



February 4, 2025

Bcc/ South Carolina District Superintendents & General Counsel

Re: District Response to Immigration Enforcement at Schools

Dear District Superintendents and Counsel,

On January 21, 2025, President Trump rescinded a long-standing policy that discouraged immigration enforcement actions in “sensitive areas,” such as schools, medical facilities, and places of worship.¹ As a result, we expect that schools in your District may begin receiving visits and inquiries from Immigration and Customs Enforcement (ICE) agents looking to deport your students and their families.

In expectation of those efforts, we write to encourage your District to adopt strong policies, consistent with state and federal law, to protect the privacy rights of immigrant children and their families, and to safeguard their constitutional rights to free public education.²

**All South Carolina Children Are Entitled to
Free K-12 Public Education**

“[E]ducation is perhaps the most important function of state and local governments.” *Brown v. Bd. of Education*, 347 U.S. 483, 493 (1954). As the U.S. Supreme Court has observed, actions or policies that deny children a basic education “deny them the ability to live within the structure of our civic institutions, and foreclose any realistic possibility that they will

¹ See [Statement of Dept. of Homeland Security](#) (Jan. 21, 2025) (rescinding [Guidelines for Enforcement Actions in or Near Protected Areas](#), (Oct. 27, 2021) (explaining that “[w]e can accomplish our enforcement mission without denying or limiting individuals’ access to needed medical care, children access to their schools, the displaced access to food and shelter, [and] people of faith access to their places of worship.”)).

² Other Districts have already started this work. The Beaufort County School District, for example, announced through a statement that it has adopted protocols to protect students from being discriminated against on the basis of immigration status. See [Beaufort Co. School District directs employees on how to handle a situation with ICE](#), WTOC11 (Jan. 29, 2025) (“District Administration will . . . ensure that the District meets its legal obligations to cooperate with law enforcement while also respecting the rights of students.”).

contribute in even the smallest way to the progress of our Nation.” *Plyler v. Doe*, 457 U.S. 202, 223–24 (1982).

State and federal law protect the rights of immigrant children, including undocumented children, to attend public school. The South Carolina Constitution, for example, requires that free public schools be “open to *all children* in the State.” S.C. Const. art. XI, § 3 (emphasis added). Federal anti-discrimination laws, like Title VI of the Civil Rights Act of 1964, prohibit public schools from discriminating on the basis of race, color, or national origin. *See* 42 U.S.C. § 2000c-6. And, as you know, the U.S. Supreme Court has held that denying public education to undocumented immigrants violates the Fourteenth Amendment. *See Plyer*, 457 U.S. at 230. Importantly, the Fourteenth Amendment is not only violated by complete barriers to school attendance—actions or policies that “*significantly interfere*” with the exercise of the right to free public education may also violate the Equal Protection Clause. *See Hisp. Int. Coal. of Alabama v. Governor of Alabama*, 691 F.3d 1236, 1245 (11th Cir. 2012) (striking down data collection law requiring collection of citizenship information from school children).

The District Should Adopt Formal Policies that Limit When ICE Agents May Enter School Property

Unless ICE agents present a *judicial* warrant or subpoena (as opposed to the more commonly used administrative warrant), schools are not required to grant access to school grounds.³ If it has not already, the District should develop procedures for addressing such requests in consultation with its own legal counsel. In fashioning its policy, we hope the District will consider the following legal and practical consequences of allowing immigration enforcement at or near schools, school events, bus stops, and other school and school-adjacent properties.

Opening school grounds to ICE agents will undoubtedly “significantly interfere” with the rights of immigrant children to attend school. *Hisp. Int. Coal. of Alabama*, 691 F.3d at 1245; *Plyler*, 457 U.S. at 230; *see also* S.C. Const. art. XI, § 3. Aggressive rhetoric about immigration enforcement can alone chill school attendance among immigrant populations. Those effects are magnified when talk turns to action, and data show that immigration enforcement results in spikes in absenteeism, refusal to engage in extracurricular programs, and reduced academic performance.⁴ These effects are not limited to children who lack lawful status, as many legal residents do not fully trust or understand their

³ *See* [WARRANTS AND SUBPOENAS: What to Look Out For and How to Respond](#), National Immigration Law Center (Sept. 2020) (explaining the difference between judicial and administrative warrants).

