

STUDENTS' CIVIL RIGHTS ENFORCEMENT INITIATIVE

Protections for Immigrant Students & Their Families

- (a) Purpose. The purpose of this Section is to secure the right of every student to equal access to a free public education and to a school that is safe from intimidation and fear. In their efforts to promote the right to equal educational opportunity, schools must take steps to protect the integrity of school learning environments for all students so that no parent or guardian is discouraged from sending and no student is discouraged from attending school, including from the threat of immigration enforcement or other law enforcement activity on a school campus.
- (b) Definitions. The below terms are defined as follows:
- (1) “Citizenship or immigration status” means—
 - (A) The citizenship of any person, or
 - (B) The immigration status of any person who is not a citizen or national of the United States.
 - (2) “Immigration enforcement” includes any and all efforts to investigate, enforce, or assist in the investigation or enforcement of any federal civil immigration law, and any and all efforts to investigate, enforce, or assist in the investigation or enforcement of any federal criminal immigration law that penalizes a person's presence in, entry, or reentry to, or employment in, the United States.
 - (3) “Law enforcement officer” means—
 - (A) Any person who—
 - (i) Is a State, Tribal, or local law enforcement officer (as defined in section 1204 of the Omnibus Crime Control and Safe Streets Act of 1968 (34 U.S.C. 10284)); and

- (ii) Is assigned by the employing law enforcement agency to an educational institution, who is contracting with an educational institution, or who is employed by an educational institution; and
- (B) Includes an individual referred to as a “school resource officer” if that individual meets the definition in paragraph (A) of this subsection.
- (4) “Program or activity” means all of the operations of an educational institution.
- (5) “School site” means an individual school campus of a school district, county office of education, or charter school, an area where a local educational agency’s school-sponsored activity is currently being held, or a school bus or other transportation provided by a local educational agency.
- (c) Denial based on immigration status prohibited. No student may be denied a free public education through secondary school while in this State based on the student’s perceived or actual immigration status or the perceived or actual citizenship or immigration status of the student’s parent or guardian.
 - (1) An educational institution shall not exclude a student from participation in or deny a student the benefits of any educational institution’s program or activity on the grounds of that student’s perceived or actual immigration status or the student’s parent’s or guardian’s actual or perceived citizenship or immigration status.
 - (2) An educational institution shall not use policies or procedures or engage in practices that have the effect of excluding a student from participation in or denying the benefits of any program or activity or the effect of excluding participation of the student’s parent or guardian from parental engagement programs or activities because of the student’s perceived or actual immigration status or the perceived or actual citizenship or immigration status of the student’s parent or guardian. These policies, procedures, and practices include:
 - (A) Requesting, requiring, collecting, or maintaining information or documentation from a student or the student’s parent or guardian about citizenship or immigration status beyond what is required by the Family Educational Rights and Privacy Act (FERPA) [AND OTHER APPLICABLE FEDERAL LAWS] without judicial warrant, subpoena, or court order; and
 - (B) Designating immigration status, citizenship, place of birth, nationality, or national origin as directory information, as that term is defined by federal and State law.
 - (3) An educational institution shall not perform any of the following actions:

- (A) Threaten to disclose any information or documents related to the actual or perceived citizenship or immigration status of a student or a person associated with the student to any other person or entity or an immigration or law enforcement agency;
 - (B) Disclose any information or documents related to the perceived citizenship or immigration status of a student or a person associated with the student to any other person or entity or an immigration or law enforcement agency if the educational institution does not have direct knowledge of the student's or associated person's actual citizenship or immigration status, subject to the requirements of paragraph (5) of this subsection (c); or
 - (C) Disclose any information or documents related to the actual citizenship or immigration status of a student or a person associated with the student to any other person or nongovernmental entity if the educational institution has direct knowledge of the student's or associated person's actual citizenship or immigration status, subject to the requirements of paragraph (5) of this subsection (c).
- (4) An educational institution shall not allow an officer or employee of an agency conducting immigration enforcement to enter a nonpublic area of a school site for any purpose without being presented with a valid judicial warrant or judicial subpoena, or a court order. Any educational institution official or employee of a local educational agency shall, to the extent practicable, request a valid identification from an officer or employee of an agency conducting immigration enforcement seeking to enter a nonpublic area of a school site. This subsection shall not be construed to limit a local educational agency's or school official's right to consult with counsel or challenge the validity of a warrant, subpoena, or court order in a court of competent jurisdiction.
- (5) An educational institution shall develop procedures for reviewing and authorizing requests from law enforcement officers attempting to enter a school site by [DATE]. The procedures shall comply with the requirements of this subsection (c), and, at a minimum, include the following:
- (A) Procedures for identifying and contacting a designated authorized person at the school site and the district superintendent's office or school administrative office, who may contact the educational institution's legal counsel, and procedures for that authorized person or legal counsel to review requests to enter a school site, including judicial warrants, nonjudicial warrants, and subpoenas;
 - (B) Procedures for monitoring or accompanying and procedures for documenting all interactions with law enforcement agents while on premises at the school site; and

