

Immigration - Educational Rights and Educator Guide

This document is meant to serve as a tool to help guide school administrators, front office, data managers, registrars, bus drivers, and other school staff as related to the CMS legal alert from the Office of General Counsel dated November 27, 2024.

Student Data Privacy

CMS employees are legally and ethically obligated to safeguard the confidentiality of any private information they access while performing official duties.

Private information regarding students and staff should always be transmitted and stored securely to protect individual privacy and comply with state and federal laws like FERPA.

For more information, please review the [CMS info sheet on PII data](#).

Personally identifiable information (PII) includes but is not limited to:

- Student Name
- Parents' name
- Address
- Telephone Number
- Migrant Status
- Homeless Status
- English Language Proficiency Level

Based on the 1982 Supreme Court case ruling *Plyler v. Doe* schools cannot deny public education to undocumented students which means schools are not to ask for:

- Immigration Status
- Citizenship Status
- Social Security number

All students have a right to a free public education, regardless of immigration status.

School employees cannot:

- Voluntarily report undocumented status of students to law enforcement; this is a denial of public education rights.
- Give legal advice to families.

Guidance for supporting students faced with immigration enforcement:

- If there has been an enforcement action against a student's parent or guardian, provide supportive measures to the student, including evaluation of the need for school counselor involvement.
- Appropriately review/accept hardship caregiver affidavits when presented.
- Consider whether a student qualifies for McKinney-Vento status.

Think Ahead Section (for all parents):

- Maintain current emergency contact information, including alternative contacts if no parent or guardian is available. Encourage all families to update this information via Parent Square.
- As a general rule, once students are on the bus, adults are not permitted to board the bus.
- If there is an imminent safety concern, the usual safety procedures using local law enforcement should be followed.

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If an immigration official asks to speak to a student at your school

Officer without search/arrest warrant

- The Principal or other school administrator should verify and document the agent's credentials. The officer must be denied access to students and student records or information without a court order or warrant.

Officer with search/arrest warrant

- The Principal or other school administrator should verify and document the agent's credentials, ask to review the warrant, if applicable, and request the reason for the interview.
- Prior to complying with the warrant/subpoena, email a copy of the warrant/subpoena to the General Counsel's Office for review and verification.
- Board Policy O-ELX states:
 - School administrators must attempt to contact parents and remain with the student during a law enforcement interview.
 - School staff should not interfere with any ICE enforcement action, which may include service or execution of warrants, interviews, searches, or arrests.
- The student has a right against self-incrimination and may not be required to provide information that would establish residency status. Principals/administrators should remind students of this right.
- In case of parent deportation - school must reach out to all contact information before reaching out to DSS.

If an immigration official wants to conduct a raid at your school:

Share they should not take enforcement action in or near a protected area (ex. School property) unless it involves an imminent safety issue. (2021 Department of Homeland Security Guideline, remaining effective as of January 17th, 2025).

If an immigration official asks to see student information or records:

- Has the official presented a court order or subpoena in compliance with FERPA?
 - Confirm validity by sending a copy to the Office of General Counsel for review.
 - Once reviewed by OGC, only provide information listed on court order/warrant.
- If no: Do not provide information or records.

Additional Information/Questions:

The attorneys in the Office of General Counsel are available to help administrators work through concerns and/or implications regarding immigration enforcement actions.

You may contact our office by telephone: 980-343-6228 or email: ogc@cms.k12.nc.us.