

FREQUENTLY ASKED QUESTIONS (FAQ)

Immigration enforcement in California public schools

This FAQ document addresses key issues related to immigration enforcement at California public schools. It is organized by subject matter for ease of use by school board members, faculty and staff. This FAQ does not constitute or substitute for legal advice, and local educational agencies (LEAs) should always consult legal counsel with specific legal questions.

1. LEGAL FRAMEWORK

Note: The federal government has exclusive control over immigration law and federal law will preempt state law that purports to regulate immigration or is in conflict with federal immigration laws.

Q1: Are LEAs required to provide education to all students regardless of immigration status?

A: Yes. The 1982 U.S. Supreme Court decision in *Plyler v. Doe* mandates that all students, regardless of immigration status, are entitled to a free public education under the Equal Protection Clause of the 14th Amendment.

Q2: What protections exist under the Fourth Amendment for students, staff and schools?

A: The Fourth Amendment protects against unlawful searches and seizures. This has been interpreted to mean that immigration enforcement officers generally need a judicial warrant or court order to enter places where there is a reasonable expectation of privacy. A reasonable expectation of privacy exists for most school buildings depending on signage and practice. A judicial warrant or court order is also required to force the disclosure of private documents such as student records. An administrative warrant, which is different than a judicial warrant, is not sufficient.

Q3: Does the Family Educational Rights and Privacy Act (FERPA) protect the release of student information to immigration officials?

A: Yes. FERPA prohibits disclosing student records without parental/guardian consent, a judicial warrant, or a court order. Unless required by law, LEAs are prohibited from keeping records of immigration or citizenship status of students or their families.

Q4: Are there state-level protections for undocumented students in California?

A: Yes. The California Constitution ensures all students the right to safe, secure and peaceful campuses. (Article 1, Section 28(f)(1).) [Assembly Bill 699 \(Chapter 493/Statutes of 2017\)](#) further prohibits discrimination on the basis of immigration or citizenship status and requires the adoption of certain policies regarding immigration enforcement on school grounds.

2. POLICIES

Q5: What is the role of California's AB 699?

A: AB 699 requires LEAs to adopt policies to protect students from discrimination based on immigration status and provides guidelines for responding to immigration enforcement. AB 699 also mandates annual notification to families about their rights and prohibits LEAs from collecting or maintaining records related to a student's immigration status.

Q6: Are LEAs required to update their immigration-related policies?

A: The California Attorney General has said that LEAs "should" have updated their policies by May 1, 2025, based on the Attorney General's December 2024 guidance on immigration enforcement.

3. INTERACTING WITH IMMIGRATION ENFORCEMENT

Q7: What should staff do if immigration enforcement officers arrive at a school?

A: Staff should follow LEA policies on interacting with immigration officers, including the following steps:

- » Request to see identification and ask about the purpose of their visit.
- » Ask if they have a judicial warrant. If presented, forward it to the superintendent or designee, who can consult with legal counsel as to next steps.
- » Notify the superintendent immediately and follow district policies.
- » Avoid providing assistance without legal authorization.
 - › However, if officers insist on entering non-public areas of the school (offices, classrooms, gymnasiums, etc.), staff should not attempt to stop them.

Q8: What is a judicial warrant and what does it allow?

A: A judicial warrant is signed by a judge of a state or federal court (typically, immigration-related warrants will be signed by a federal court judge) and issued on the basis that there is probable cause authorizing the search of property or arrest of an individual. A warrant will list the school facility at issue as the location to be searched or the name of the person to be arrested. This type of warrant allows immigration officers access to non-public areas, like the inside of a school facility. A warrant may also be issued to obtain student records. Under FERPA, a warrant is a sufficient basis for records to be disclosed.

Q9: What is an administrative warrant and how does it differ from a judicial warrant?

A: Administrative warrants are issued by immigration officers, not judges. They are not based on probable cause for a search or an arrest. Administrative warrants authorize immigration officers to make arrests of a person suspected of violating immigration laws, but do not give them the authority to access non-public areas such as interior areas of schools or other LEA facilities. Administrative warrants also do not provide a basis for disclosure of student records protected by FERPA.

4. STUDENT SAFETY AND PRIVACY

Q10: How should LEAs handle requests for student records?

