



Immigration Enforcement Guidance for Schools

Who Enforces Immigration Law?

Immigration is regulated by federal law and enforced by the U.S. Department of Homeland Security (DHS). In Alaska, state and local law enforcement cannot enforce immigration law.

One way in which DHS enforces immigration laws is by apprehending and repatriating (“removing”) people back to their home countries if they do not have permission to be in the United States. Without a final removal order from an immigration judge, DHS must provide due process, including an appearance before an immigration judge, before it can deport someone.

Immigration and Customs Enforcement (ICE), a sub-agency of DHS, is responsible for non-border enforcement and for detention and removal operations. Other federal law enforcement agencies have also been tasked with assisting ICE in enforcement operations.

Throughout this guide, terms like “ICE agent”, “immigration official”, and “immigration agent” all refer to federal law enforcement officers empowered to enforce immigration law.

FAQs

Are schools required to enforce immigration laws or cooperate with immigration officials?

No. Schools are not required and cannot be forced to cooperate with immigration officials.

What rights do students have?

All students, regardless of their immigration status, have the right to enroll in and attend a public K-12 school.

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.

What protections are in place for immigrant students and their families?

Public schools are prohibited from asking students or their parents about their immigration status for the purposes of enrollment, revealing a student's or their parents' immigration status without their permission, and requiring social security numbers from students.

Schools are prohibited from sharing a student's or their family's private information contained in education records without the written consent of a parent, guardian, or the student (if over 18 years old). Exceptions include if the information is considered directory information or if a valid judicial order or subpoena is presented.

Can immigration officials enter a school without a warrant?

Generally, schools are not considered public places and limitations are in place on who may enter. Schools can prevent immigration officials from entering private spaces if they do not have a judicial warrant.

Can an immigration official question or remove a student from school?

Schools should not permit an immigration official to question or remove a student from school without the consent of a parent or guardian in the absence of a valid judicial warrant.

How can the Fourth Amendment protect people in schools?

Under the Fourth Amendment, the permissibility of a search depends on whether a person has a reasonable expectation of privacy in the area searched. The test is: at the time of the search, was it the person's subjective, actual expectation that the place or things searched were private, and was that expectation objectively reasonable, i.e., would it be generally recognized by society?

What are considered public areas v. private areas and how does this impact immigration enforcement?

Public areas include lobbies, waiting areas, and any other places open to the public. In some schools, where nobody can enter without prior authorization, there may be no public areas.

Non-public areas of a school could include classrooms, cafeterias, administrative offices, etc.—essentially anything not open to the public.

It is strongly recommended that schools identify and distinguish (ideally with legal advice) their private spaces from their public ones, if any. This can be done by placing signs identifying private areas, or by placing security guards tasked with signing in visitors at main entrances.

Can an immigration agent access a non-public, private area in a school?

No. Immigration agents cannot access private areas without (1) consent or (2) a valid judicial warrant. If school administrators do not give permission for immigration agents to enter its non-public spaces, then they cannot enter without a valid judicial warrant.

To be valid, a judicial warrant must:

- be signed by a US district court or a state court judge;
- describe the location to be searched and/or the persons or items to be seized; and
- be dated and issued within the past 14 days.

All information in the warrant must be correct in order for the warrant to be valid.

What is an administrative warrant?

DHS issues its own forms, sometimes referred to as “administrative warrants” or “ICE warrants,” which direct immigration agents to arrest a named individual for alleged violations of federal immigration law. An administrative arrest warrant or immigration enforcement subpoena is not the same as a judicial warrant and does not require a non-profit to grant immigration agents access to private areas.

School administrators have the right to read the warrant and check that it is a judicial warrant and that it authorizes the agent to enter private spaces for specific purposes. It is critical that staff be able to distinguish between a valid judicial search warrant and administrative warrants.

Should a school designate a specific person to interact with ICE if they arrive at a facility?

Yes, it is a good idea to designate an “authorized person,” ideally the school district Superintendent or the school principal, who is trained to interact with immigration agents and who understands how to identify a valid judicial warrant and confer with legal counsel before allowing a search to occur. All other staff should be trained to refer immigration agents to the “authorized person.”

What should school staff do if they don't have an "authorized person" or are waiting for them to arrive?

Ask the agent for identification and a business card. Ask the agent to step outside. Once there, you can discuss what the agent wants and whether they have any legal documents.

What if a judicial warrant is presented?

Staff should always contact their designated "authorized person." If a judicial warrant appears to be valid, consult with legal counsel before taking any action. Always get a copy of the warrant.

What if a search is required by a judicial warrant?

If ICE presents a valid judicial warrant, then the school administrator must allow the immigration agents to enter the private areas specified in the warrant. Staff have the right to monitor agents to ensure they comply with the judicial warrant, i.e., they are only entering private areas designated in the warrant.

