



Esperanza Immigration  
Legal Services

# **Guidance Regarding Immigration Enforcement**

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*February 2025*

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**SCHOOL-SPECIFIC GUIDANCE**

# Are schools protected from ICE enforcement?

- 2011 ICE Policy = schools are “sensitive locations” and arrests, interviews, or searches should not take place absent there unusual circumstances.
- 2021 expansion = beyond K-12 schools to pre-K through post-secondary schools + places where children gather such as playgrounds, recreation centers, bus stops, childcare centers, and group homes for children.
- January 21, 2025 = sensitive locations memo rescinded making it more likely ICE enforcement actions will occur at and near schools

**BUT...**



# The federal government's revocation of “sensitive locations” policy does NOT:

- alter the constitutional right of immigrant children to an education
- change the legal responsibilities of school districts towards their students
- affect a school's own legal rights and obligations regarding who enters their property and what private information they may divulge



# What are some federal and state protections that apply to immigrant children?

- Federal law:
  - Title IV (public elementary and secondary education) and Title VI (recipients of federal funds) protects against discrimination in the administration of an educational program based on a student's race and national origin
- Supreme Court:
  - Plyer v. Doe (1982): held constitution forbids discrimination on the basis of immigration status in access to basic public education
- PA law:
  - William Penn Sch. Dist. v. Pa. Dep't of Educ. (2023), all students have right to access public education
  - Pennsylvania Human Relations Act
  - 22 Pa. Code § 11.11(d) - can't ask about immigration status when enrolling student



# What laws protect student records?

- Family Education and Privacy Rights Act of 1974 (FERPA) = student's personally identifiable information (PII) contained in education records protected from disclosure to third parties without the written consent of a parent or guardian (or the student, if they are 18 or older).
- The only times a school can release information without consent is if the information has been designated as "directory information," or if the school must comply with a judicial order or lawfully issued subpoena.
- Furthermore, FERPA prohibits schools from disclosing personally identifiable information in a student's education records without parental consent or a subpoena.



# What does this mean for students, practically speaking?

- Students have the right to attend school without having to present a green card, visa, social security number, or any other proof of citizenship.
- Students have the right to have their records protected from disclosure in accordance with the law.
- Students have rights under the 4th (unlawful search and seizure) and 5th (due process) amendment protections which also apply to enforcement actions at school.



# What about info a school may need to register a student?

## Residency:

- Districts must allow a variety of documents to show residency
- Examples: a telephone or utility bill, mortgage or lease document, parent affidavit, rent payment receipts, a copy of a money order made for payment of rent, or a letter from one of the parent's employers.

## Proof of age:

- Can request birth certificates, but also inform parents about alternatives:
- Examples: religious, hospital, or physician's certificate showing date of birth; an entry in a family bible; an adoption record; an affidavit from a parent; a foreign birth certificate; previously verified school records; or any other documents permitted by law



# How can schools best position themselves in this climate?

- Protections at the local level limit enforcement at schools (i.e. Safe Zone resolutions):
  - Welcoming place for all students
  - Prohibit collection of student immigration info
  - Procedures for responding to immigration enforcement
- Does not provide immunity if declining directives; rather steps to request law enforcement to follow
- Educators should never physically interfere with or obstruct enforcement = escalation + danger





## Example resolution or policy for all school staff to follow if ICE shows up to the school:



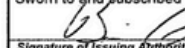

- If ICE attempts to enter school campus, direct agents to Superintendent.
- Superintendent should request written legal authorization and verify the identity of the agents.
- Superintendent, with legal counsel review documentation provided.
  - Difference between judicial warrant and ICE administrative warrant



# What constitutes a valid judicial warrant?

A judicial warrant is valid only:

- if signed by a state/federal judge or magistrate (not just authorized by immigration judge or ICE official),
- for the areas/individuals identified in the warrant (check for school's address and/or correct spelling of name and info on warrant),
- on or before the date indicated as being the date by which it must be used.

