



The Office of
Minnesota Attorney General Keith Ellison
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Dear Minnesota Educators:

Constituents and stakeholders have recently contacted the Office of the Attorney General concerning the announced changes to federal policies and practices related to immigration enforcement and the impact of those changes on students, educators, and our communities. Nothing in these changes should be understood to limit Minnesota's commitment to providing all children with access to free public education, protecting student privacy, and maintaining school environments that are conducive to learning.

EXECUTIVE SUMMARY

This guidance will describe the changes in federal immigration enforcement priorities, the responsibilities of the Minnesota education system to students, educators, and families, and steps that school districts, schools, and educators can take to comply with their legal responsibilities. As described in greater detail below, while the federal approach to immigration enforcement is changing, the legal framework that continues to govern schools' and students' rights and obligations remains unchanged.

We invite school leadership to take this opportunity to ensure that their policies and staff training are up to date, and to be in conversation with their communities about the actions their schools are taking to support students and their families. Clear and consistent communication by school leadership can help reassure students, educators, and their communities that their concerns are heard, and that schools are taking the steps within their power to protect their communities from disruption and harm. Key action items for school districts to consider include:

- Ensuring that policies and procedures clearly explain how to respond if law enforcement, including immigration enforcement personnel, seek to carry out enforcement actions or related information gathering at schools.
- Providing staff, including School Resource Officers (or their equivalent employee), with up-to-date training on student and employee rights and responsibilities.
- Letting your community know about the actions you are taking and the resources available to support students, their families, and the community during this time of uncertainty, including options for updating emergency contacts, flexibility with coursework, and opportunities to limit sharing of student directory information.

GUIDANCE

Recent Changes in Policies Related to Immigration Enforcement

Recent actions in the federal executive branch have signaled a shift in the federal approach to immigration enforcement and treatment of state and local officials who are perceived as not cooperating with enforcement actions. On January 20, 2025, the Department of Homeland Security rescinded its long-standing practice of avoiding immigration enforcement activities in “sensitive spaces,” such as schools. The Department of Justice (DOJ) has also issued recent memoranda instructing U.S. Attorney Offices and the DOJ to investigate and prosecute state and local officials for any “misconduct” that is alleged to facilitate violations of federal immigration laws or obstruct federal immigration enforcement.

Notwithstanding these recent changes in federal policy, schools continue to be bound by law to provide public education to students regardless of immigration status, must protect student data, and cannot be compelled to enforce a federal program or changes in federal policies.

Access to a Free Public Education Is Guaranteed under Federal and State Law; Schools Cannot Discourage or Deny Access Based on Immigration Status

Under state and federal law, Minnesota schools must provide equal access to education to all students regardless of race, color, creed, religion, national origin, sex, marital status, public assistance status, disability, or immigration status.¹ Schools should ensure that their policies do not discourage or deny access to school based on immigration or citizenship status. While schools may require proof of a student’s age and where they reside for enrollment purposes, schools and districts may want to review their enrollment policies to ensure that they are collecting *only* the information required to verify enrollment eligibility. Institutions should review their policies and procedures to confirm they are not unnecessarily collecting or maintaining sensitive data, such as immigration status, Social Security numbers or passport information.

Student Privacy Is Protected under Federal and State Law

Under the federal Family Educational Rights and Privacy Act (FERPA) and the Minnesota Government Data Practices Act, schools are required to protect the privacy of students’ educational records. Both laws allow schools to share limited “directory information” under specific conditions, but otherwise generally prohibit disclosing private student data without consent. Directory information is information that is largely not considered harmful or a violation of privacy if disclosed. Examples of directory information include a student’s name, dates of attendance, and honors and awards received.

¹ In 1982, the U.S. Supreme Court held in *Plyler v. Doe*, 457 U.S. 202 (1982), that the Equal Protection Clause prohibits public schools from limiting access to education based on immigration status. The Minnesota Human Rights Act also provides protection against identity-based discrimination in access to a free public education. Minn. Stat. § 363A.13, subd. 1.

