents may request data from schools. Ensure that all of your staff are trained on the protections of student data under FERPA.

If a district employee (say a school registrar) violates FERPA, what are the possible consequences for that employee? Could it be a basis for termination if it's a pattern or intentional violation? Would the district then be subject to liability?

Violations of FERPA can result in the district losing federal education funding, which can have wide-ranging effects on school operations. Any unauthorized release of protected student information, particularly that which results in harm to a student or their family, can lead to legal liability for the district. This behavior by staff can also subject the district itself to lawsuits from families whose student data was improperly disclosed.

If a district employee intentionally or repeatedly violates FERPA, there can be significant consequences. The district may take disciplinary action against the employee, which can include termination if the violation is severe, directly violates district policy, or is part of a documented pattern of misconduct.

What about home visiting programs such as Parents As Teachers or Nurse-Family Partnerships? Are we considered to be covered by FERPA for these activities? Would socialization activities for parents be considered a private setting?

Home visiting programs that are affiliated with a school district are generally subject to FERPA. As such, they must adhere to its privacy requirements. This means they are prohibited from sharing protected student or family information without proper parental consent.

Similarly, socialization activities for parents hosted by these programs are typically considered private settings, meaning ICE would not have unrestricted access to these events, particularly if they take place in a home or other private location.

ICE Enforcement

If ICE officers arrive at my school, do I have to let them in?

It depends on the type of warrant the ICE officers present. If ICE arrives with a judicial warrant signed by a judge or magistrate, the school must comply with the terms of the warrant. This means the school must allow ICE access to locations, people or items as specified in the warrant.

However, schools have the discretion on whether they wish to cooperate with officials if presented with only an administrative warrant. If ICE presents an administrative warrant, which is issued by ICE or the Department of Homeland Security instead of a court, the school is not legally required to comply and can deny entry to ICE. If ICE presents an administrative warrant, they cannot enter a home, school, or private space without explicit permission.

Schools may still choose to cooperate with ICE enforcement and grant permission if that aligns with district policies. Nevertheless, parental consent is required for any questioning of a student, unless the judicial warrant presented explicitly states that parents may not be contacted in advance of questioning for the warrant's investigatory purposes.

What should I do to prepare for potential ICE enforcement on school grounds?

Develop a protocol or policy for how to deal with ICE enforcement and ensure all staff know what to do under these circumstances. This can look like the following:

1. Welcome the agent(s).
2. Ask them to provide identification.
3. Make a copy of their ID
4. Inform Building Principal AND District Office administration.
5. Ask the agent(s) if they have any paperwork (*i.e.*, subpoena, warrant, etc.). Ask to make copies of the paperwork for the Board of Education's attorney to review.
6. Ask the agent(s) to sit in the office while Principal / Admin arrive. Alternatively, you can ask them to sit in a more private area such as the Principal's conference room.
7. Keep notes of the date/time, names and titles of the agents, who you contacted at District Office, the name of the student or staff member they are inquiring about (if known), etc.

It may be best to have one point of contact for schools who are well-versed on the legal requirements of the different types of warrants. For example, [New York City Public Schools' protocol](#) designates that principals are responsible for interacting with non-local law enforcement agents. It may also help to have a visual checklist of the difference between an administrative warrant and a judicial warrant.

What if an ICE agent asks to interview a student on school property?

Once again, ICE agents must have the appropriate warrant. If immigration officials request an interview with a student, the Superintendent should consult the school district's attorney before taking any action. Failure to protect a student's legal rights against action by immigration officials could subject a school district to legal liability.

The agent must have a valid warrant. School Districts should not give ICE agents access to students on school property without a valid warrant. If ICE agents present a valid warrant, they should be given access to students in a manner that is discreet, private, and away from other students. Because students have a right to attend school regardless of immigration status, a student's mere attendance at school does not violate the law or

create an exigent circumstance that would support ICE having access to a student (including a student's school records) without a warrant or court order.

A child also has the right against self-incrimination and may not be required to provide any information that would establish his or her residency status. The child should be advised of the right to remain silent. The Superintendent should notify parents that immigration officials have requested an interview with the child.

What is the difference between an administrative warrant and a judicial warrant? How can educators identify what they are looking at?

An administrative warrant is issued by ICE, the Department of Homeland Security, or another administrative agency and will not be signed by a judge. These warrants are used for immigration enforcement actions focused on violations of immigration laws. These warrants do not grant ICE legal authority to enter private areas without permission.

A judicial warrant, on the other hand, is issued by a judge or magistrate and provides legal authorization for law enforcement to conduct searches or arrests in a specific location.

Districts can request to see the warrant before consenting and consult legal counsel before taking action.

If we get a judicial warrant can we limit their access to the school? For example, can we keep them in the school office while we get the information they are seeking in the warrant?

Even when presented with a judicial warrant, schools can limit ICE's access to school property. Schools can require that ICE remain in a designated area while administrators verify the scope of the warrant and contact counsel.

Schools should verify that ICE does not exceed the scope of a warrant. It is recommended to have a policy or protocol in place for instances like this and train staff on what to do under these circumstances. It may be best to have one point of contact for schools who are well-versed on the legal requirements of the different types of warrants. For example, [New York City Public Schools' protocol](#) designates that principals are responsible for interacting with non-local law enforcement agents.

If the judicial warrant is related to a minor, what legal requirements still exist for a parent to be involved before the minor may be searched?

Parents must be contacted in advance of a search unless ICE can provide a justifiable and immediate threat to safety that would allow a search to take place without parents present.

Do any legal requirements for schools change based on the type of school (elementary v. secondary, etc.)?

The legal requirements of Plyler v. Doe and FERPA applied to all K-12 public schools, regardless of whether they are elementary or secondary students. Additional legal considerations come into play for students over 18 years of age who would have expanded rights under FERPA.