Commonwealth of Pennsylvania		APPLICATION FOR SEARCH WARRANT AND AUTHORIZATION	
COUNTY OF MERCER			
Docket Number (Issuing Authority):	PA State Police - Mercer	Police Incident Number: PA24-835276	Warrant Control Number: PA24-835276-6.2
Tpr. Joseph MORRIS	PA State Police - Mercer	(724) 662-6162	07/02/24
AFFIANT NAME		AGENCY	PHONE NUMBER
IDENTIFY ITEMS TO BE SEARCHED FOR AND SEIZED (Be as specific as possible): Refer to attached continuation sheet.			
SPECIFIC DESCRIPTION OF PREMISES AND/OR PERSON TO BE SEARCHED (Street and No., Apt. No., Vehicle, Safe Deposit Box, etc.): All entrances, common areas and hallways located at 275 Sterling Avenue, Building A, Apartment #111, Sharon, PA 16146 in the City of Sharon, Mercer County.			
NAME OF OWNER, OCCUPANT OR POSSESSOR OF SAID PREMISES TO BE SEARCHED (If proper name is unknown, give alias and/or description): Riversharon LLC.			
VIOLATION OF (Describe conduct or specify statute): Criminal Homicide			DATE(S) OF VIOLATION: 08/23/2024
<input checked="" type="checkbox"/> Warrant Application Approved by District Attorney - DA File No. <u>PA 24-101-2024</u> <small>(If DA approval required per Pa.R.Crim.P. 202(a) with assigned File No., per Pa.R.Crim.P. 507)</small> <input type="checkbox"/> Additional Pages Attached (Other than Affidavit of Probable Cause) <input checked="" type="checkbox"/> Probable Cause Affidavit(s) MUST be attached (unless sealed below) Total number of pages: <u>2</u>			
<small>TOTAL NUMBER OF PAGES IS SUM OF ALL APPLICATION, PROBABLE CAUSE AND CONTINUATION PAGES EVEN IF ANY OF THE PAGES ARE SEALED</small> The below named Affiant, being duly sworn (or affirmed) before the Issuing Authority according to law, deposes and says that there is probable cause to believe that the items or property identified are evidence or the fruit of a crime, or are contraband, or are expected to be otherwise unlawfully possessed or subject to seizure, and that these items or property are or are expected to be located on the particular person or at the particular place described above. I certify that this filing complies with the provisions of the Case Records Public Access Policy of the Unified Judicial System of Pennsylvania that require filing confidential information and documents differently than non-confidential information and documents.			
 Signature of Affiant		PA State Police - Mercer	10297 Badge Number
Sworn to and subscribed before me this <u>2nd</u> day of <u>July</u> , 2024, Mag. Dist. No. <u>35-3-03</u> .  Signature of Issuing Authority		<u>14 N. RACE ST. CARROLLVILLE PA 15201</u> Office Address	
<b>SEARCH WARRANT TO LAW ENFORCEMENT OFFICER:</b> WHEREAS, facts have been sworn to or affirmed before me by written affidavit(s) attached hereto from which I have found probable cause, I do authorize you to search the premises or person described, and to seize, secure, inventory and make return according to the Pennsylvania Rules of Criminal Procedure.			
<input checked="" type="checkbox"/> This Warrant shall be served as soon as practicable and shall be served only between the hours of 6AM to 10PM but in no event later than:			
<input type="checkbox"/> This Warrant shall be served as soon as practicable and may be served any time during the day or night but in no event later than: ** <u>7:55</u> M, o'clock <u>4:55 PM</u>			
<input checked="" type="checkbox"/> This Warrant shall be returned to judicial officer <u>MRS. MAE J. WINK</u> . <small>* The Issuing Authority should specify a date not later than two (2) days after issuance. Pa.R.Crim.P. 206(4).            ** If the Issuing Authority finds reasonable cause for issuing a nighttime warrant on the basis of additional reasonable cause set forth in the accompanying affidavit(s) and wishes to issue a nighttime warrant, then this block shall be checked. Pa.R.Crim.P. 206(7).            Issued under my hand this <u>23rd</u> day of <u>July</u>, 2024 at <u>7:55 P</u> M, o'clock.</small>			
 Signature of Issuing Authority		<u>35-3-03</u> Mag. Dist. or Judicial Dist. No.	<u>JAN 3 2028</u> (SEAL) Date Commission Expires
Title of Issuing Authority <input checked="" type="checkbox"/> Magisterial District Judge <input checked="" type="checkbox"/> Common Pleas Judge <input type="checkbox"/>			
<input type="checkbox"/> For good cause stated in the affidavit(s) the Search Warrant Affidavit(s) are sealed for _____ days by my certification and signature. (Pa.R.Crim.P. 211)			
(Date) (SEAL)			
Signature of Issuing Authority (Judge of the Court of Common Pleas or Appellate Court Justice or Judge)			

