



Immigration Enforcement FAQs for K-12 Schools in New Trump Era

Insights

2.06.25

Massive policy shifts and executive action from the White House in the early days of the new Trump administration necessitate that K-12 school administrators proactively prepare for interactions with immigration authorities to ensure the well-being of their students and staff as well as legal compliance. The Fisher Phillips Education Team has coordinated with its Immigration Practice Group – along with our new Rapid Response Team – to develop this series of Frequently Asked Questions to help guide you during the tumultuous times ahead.

Background Information and New Legal Standards

What has happened since Trump took office that could impact our school?

In the past several weeks, the Trump administration has enacted several immigration policies that could significantly impact K-12 schools:

- **Executive Order on Mass Deportations:** Trump issued an executive order titled “Protecting the American People Against Invasion” immediately upon being inaugurated that directs Immigration and Customs Enforcement (ICE) to intensify efforts to identify, detain, and deport undocumented individuals. This order includes provisions for increased ICE presence in communities and potential operations in schools.
- **Revocation of Sensitive Location Protections:** On January 21, the administration rescinded previous guidelines that limited immigration enforcement actions in sensitive locations, including schools and places of worship. This change permits ICE agents to conduct operations on school grounds.
- **Implementation of the Laken Riley Act:** Signed into law on January 29, this legislation grants federal authorities expanded powers to detain undocumented immigrants accused of certain crimes, even before conviction.

General Immigration Enforcement at Schools

What rights do private schools have regarding ICE access?

While the federal government now deems it fit for immigration officials to engage in enforcement

action on school campuses, private schools have certain rights to control access to their property:

- **Verification of Credentials:** Schools can request to see ICE agents' identification and any warrants they may have. Your FP lawyer can assist you with verifying the warrant.
- **Limiting Access:** Schools can designate specific areas as private and restrict for anyone that does not have a valid warrant.

How can we limit access?

The best way to do so is to install signage that states that visitors must check in at main office or security guard shack and/or that certain areas of the campus are for school personnel only. This will limit ICE officer access to those areas if they do not have a valid warrant.

When can ICE agents legally enter our school campus?

The authority of ICE agents to legally enter your campus depends on specific circumstances:

- **With a Warrant:** ICE agents may enter private areas of the school if they possess a valid judicial warrant that has been signed by a judge and specifically indicates that those areas can be accessed. Having your FP lawyer or our Rapid Response Team on speed dial so they can assist you in assessing the warrant may bring peace of mind.
- **Without a Warrant:** Agents can access "public" areas of the campus without a warrant. While you may consider every inch of your campus to be private, ICE agents and government officials are permitted to enter areas of your campus where members of the public can access, generally areas like main offices and lobbies. However, entry into non-public areas without consent or a warrant is generally not permitted.

What areas of our campus are considered public, and where can we ask ICE to wait while verifying a warrant?

Understanding campus designations is crucial and will depend on your campus setup:

- **Public Areas:** Spaces such as open courtyards, main offices, and publicly accessible lobbies might be considered public depending on your school's property – as noted above, ICE can enter these spaces without a warrant.
- **Restricted Areas:** Classrooms, administrative offices, and secured sections of campus designated as private will require authorization for entry.
- **Holding Location:** If ICE arrives, schools can direct agents to a neutral, non-disruptive space while verifying legal requirements.

How should our school respond if ICE agents arrive on campus?

If ICE agents arrive:

- **Stay calm:** Maintain a composed environment to avoid alarming students and staff.
- **Contact counsel:** Reach out to Fisher Phillips' new [Rapid Response Team](mailto:DHSRaid@fisherphillips.com) at (877) 483-7781 or DHSRaid@fisherphillips.com.
- **Use your point person:** Make sure your designated point person, most knowledgeable about this process and trained to oversee matters, is on the scene as soon as possible.
- **Verify credentials:** Politely request identification and inquire about the purpose of their visit.
- **Review documentation:** Ask to see any warrants or legal documents authorizing their actions.
- **Limit access:** Make sure the ICE agents comply with the terms of a valid warrant, which might allow you to restrict agents to certain areas. Again, you do not have to permit access to private spaces or student records without proper authorization.
- **Don't interfere:** Your point person should allow ICE agents into whatever specific area has been approved for inspection and enforcement activity, but don't interfere with the raid in any other way. You should monitor activities but avoid taking any action that could be construed as harboring those who don't have proper documentation.
- **Document the encounter:** Keep detailed records of the interaction, including names, badge numbers, and the nature of the inquiry. Document any seized property or records.
- **Communicate:** Work with your leadership team and FP counsel to develop a communications strategy to update your school community (and media, if necessary) about the enforcement activity that took place.