A: LEAs should follow their standard practices for requests for student records based on their adopted policies and in compliance with FERPA and the Education Code provisions related to student records. The law prohibits the release of student records without parental consent or a valid court order or warrant, unless an exception applies. LEAs should inform families if a request for records is made, unless prohibited by law.

Q11: What responsibilities do LEAs have regarding potential immigration enforcement activities involving students traveling to or from school?

A: While LEAs are not responsible for immigration enforcement outside their premises, they have the option of:

- » Educating families on their rights.
- » Providing resources for legal assistance.
- » Maintaining communication with families in cases of detentions near school.

Q12: What if immigration enforcement occurs on a school bus?

A: Bus drivers should follow the same procedures as other staff, as set forth in the LEA's policy regarding response to immigration enforcement (see CSBA Sample Policy 5145.13). Contracted bus services should act in alignment with district policies.

Q13: Are there any legal prohibitions on collecting or maintaining records of student immigration or citizenship status?

A: AB 699 prohibits the collection of information or documents regarding citizenship or immigration status of students or their family members. (Education Code §234.7, subd. (a).)

5. STAFF AND VENDOR GUIDELINES

Q14: How should vendors and contractors, like bus drivers, handle immigration enforcement?

A: Include compliance with LEA policies on immigration enforcement in vendor contracts. Provide training to all third-party staff interacting with students.

Q15: What protections exist for staff questioned by immigration officers?

A: Employees acting within their duties and following district policies and the law are generally protected under state law. Staff should avoid actions that could be construed as obstruction of immigration officers and immigration enforcement and consult legal counsel immediately if there are any questions or concerns about immigration enforcement at LEA facilities.

Q16: Are staff allowed to escort immigration officers around campus?

A: Staff may ask if they can escort officers to ensure safety and compliance but should avoid interfering. If denied, staff can document the interaction and inform legal counsel.

6. TRAINING AND RESOURCES

Q17: What training should LEAs provide staff?

A: Training should include:

- » Identifying valid warrants and legal documents.
- » Procedures for interacting with immigration officers.
- » Steps to protect student information.
- » Contacting district legal counsel in case of enforcement actions.

Q18: How often should LEAs update their staff training?

A: Annually, whenever there are significant legal or policy changes, or if immigration enforcement is anticipated at LEA facilities. Regular updates ensure staff are prepared for new scenarios.

7. PARENTAL AND STUDENT COMMUNICATION

Q19: What information should be shared with families?

A: Annually inform families of their rights under AB 699 and FERPA. Provide resources on immigration rights and legal aid.

Q20: How should schools respond if a parent or guardian is detained?

A: Release students only to authorized emergency contacts or individuals with a caregiver's affidavit, as required by AB 699. Inform families of residency rights for continued enrollment despite family disruptions.

Q21: Can schools assist families in creating emergency plans?

A: Yes. Schools can provide resources or referrals to help families prepare for potential detentions or disruptions, but should be aware that this could create documentation that Immigration and Customs Enforcement seeks for enforcement purposes.

8. OTHER QUESTIONS

Q22: What should schools do if a student is apprehended off-campus?

A: Notify the student's parents or emergency contacts immediately. LEAs may also provide resources to the family, such as information on local legal aid organizations if they wish to do so.

Q23: Can an LEA refuse to provide information about students to immigration officers who do not provide a proper court order, warrant or parental consent?

A: Yes. LEAs should follow their policies regarding student record requests (all student records, except directory information are protected, with exceptions) and contact legal counsel upon any request for records or information from an immigration officer. Staff who come in contact with such requests should refer them to the superintendent or other appropriate administrator.

Q24: Are LEAs liable for decisions made by individual staff during enforcement actions?

A: Districts are generally protected if staff act within the law and district policies. However, deviations from policy may expose the district or individuals to legal risks. LEAs should confer with legal counsel with any such questions as this is a grey area and the legal landscape is subject to change.

As noted, this FAQ is intended to give only a broad overview of the issues and does not constitute legal advice. For further guidance or legal advice, or for specific concerns, contact your LEA's legal counsel. Additional resources are available under the Governance and Policy Resources section of the California School Boards Association (CSBA) website at www.csba.org.