- (C) Procedures for notifying and seeking consent from a student's parents or guardian or from the student if the student is 18 years old or older or emancipated, if a law enforcement agent requests access to a student for immigration enforcement purposes, unless such access is in compliance with a judicial warrant or subpoena that restricts the disclosure of the information to the student's parent or guardian.
- (d) Enrollment. Educational institutions shall adopt policies that prohibit the collection of information regarding the citizenship or immigration status of students or their family members.
- (1) To enroll and register students, educational institutions shall consider various proofs of residency in a district and make publicly available a non-exhaustive list of acceptable forms of documentation.
 - (2) Educational institutions shall not request or condition enrollment on the receipt of information or documents protected from disclosure by law, or pertaining to criteria that are not a legitimate basis for determining eligibility to attend school, including, but not limited to:
 - (A) Income tax returns;
 - (B) Documentation or information relating to citizenship or immigration/visa status;
 - (C) Documentation or information relating to compliance with local housing ordinances or conditions of tenancy; and
 - (D) Social Security numbers.
 - (3) Consistent with requirements under the McKinney-Vento Homeless Assistance Act, schools shall immediately enroll migrant and unhoused students, including students living in temporary housing, even if they lack proof of residency, school records, or other documents typically required for registration.
 - (4) In the event there are federal immigration enforcement actions in the State when school is in session, and students are prevented from attending for more than [INSERT THE RELEVANT TIME FRAME/NUMBER OF DAYS IN THE STATE THAT COULD TRIGGER DISENROLLMENT] school days during the regular school year because of the fear and disruption caused by such immigration enforcement actions, schools shall continue to count these students according to the state's process for counting pupils, such as in average daily membership. The student shall not be disenrolled as a result of these absences, and the educational institution shall be held harmless financially for any enrollment changes due to the impact of immigration enforcement actions.

- (e) Adoption of policies. An educational institution shall adopt a policy for complying with paragraphs (1), (2), (3), and (4) of subsection (c) and with subsection (d) of this Section by [DATE].
- (1) The policy described in this subsection (e) shall include provisions for training all employees of the educational institution on maintaining compliance with this Section.
 - (2) The policy described in this subsection (e) and any notices relating to such policy shall be published in accessible, age-appropriate language on the educational institution's website, if one exists. Educational institutions shall make the policy described in this subsection (e) available in the heritage or primary language of a student or student's parent(s) or guardian(s).
- (f) State, local, and school-based law enforcement. No state or local law enforcement agency, including school-based law enforcement officers employed by the local law enforcement agency or the [LEA/SEA/EDUCATIONAL INSTITUTION], shall use agency or department moneys or personnel to investigate, interrogate, detain, detect, or arrest persons for immigration enforcement purposes. These agencies shall not collect information regarding the citizenship, national origin, or immigration status of any individual, nor shall state or local law enforcement agencies comply with requests to provide any federal agent with advance notice of the expected release of individuals in state or local custody. These agencies shall not enter into agreements to perform federal immigration enforcement functions. State and local law enforcement agencies shall ignore all voluntary or discretionary requests to prolong detention for the purpose of civil immigration enforcement. It is further prohibited for state and local law enforcement agencies to otherwise cooperate with federal agents in the identification, apprehension, detention, or removal of people who are suspected of being present in the United States without valid immigration status.
- (g) Private right of action. Beginning [DATE], any party aggrieved by conduct that violates subsection (c) or subsection (d) of this Section may bring a civil lawsuit. This lawsuit shall be brought no later than 2 years after the violation of subsection (c) or subsection (d) of this Section. If the court finds that a willful violation of paragraph (1), (2), (3), or (4) of subsection (c) of this Section has occurred, the court may award actual damages. The court, as it deems appropriate, may grant, as relief, any permanent or preliminary negative or mandatory injunction, temporary restraining order, or other order.
- (1) Nothing in this Section may be construed to require an exhaustion of the administrative complaint process before civil law remedies may be pursued.
 - (2) Upon a motion, a court shall award reasonable attorney's fees and costs, including expert witness fees and other litigation expenses, to a plaintiff who is a prevailing party in any action brought under subsection (c) or subsection (d). In awarding

reasonable attorney's fees, the court shall consider the degree to which the relief obtained relates to the relief sought.

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When you see the '*' symbol while reviewing this template, check out the **Part 4: Protections for Immigrant Students & Their Families** toolkit document to learn more.