Can our school implement a “pause” or lockdown procedure if ICE agents arrive?

Implementing a “pause” procedure – like sending out a signal akin to a lockdown – requires careful consideration because your actions could be considered interfering with an enforcement action.

- **Purpose:** If the procedure's aim is to maintain student safety and order, and not to obstruct law enforcement, your actions are more likely to be acceptable. If your aim is to delay ICE officers from accessing the campus or people, provide individuals with an opportunity to hide or escape the premises, give personnel a chance to destroy relevant evidence, or create time for the school to contact the media, your actions are less likely to be acceptable.
- **Legal Implications:** Obstructing or interfering with an ICE operation can lead to severe legal consequences – including criminal arrest – not to mention potential reputational damage. Ensure that your actions are not perceived as hindering enforcement activities or harboring undocumented individuals.
- **Risky Behavior:** The kinds of actions that are more likely to land you in trouble include offering hiding places to people, aiding in an individual's escape from campus, shredding or deleting documents, or providing false and misleading information to government officials.

- **Less Risky Behavior:** If you regularly conduct lockdown drills intent on keeping students and faculty calm during disruptive events, you will be in better position to defend such actions during an ICE raid. You should instruct individuals not to move from one part of the campus to another during this time. Further, if your actions ensure that everyone on campus is actually more available for ICE audit activities, they will be less likely to be perceived as improper.
- **Policy Review:** Regularly review and update your school's policies and practices to ensure they comply with current laws and do not unintentionally suggest obstruction.

Can ICE agents request student records?

While they can request the records, you should only turn them over pursuant to a proper warrant. For those schools receiving certain kinds of federal financial assistance, Family Educational Rights and Privacy Act (FERPA) already prevents schools from sharing student records without their consent, except in a few narrow cases. Of course, a warrant, subpoena, or court order trumps FERPA.

Emergency Planning for Student and Family Disruptions

What should our school do if a student's parents are detained by ICE?

In such situations:

- **Reach out to emergency contacts:** Ensure that each student has updated emergency contact information on file. Encourage families to designate contacts who are legally present in the U.S. to avoid potential complications.
- **Consider Child Welfare implications:** Determine if the absence of parents necessitates a report to Child Protective Services (CPS). In many states, if no legal guardian is available, reporting is mandatory.
- **Work with case workers:** In some situations, government officials will dispatch a case worker to the school to meet with the student. Make sure the student remains in the school until the case worker arrives. If school is still in session, make sure to have eyes on the student as these children may present a higher flight risk. Follow up with the case worker on whether the student will return to school the following day or how the matter is being handled so you can determine your obligations moving forward.
- **Provide support:** Offer counseling and support services to affected students to help them cope with the situation.

How can we encourage families to provide reliable emergency contact information?

Given concerns about immigration enforcement:

- **Build trust:** Assure families that the information provided will be used solely for emergency purposes.
- **Legal status of contacts:** While it's a sensitive topic, encourage families to list emergency contacts who are legally present in the U.S. to ensure they can step in without fear of detention.
- **Leverage community resources:** Connect families with local organizations that can assist in establishing guardianship arrangements or provide legal advice.

Should our school report to Child Protective Services if a student's parents are detained?

This depends on state laws:

- **Mandatory reporting:** In many states, if a child is left without a legal guardian due to parental detention, you are required to make a report to CPS.
- **Consult state guidelines:** Familiarize yourself with your state's specific reporting requirements and consult with legal counsel to ensure compliance.