Minnesota law defines “directory information” more narrowly than FERPA, and explicitly prohibits K-12 institutions from designating “a student’s home address, telephone number, email address, or other personal contact information” as directory information. Minnesota law also requires schools to give parents and students notice of the right to opt-out of the disclosure of a student’s directory information. Schools should review their current procedures to ensure proper communication about directory information and the right to opt-out of disclosure is being effectively shared with their communities. Schools may want to proactively provide an opportunity for parents and students to review and change their preference relating to disclosure of a student’s information.

The Federal Government Cannot Compel State or Local Officials to Administer or Enforce a Federal Program

Under the Tenth Amendment to the United States Constitution and well-established precedent from federal courts, including the United States Supreme Court, the federal government cannot compel state or local officials to administer or enforce a federal program. This was true before recent changes to federal immigration policy and continues to be true now.

If schools see a change or an increase in requests from immigration authorities for information about or access to their students, schools should know that there are no legal or constitutional changes in how schools should respond to those requests.

Responding to Requests for Student Information

Disclosure of otherwise private student data is allowed in limited circumstances. Schools should prepare their staff for how to appropriately respond to written or oral requests for student information from third parties, such as Immigrations and Customs Enforcement (ICE) agents. There are many different types of documents that immigration enforcement officers may be using to support their requests, and staff members should not be expected to determine whether the requestor is entitled to the requested information. Any request and accompanying supporting documentation should be immediately provided to a designated district employee, who can consult with legal counsel to determine appropriate next steps.

In general, schools are required to comply with judicial warrants, which are documents issued by a judicial court and signed by a federal or state judge or magistrate. In contrast, schools are not required to comply with administrative warrants, which are issued by a federal agency and signed by an official such as an ICE agent or immigration judge. Common examples of administrative warrants used by ICE include Form I-200 (Warrant for the Arrest of Alien) and Form I-138 (Administrative Subpoena).

Responding to Requests to Meet with or Interview Students

If a member of law enforcement, including an ICE agent, requests access to a student, staff should refer the agent to a designated district employee to ensure proper protocol is followed. An example protocol can be found in [this guidance](#) from the School Superintendents Association. The school or district should also immediately notify the student’s parent or guardian, unless prevented from

doing so by the terms of a judicial warrant or subpoena. The district's legal counsel should be consulted on an appropriate response before proceeding.

Staff members should not attempt to physically prevent an ICE agent or other law enforcement officer from entering the building, even if the agent does not appear to be authorized to enter. The staff member should immediately notify a designated district employee and document the agent's actions while on campus. Audio or video recording by staff members of any interaction is allowed.

How Schools Can Support Their Students and Communities

By taking proactive steps to establish, enforce, and communicate policies about how school officials plan to respond to federal immigration enforcement on their campuses and in their communities, districts can help build trust with students and families and mitigate negative impacts that may result from recent changes. To the extent they have not already done so, school districts may want to consider the following:

- Affirm to your community your commitment to providing all children with a free public education, protecting student privacy, and maintaining a school environment conducive to learning.
- Share with staff and community your district's policies related to requests from federal immigration enforcement officials for information or access to students. Identify an appropriate district employee who can answer questions and receive feedback.
- In conjunction with legal counsel, provide training on student and employee rights and responsibilities in complying with their legal duties. Ensure that School Resource Officers or their equivalent employee understand that Minnesota law prohibits state and local law enforcement officials from holding an individual on an immigration detainer, as described in a recent [Minnesota Attorney General Advisory Opinion](#).
- Let staff members know that federal officials cannot compel their assistance in enforcing federal immigration laws, and that they should not obstruct the actions of federal officials.
- Designate an appropriate district employee to serve as the individual who will ensure that ICE agents or law enforcement follow legal protocol when requesting access to students or student records.
- Ensure that student data privacy policies are up to date, and all staff, volunteers, and/or third-party vendors who may have access to student data receive regular training on their obligations to protect student privacy.
- Provide parents/guardians with regular opportunities to update their student's emergency contact information, alternative caretaker contacts, and authorized pick-up contacts.
- Consider flexible or alternate options for student transportation.
- Offer students and staff members mental-health resources, such as counseling and peer support groups.
- Ensure that all reports of bullying or harassment are thoroughly investigated.
- Share resources for developing an emergency plan with families, such as [this guide](#) from American Federation of Teachers.
- Review your district's policy or guidance to ensure it includes information on what to do if a student cannot safely return home.