

## **Guidance for School Districts Related to Immigration Actions**

This guidance is intended to assist schools in ensuring that immigrant students have equal access to educational opportunities. Each school board should consult with their legal counsel regarding any specific policy guidance that they may wish to issue related to compliance with immigration enforcement actions involving their schools or students. The U.S. Department of Education recently issued a [Dear Colleague Letter: Resources for Ensuring Equal Access to Education for Immigrant Students](#), that we would encourage educators to review.

### **Undocumented students' right to public education**

Public schools may not deny access to students based on immigration status. The U.S. Supreme Court held in *Plyler v. Doe*, 457 U.S. 202 (1982) that all students, including undocumented students, have a right to attend public schools. Vermont state law also enshrines the rights of all Vermont students – regardless of immigration status – to educational opportunities that are substantially equal. 16 V.S.A. § 1.

### **Students' rights to be free of harassment and discrimination**

Under Vermont state law, schools have the obligation to protect against discrimination and/or harassment on the basis of protected classes, which includes national origin [16 V.S.A. § 11(26)(A); 16 V.S.A. § 570; 9 V.S.A. § 4502]. Titles IV and VI of the Civil Rights Act of 1964 also protect against discrimination on the basis of race, color, or national origin, among other factors [42 U.S.C. § 2000c-6; 42 U.S.C. § 2000d].

### **Privacy of student information**

Schools have no legal obligation to collect information related to a student's or their family's legal citizenship or immigration classification (i.e., their legal right to remain in this country).

As a general reminder, students' personally identifiable information and educational records are protected under the Family Educational Rights and Privacy Act of 1974 (FERPA) and can only be disclosed if specific conditions are met. We recommend that educators contact their legal counsel if they receive any requests from immigration authorities for personally identifiable information in education records to ensure they are maintaining compliance with FERPA.

### **Immigration enforcement at schools**

[Current guidance from the US Department of Homeland Security](#) restricts federal immigration enforcement on or around school grounds or school buses. However, it is possible that this guidance may be rescinded or modified in the new presidential term, which could result in increased immigration enforcement in or around schools or other places where children gather.

There is no legal requirement that generally entitles federal immigration agents to enter the physical grounds of a school building. As such, schools can prevent entry by federal immigration authorities to the school building in an enforcement capacity unless the federal immigration authorities have a valid judicial criminal warrant or judicial order. An "administrative warrant" or "immigration detainer" is not judicially issued and does not carry the legal authority of a judicial warrant. SU/SDs should establish a plan for how and when they will consult with district legal counsel in the event

that immigration authorities seek entry to school grounds to determine what type of warrant has been presented and what is required of school officials as a result.

Additionally, under 20 V.S.A. § 4652, school districts, as well as school resource officers and their law enforcement agency, are generally prohibited from entering into agreements with the federal government regarding immigration enforcement. Only the Governor can generally enter such agreements.