⁴ *See, e.g.,* Mary Lopez, [Falling through the Cracks? Grade Retention and School Dropout among Children of Likely Unauthorized Immigrants](#), 105 AM. ECON. REV. 5 (May 2015).

citizenship status, especially as policies rapidly change. To ensure that “*all children*” continue to enjoy their constitutional right to free public education, the District must carefully guard its property from immigration enforcement efforts.

Beyond legal compliance, other concerns also favor curtailing immigration enforcement efforts at schools and school events. The threat of immigration enforcement exacts a grave toll on educators, who feel responsible for creating a safe environment for all students. And even for children with no risk of deportation, a visit by an ICE agent to remove a classmate will be disruptive, distracting, and traumatic. In short, school-based immigration enforcement undermines the safe academic environment your District is dedicated to preserving.

These are some policies we recommend:

- Clearly mark the public and non-public areas in and around your schools. If school playgrounds, sports fields, etc., are not open to the public during certain hours, we encourage you to post signage setting out those limits. It is especially important to ensure students and parents feel safe in school drop-off and pick-up lines.
- Establish protocols for what school staff should do if immigration agents come to a school. These protocols may include, for example: designating a trained contact person (such as the principal or other administrator) to handle all contacts; ensuring that all contacts are routed to District legal staff before a response is given; refusing consent for immigration agents to access non-public school property or to interview students; only authorizing entry or access by an ICE agent to the degree sanctioned by a duly-issued judicial warrant. Once established, staff should receive training to ensure compliance with these protocols.
- Document any immigration enforcement actions conducted or attempted on school property, including by retaining copies of the officers’ identification documents and any warrants or subpoenas that are presented for review.

Schools Cannot Require Students or Parents to Provide Information About Immigration Status

Federal law prohibits school officials from inquiring about the immigration status of students or their parents. All South Carolina children are entitled to attend public school and cannot be discriminated against based on immigration status. *See Plyler*, 457 U.S. at 230; *Hisp. Int. Coal. of Alabama*, 691 F.3d at 1245; *League of United Latin Am. Citizens v. Wilson*, 908 F. Supp. 755, 774 (C.D. Cal. 1995). Asking a student or parent for their immigration status—like welcoming ICE agents onto school property—interferes with students’ equal access to public education and is not otherwise supported by a substantial

state interest. As a result, the District must avoid asking students or parents about their immigration status and should allow students to establish age and district eligibility by reliance on documents other than birth certificates and social security documents.⁵

**Schools Must Also Limit the Disclosure of Information to Law Enforcement,
Including Immigration Enforcement Authorities**

In carrying out President Trump’s aggressive anti-immigrant policies, ICE (or local law enforcement) may ask schools in the District to provide information about certain students or their families. The collection and use of such student data is strictly regulated by the Family Educational Rights and Privacy Act of 1974 (FERPA). Information covered by FERPA may only be disclosed to “school officials” in order to fulfill a “legitimate educational interest.” Because law enforcement personnel (including both local and federal authorities) are not “school officials” and immigration enforcement is not a “legitimate educational interest,” information covered by FERPA should not be disclosed unless the school has received a judicial order or has the consent of the student and parent/guardian. This includes any information bearing on immigration or citizenship status.⁶

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In these uncertain times, schools must continue to provide safe spaces for learning, growth, and community. To protect the rights of all children and educators, please work with your legal counsel and administrators to adopt the policies described above and then communicate those commitments to the students, parents, and educators that you serve.

If we can be of any assistance in this important moment, please do not hesitate to contact me directly.

In Solidarity,



Allen Chaney
Legal Director, ACLU of South Carolina

⁵ See U.S. Dep’t of Educ., Office for Civil Rights & Office of the General Counsel, U.S. Dep’t of Just., Civil Rights Div., [Dear Colleague Letter: School Enrollment Procedures](#) 1 (May 8, 2014).

⁶ South Carolina law appears to prohibit the adoption of local ordinances or policies that restrict government employees from “communicating to appropriate federal or state officials with regard to the immigration status of any person within this state.” S.C. Code § 6-1-170. But to the degree that law conflicts with the District’s obligations under federal law, it is unenforceable and “without effect.” See U.S. Const. art. VI, cl. 2 (Supremacy Clause); *City of Cayce v. Norfolk Southern Ry. Co.*, 391 S.C. 395, 400–01, 706 S.E.2d 6, 8–9 (2011) (“[S]tate law that conflicts with federal law is ‘without effect.’” (quoting *Cipollone v. Liggett Group, Inc.*, 505 U.S. 504, 516 (1992))).