



# Fact Sheet: ICE or CBP Enforcement in Your School

## Background

Recognizing the sensitivity of schools and certain other locations, U.S. Immigration and Customs Enforcement (ICE) and U.S. Customs and Border Protection (CBP) maintain a policy that provides ICE and CBP will not engage in immigration enforcement in sensitive locations, like schools, absent prior approval by a supervisor or exigent circumstances.<sup>1</sup> The Department of Homeland Security recently reaffirmed this policy.<sup>2</sup> This means that ICE and CBP generally will not arrest, interview, search, or surveil a person for immigration enforcement purposes while at a school, a known school bus stop, or an educational activity.<sup>3</sup>

## What You Need to Know

If you witness ICE or CBP within your school:

- Direct ICE/CBP agents to the Superintendent.
- The Superintendent should request to see written legal authorization and verify the identity of the agent(s).
  - If agents do not supply a judicial warrant signed by a judge, request legal review before permitting agents further into the school. Only a judicial warrant, not an administrative warrant, will allow ICE agents to enter locations in which there is a reasonable expectation of privacy.<sup>4</sup>
- The Superintendent should advise agents of the school’s *Plyler* obligations, refer agents to the ICE/CBP sensitive locations memos, and request that officers not conduct the enforcement action at school/school activities.
- Consistent with the school’s *Plyler* obligations, school officials must not affirmatively aid in removing a student from school based upon their immigration status.
- If agents detain a student, the school should promptly notify the student’s parent or guardian.
- As soon as possible, notify the ACLU of Arizona at <https://action.aclu.org/secure/az-complaint-form>. You can also lodge a complaint with ICE or CBP through their websites.<sup>5</sup>

## Things to Note

Schools can take a number of additional steps to safeguard the right of equal access to education for immigrant students and all students.

- Communicating with families that all students are welcome in public schools, including through the adoption of a resolution,<sup>6</sup> can go a long way in assuaging community fears and strengthening the school community.
- Educators can also adopt a number of practices to instill a positive school climate.<sup>7</sup>

<sup>1</sup> U.S. Immigration and Custom Enforcement, Sensitive Locations FAQs, <https://www.ice.gov/ero/enforcement/sensitive-loc>.

<sup>2</sup> U.S. Department of Homeland Security, Q&A: DHS Implementation of the Executive Order on Border Security and Immigration Enforcement (Feb. 21, 2017)(“Q28: The implementation guidance references rescinding all previous immigration enforcement memos. Does this include the ICE and CBP memorandum on sensitive locations? A28: No, the sensitive locations guidance remains in effect for both ICE and CBP.”), <https://www.dhs.gov/news/2017/02/21/qa-dhs-implementation-executive-order-border-security-and-immigration-enforcement>.

<sup>3</sup> Specifically, the sensitive locations memo includes these locations: “Schools, such as known and licensed daycares, pre-schools and other early learning programs; primary schools; secondary schools; post-secondary schools up to and including colleges and universities; as well as scholastic or education-related activities or events, and school bus stops that are marked and/or known to the officer, during periods when school children are present at the stop . . .” U.S. Immigration and Custom Enforcement, Sensitive Locations FAQs, <https://www.ice.gov/ero/enforcement/sensitive-loc>.

<sup>4</sup> Compare *See v. City of Seattle*, 387 U.S. 541 (1967) (administrative warrant not sufficient to allow entry to non-public areas of business), with *Blackie’s House of Beef, Inc. v. Castillo & INS*, 659 F.2d 1211, 1218-19 (D.C. Cir. 1981) (discussing probable cause standard for warrant issued by neutral magistrate).

<sup>5</sup> See ICE, Sensitive Locations FAQs, <https://www.ice.gov/ero/enforcement/sensitive-loc>.

<sup>6</sup> See National Immigration Law Center, Model Campus Safe Zones Resolution Language (K-12) (Dec. 2016), <https://www.nilc.org/issues/immigration-enforcement/campus-safe-zones-language-k-12/>.

<sup>7</sup> TESOL has compiled numerous resources for supporting immigrant and refugee students. See TESLO, Resources on Immigration and Refugee Concerns, <http://www.tesol.org/advance-the-field/advocacy-resources/resources-on-immigration-and-refugee-concerns>. The National School Climate Center also provides many resources for developing positive school climate. See National School Climate Center, <http://www.schoolclimate.org/>.