Staff may also take audio or video recordings of any interaction with ICE; however, staff should not interfere with the agents' lawful search.

Does the Family Education Rights and Privacy Act of 1974 (FERPA) exception related to law enforcement with a valid judicial warrant allow ICE agents to obtain personal information?

Yes, but the court order or judicial warrant should be elevated to the school superintendent and validated by the school's district attorney. No action should be taken until these steps are completed. If personal information must be shared because of this exception, affected family must be alerted unless the order or warrant explicitly states that you may not.

Can immigration officials be stationed outside or near a school?

Yes, ICE can be stationed outside of school. If there are ICE agents outside or near your school, you can send a designated, well-trained staff member outside to ascertain the identity of the individuals. If that person can confirm they are immigration agents, it may be a good time to remind people of their rights or prepare should the agents attempt to gain entry.

Can school personnel who are aware of the undocumented status of a student or family assist the student to avoid detection?

No, it may be a 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 status. However, 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.

Recommendations for Schools

Prepare and implement an internal policy to protect students from immigration enforcement.

Internal policies should include:

- The distinction between public and private spaces.
- Internal protocol on the procedure to interact with immigration agents, including protocol for handling law enforcement requests.
- Limits to what information is in the school directory, such as not requiring information on immigration status.
- Written privacy policies regarding student's information.
- Designation of a well-trained individual or immigration advocacy group personnel to approach ICE agents outside or near the property.
- Establish rapid response teams to assist students if their parent or guardian has been detained.

Create and disseminate educational materials and “Know Your Rights” trainings for school personnel.

- [ACLU Know Your Rights: Immigration Enforcement](#)
- [Sample Presentation for School Administrators \(ACLU of Nebraska\)](#)
- [KYR graphics and wallet cards \(ACLU\)](#)

Communicate with Superintendents about clear protocols for schools to follow if asked for student information or for access to a student.

- [DC schools immigration guidance \(DC OAG\)](#)
- [Welcoming schools and safety protocol \(ACLU of PA\)](#)

Host or provide emergency safety planning for immigrant families.

- [Family Safety Plan \(ILRC\)](#)

Compile and provide contact information for local organizations providing free legal assistance for families.

- [Immigration Advocates Network](#)

Advocate for model policies with your school board and local government.

- [Model school board policy \(NEA\)](#)
- [School campus model policy \(ACLU of ME\)](#)
- [School campus model resolution \(ACLU of ME\)](#)
- [Welcoming schools and safety protocol \(ACLU of PA\)](#)
- [Legal rights of students letter to schools \(ACLU of PA\)](#)

Additional Resources

- [FAQs for School Officials \(FIRM\)](#)
- [Preparing for ICE raids \(AIDArkansas\)](#)
- [NEA schools and immigration page](#)
- [Educator advocacy toolkit](#)
- [Dept. of Education Student Privacy Policy Office \(SPPQ\)](#)

Relevant Laws

- U.S. Constitution- 4th, 5th, and 6th Amendments
 - The Fourth Amendment is a constitutional right for all individuals to be free from illegal searches or seizures. The Fourth Amendment may limit immigration enforcement agents' activities at school.
 - Under the Fourth Amendment, the reasonableness of a search depends on whether a person has a reasonable expectation of privacy in the areas searched.
 - It is likely that a student has a reasonable expectation of privacy in the classroom, cafeteria, playground, and administrative offices. School policies may designate more areas as private areas, such as bus stops and lobbies. All private areas should be clearly demarcated and enforced.
 - The Fifth and Sixth Amendments provide the constitutional rights for all individuals to have an attorney and to remain silent during "custodial interrogations" and arrests. Custodial interrogations are when a law enforcement officer makes you feel as though you cannot leave, usually because they are asking you questions – this threshold is likely much lower for children.
- Title IV and VI of the Civil Rights Act of 1964
 - The Civil Rights Act prohibits discrimination based on race, color, or national origin, among other factors, by public elementary and secondary schools, and other (private) schools and programs that accept federal funding.
- Family Education Rights and Privacy Act of 1974 (FERPA)
 - FERPA generally prohibits schools and school districts that receive federal funds from releasing personal information contained in students' education records without the written consent of the parent or adult (if over 18) student.
 - Exceptions allow release of personal information to school officials and in the case of a lawful subpoena or judicial court order.
- FERPA requires schools and school districts to maintain a record, within a student's file, of all individuals, agencies, and organizations that have requested the student's personal information.
- Plyer v. Doe, 457 U.S. 202 (1982)
 - The U.S. Supreme Court held that a state may not deny access to public K-12 education to any child residing in the state, whether present in the U.S. with or without current immigration status.