TO BE COMPLETED BY THE ISSUING AUTHORITY



# What might ICE agents show or say instead?

- ICE agents may have “administrative” warrants signed by an immigration office, not by a judge or magistrate, authorizing arrest for violation of immigration law.
- Administrative warrants, unlike judicial search warrants, do not authorize ICE entry to nonpublic areas (not supported by a showing of probable cause), and **it is lawful to deny entry.**

DEPARTMENT OF HOMELAND SECURITY  
U.S. Immigration and Customs Enforcement  
WARRANT OF REMOVAL/DEPORTATION

File No: \_\_\_\_\_  
Date: \_\_\_\_\_

To any immigration officer of the United States Department of Homeland Security:

\_\_\_\_\_ (Full name of alien)  
who entered the United States at \_\_\_\_\_ on \_\_\_\_\_  
(Place of entry) (Date of entry)

is subject to removal/deportation from the United States, based upon a final order by:

an immigration judge in exclusion, deportation, or removal proceedings  
 a designated official  
 the Board of Immigration Appeals  
 a United States District or Magistrate Court Judge

and pursuant to the following provisions of the Immigration and Nationality Act:

I, the undersigned officer of the United States, by virtue of the power and authority vested in the Secretary of Homeland Security under the laws of the United States and by his or her direction, command you to take into custody and remove from the United States the above-named alien, pursuant to law, at the expense of:

\_\_\_\_\_ (Signature of immigration officer)  
\_\_\_\_\_ (Title of immigration officer)  
\_\_\_\_\_ (Date and office location)

*This ICE Warrant is NOT legally sufficient to allow immigration agents into homes or the non-public areas of facilities, buildings, organizations, businesses, or other premises.*

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# Can a school deny immigration agents entry to its facility?

- Under the 4th Amendment, areas open to the general public (i.e., reception area) are open to immigration agents, who may enter without a warrant.
- ICE agents must observe the same rules as any member of the public and must not disrupt activities.
- ICE agents may take photos in public spaces.
- ICE agents must have a judicial search or arrest warrant to lawfully access non-public spaces (i.e. private offices).



# What might ICE agents show or say instead? (continued)

- Note that ICE agents sometimes wear uniforms that say “Police,” even though they are not police officers, or may be in plainclothes.
- ICE agents may also say things to gain entry without a warrant, such as, “We are investigating a crime. Can you help us identify this person?” and “Is [name] here?”
- No matter the agency involved, the same judicial warrant requirement applies— meaning that both police and ICE agents must have a judicial search warrant to enter nonpublic areas.



# What might ICE agents show or say instead (continued)?

- If ICE agents do not have a judicial warrant, staff should ask the agents to wait to enter any nonpublic areas until the staff contacts Superintendent.
- If ICE agents do have a judicial warrant, staff may ask the agents to wait to enter any nonpublic area until staff contacts Superintendent, but the agents need not wait if the judicial warrant authorizes them to enter nonpublic areas.



# What can staff tell students/parents and others during an immigration enforcement action?

- Students/parents affected should know:
  - They have to ask for an attorney.
  - Remain silent if ICE asks questions, or say “I do not want to answer any questions.”
    - Any admissions, particularly about legal status, can be used against the individual later.
  - Stay calm and do not attempt to leave.
  - Can ask agents if free to go. If the response is “yes”, person can leave. If the agent says “no,” person should ask to consult with an attorney and remain silent.