Workforce Issues

What preventive steps can we take to minimize the chances of our school landing on ICE's radar?

- **Schedule regular I-9 audits of your employee documentation to prepare for potential audits.** Immigration officials often decide to ramp up enforcement activity if they get wind of potential lesser violations at a school. Reviewing your documentation ahead of time will place you in the best possible position to demonstrate your compliance.
- **Conduct regular employee training on I-9 compliance.** Coordinate with your FP counsel to ensure your hiring and administrative team are aware of the best practices when it comes to this crucial documentation.
- **Take ICE audits seriously.** If you receive a Notice of Inspection from federal immigration officials, you will typically need to produce I-9 forms and additional records within three days. A routine audit of your employees' I-9 forms could turn into an enforcement action against your entire school if ICE personnel believe you aren't taking immigration compliance seriously. Contact your FP counsel immediately, as they can help you gather correct documentation, make allowable corrections to minimize penalties and, if necessary, negotiate a short extension for producing records. They can also work with ICE officials to streamline the audit process and perhaps keep enforcement agents away from your campus.

What steps can we take to prepare for a potential ICE raid?

This is a new area for most school personnel, so you should prepare them for the possibility that immigration could show up at your school unannounced to conduct a raid. They should know what to

do and who to contact if ICE shows up on your campus.

- **Offer trainings** to provide them with a clear understanding of your students' rights and your school's obligations in this new era.
- **Designate an employee** most knowledgeable about the process to serve as a point person should ICE arrive on campus.
- **Establish a relationship with an FP immigration attorney** if you don't yet have one – especially if you are concerned about enforcement activity at your school. Contact your regular FP education attorney to connect with someone suited for your situation.
- **Purchase a Rapid Response Tool Kit.** FP's Rapid Response Team has developed a Tool Kit specifically designed for the educational setting, complete with a detailed "what to do in the event of a raid" memo and flyer, a know-your-rights card in multiple languages for students and school personnel, and points of contact for who to contact in case of emergencies. Contact your FP attorney for more information.

International Students and SEVP Compliance

What is the Student and Exchange Visitor Program (SEVP)?

The Student and Exchange Visitor Program (SEVP) is a part of the National Security Investigations Division of the Department of Homeland Security (DHS), and acts as a bridge for government organizations that have an interest in information on individuals whose primary reason for coming to the U.S. is to be students. The DHS tracks and monitors schools in the SEVP through the Student and Exchange Visitor Information System (SEVIS).

What SEVP requirements do schools with exchange students have?

Federal laws require that a Designated School Official (DSO) update and maintain the SEVIS records of all nonimmigrant students in certain visa categories. If a school's DSO does not complete the required actions within the legal time limits, SEVIS automatically updates the student records. SEVIS also requires an annual review and verification of every user with access to a federal system.

Does participating in SEVP mean we'll be visited by immigration officials?

Under the law, a field representative must conduct a site visit with any school that has newly applied for SEVP access. And once a school is registered in SEVP, it will remain subject to site visits. SEVP performs both scheduled and unscheduled on-site reviews as part of either its recertification or out-of-cycle review processes to ensure a school's ongoing compliance. A school cannot decline these on-site reviews if it wants to maintain its SEVP certification.

What is an "out-of-cycle" review?

An "out-of-cycle review" is the SEVP equivalent of an I-9 audit for schools enrolling international students. It may include:

- Student Record Review
- Requests for Accreditation Proof
- State Licensure Verification
- General SEVP Compliance Checks

What should schools do if SEVP requests a site visit?

- **Cooperate:** Schools must allow site visits to maintain SEVP certification.
- **Prepare documentation:** Ensure records are accurate and accessible.
- **Consult legal counsel:** Seek guidance on compliance and best practices.

Conclusion

If you have any questions about these developments or how they may affect your school, please contact your Fisher Phillips attorney, the authors of this Insight, or any attorney on our [Education Team](#) or [Immigration Team](#). Reach out to Fisher Phillips' new [Rapid Response Team](#) at (877) 483-7781 or DHSRaid@fisherphillips.com in cases of emergency.

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