If ICE agents approach a student on school grounds, but outside of school, what should school staff do?

School personnel stand *in loco parentis* to a child whenever the child is on school grounds, even in public areas. School staff should determine whether ICE agents have a warrant to detain or arrest the student. If they do not have a warrant, school staff should escort the child to the school office. If they do have a warrant, school staff should escort the student and the ICE agents to the school office. Contact the central office to ensure legal review of the warrant prior to releasing the student to ICE agents.

Are there any limits to ICE access at school-sponsored events that are open to the public? What about in public areas like parking lots?

Public events hosted by schools or publicly-accessible areas like parking lots are typically considered public spaces, meaning ICE agents can legally attend, investigate and observe at these events. However, enforcement actions that disrupt students' ability to access education may be subject to legal challenges. District policies can reflect an intention to limit ICE access to these events if they are connected with school campuses or related areas or spaces reserved for school use.

What about semi-private events like PTA meetings that are generally limited to the school community (parents, teachers, staff)?

PTA meetings held on school grounds would be subject to school policies and FERPA. Plyler further affirms that students have access to education without fear of enforcement actions that could deter participation in such events. If the meeting is held on school property and is an official school event, ICE would generally need permission to enter or a judicial warrant. School policy can establish who can attend meetings and limit or discourage enforcement access at school-related events.

Are there any protections for students when they are walking to and from school and to activities hosted by the school? What about property that is district operated but is not a school, such as transportation depots/bus yards, central office, sports fields/arenas, etc?

Since the Trump administration rescinded prior ICE policy treating these areas as protected location, there is no federal law that explicitly protects students from ICE enforcement while traveling to and from school or activities.

Districts can implement school or district- level policies for safeguarding students and staff in these situations.

Does the school district have to release records to ICE agents?

ICE has the right to access the same information about immigrants as any other student, which means they can request Directory Information if the School District has a policy designating Directory Information as available to the public. Prior to giving access to Directory Information, school staff should be sure that parents of the student(s) in question have not opted out of Directory Information. For any other records request, ICE must deliver a judicial warrant or court order (either document signed by a judge) to obtain records. Even then your state laws may contain requirements for parental notice of the information to be released pursuant to the order, so check with legal counsel.

Students have a right to attend school regardless of immigration status, and their attendance at school does not violate any state or federal law, nor is it considered an exigent circumstance.

If school district staff knows of the immigration status of a student, can they be required to disclose it?

If ICE agents come to school and informally ask school staff about a student's immigration status, even though the school does not collect that information, staff should not answer their questions without a warrant or court order. If school staff receive a warrant or court order, it should be provided to the central office prior to disclosure of records or information to ICE agents. The school district reserves the right to have staff accompanied by school district legal counsel anytime they are subpoenaed for questioning by ICE agents or law enforcement.

In the event school staff becomes aware that a student's parents have been detained, but the student has not, what steps should be taken?

School staff should notify the administration of the parents' detention to determine the student's living situation and whether to make a call to the child welfare agency. If the student has no legal guardian and there is no paperwork filed regarding a delegation of parental responsibility, the child welfare agency must be called. If the student has a legal

guardian that is not a resident of the school district, the student should be treated as homeless and allowed to stay enrolled in school for the remainder of the school year.

How much time is given for school districts to implement any federal changes, such as no longer being classified as a protected area?

There will not be an implementation period for the federal changes as it is not a formal regulation. The designation of protected areas was rescinded on January 22, meaning ICE enforcement could begin implementing the new policy immediately. Schools should be prepared to deal with ICE enforcement asap.

How does being a sanctuary county impact school district's interaction with ICE?

Sanctuary counties typically have policies in place that limit how local law enforcement will cooperate with federal immigration officers. Sanctuary policies may restrict county officials from assisting ICE operations.

There has been guidance to observe, document, and report in the event of ICE activity at schools. Is there a recommended way to observe and document?

If ICE conducts enforcement activity at or near district property, it is important that staff are trained to make a detailed report of events without interfering with enforcement. Reports should include time, date, location, who was present, the names and badge numbers of officers present, and details regarding the warrants presented. Reports should detail the information the school provided to ICE, the questions ICE posed, and if any students or staff were detained.

Engaging with families and students

What do I tell my community, my students and my parents at this point in time?

As these issues come into greater focus, it may become necessary for educational leaders to communicate with their staff, students, and community members. This may include communicating about protocols, legal rights, and the concerns being felt by students and families, as well as the more general need to remain kind and respectful to one another during this time. AASA has developed template messages on these issues for district leaders to use. Access them [here](#).

What can I do to help families and students understand their rights?

Though ICE has rescinded its policy designating schools as protected locations, *Plyler v. Doe* remains binding, which means that all children can attend school, regardless of immigration status. FERPA remains in full effect, meaning schools cannot share student information with ICE without consent. Districts can share resources on interacting with

agents and ensure families understand that they do not have to share information or speak to ICE officials without an attorney present. (AFT Know Your Rights One-Pager in [English](#) and [Spanish](#)).

What can I do to assuage any fear for families sending their kids to school?

Districts can publish standalone policies that outline their intentions for interacting with law enforcement and protecting their students from ICE investigations or enforcement actions without proper authority.

What are examples from other states and districts around student rights? Some simple messaging that we can customize.

- This policy is intended to provide a safe environment for all students and ensure that staff are trained in their role of providing a safe and compliant learning environment.
- The district shall not permit immigration enforcement activities on district property during school hours or school-related events without a valid legal warrant.
- The district shall not inquire, document, or share the immigration status of any student or family in accordance with the Family Educational Rights and Privacy Act and [insert specific state law], which prohibits schools from [inquiring about immigration status, limiting access to education].