# What should staff do (and not do) if ICE agents question them?

- Staff, including security staff, should never make false statements (e.g., if ICE agents ask about an individual who is in the building, staff should not say the person is not there).
- Staff should say “**I can’t respond until I consult with my supervisor and Superintendent.**”





# What should staff do if a person is detained in or near the facility?

- Staff has the right to observe from a reasonable distance but should not interfere with the actions of ICE agents.
- Staff may ask for the names of ICE agents. If agents are in plainclothes, staff may ask to see credentials and make note of agents' names and badge numbers.
- Staff may lawfully take video to make a record of the action.



# What should staff do if a person is detained in or near the facility?

- Staff may ask ICE agents' permission to obtain from a detained person the contact information of anyone who should be informed of the person's detention (e.g., a family member, friend or attorney).
- Staff may also ask where the person will be detained. If the person being detained authorizes them to do so, staff may provide all information obtained from ICE agents to the friend or family member so identified.



# What if ICE requests information on a student/parent, or access to records, for the purposes of immigration enforcement? (continued)

- Under FERPA, schools cannot turn over personally identifiable student records to police, federal agents, or immigration officials without the written consent of a parent or guardian, unless the information is requested through a subpoena or court order such as a judicial warrant.
  - Schools can disclose students' "directory information" without the family's consent unless the school district is notified that the family has "opted out" from such sharing.
  -



# What if immigration officials come to a school and has an arrest warrant?

- This is an unusual scenario but if immigration officials are seeking to arrest a student, the Superintendent should ask for a valid arrest warrant to be reviewed by counsel. A valid arrest warrant will show the name of the person that they are seeking to arrest (spelled out correctly) and must be signed by a judge as is required by Article III of the United States Constitution.
- If an administrative warrant is presented, the school should. Similarly, any document that does not name the child specifically and correctly is not binding and should not be honored.



# What if immigration officials come to a school and have an arrest warrant? (cont)

- If a determination is made that a valid warrant is presented, Superintendent may want to request that the arrest does not take place in school property, and/or negotiate the place of arrest so that other children are protected from viewing such an arrest.
- In addition, the Superintendent should advise immigration officials not to ask the child any questions.



# How can schools protect students and their information?

- Make sure that your school district does not include place of birth or primary language spoken at home in directory information. If it does, advocate to end the practice of collecting place of birth information and decline to provide it for your children.
- Tell students and their families what is considered directory information. Allow them to opt-out of having their information disclosed. When possible, communicate to parents about directory information in their primary language.
- Review the information collected and ensure it doesn't exceed what is necessary.



# What to do if your student's parents are taken into ICE custody?

- Give families regular opportunities to update their emergency contact information and give alternative contacts if a parent or guardian is unavailable.
- Suggest that families create their own safety or preparedness plans. Plans could include instructions to child and other trusted responsible parties on what to do if a parent becomes unavailable, including designated guardians or others authorized to pick up the student from school.



## 10 Next Steps for Schools:

1. Ensure the district has a Welcoming Schools/Safe Zone policy and process for addressing ICE enforcement actions.
2. Train all staff, especially front-line folks, about the policy how to identify ICE action, and provide scripts that they can use
3. Clearly demarcate the public and non-public areas in your schools.
4. Observe and document any actions by immigration agents on school property
5. Update form with emergency contact information and permissions to pick up a child





## 10 Next Steps for Schools:

6. Review what information is contained in school directories, and remind parents, guardians, and adult students that they have a right to opt out of having their information included in the directory.
7. Remind parents and guardians to update their emergency contact information and permissions for non-parent individuals to pick up their child from school.
8. Let parents know PA law allows a non-parent with whom the child is living to enroll the student in school and act as the student's education decision maker. While this form should not be submitted unless custodial parent(s) are unavailable, families should consider the option and their preferred designation in advance.



## 10 Next Steps for Schools:

9. Share info of non-profit organizations who can support families to search of immigration counsel, complete family preparedness plans, and other child custody or temporary custodian situations.

- Crisol Contigo: <https://www.crisolcontigo.com/recursos-para-la-comunidad.html>

10. Stay informed! Organizations to follow for helpful school-specific resource & guidance:

- ACLU of Pennsylvania & Education Law Center
- National Immigration Law Center:  
<https://www.nilc.org/resources>
- National Education Association's Guidance on Immigration Issues: <https://www.nea.org/resource-library/guidance-immigration-issues>

