



WHAT TO DO IN AN IMMIGRATION ENCOUNTER AT YOUR SCHOOL

This document does not constitute legal advice and is for educational purposes only. If you need specific legal advice, speak to your school district's legal counsel. This document was last updated on March 13, 2025. Laws and Policies are subject to change.

YOU HAVE THE RIGHT TO refuse entry to ICE or other federal immigration officers to non-public areas of the school without a JUDICIAL warrant, per the 4th Amendment. Districts should establish protocols for who is authorized to review and accept warrants and provide training for all staff who answer the door or the phone. The district policy for reviewing warrants should include a review to be sure it is a valid judicial warrant signed by a judge with the name of the school or someone who attends or works at the school. ***An ICE administrative warrant is not the same as a judicial warrant.*** ICE officers commonly say they have a judicial warrant when they do not.

YOU HAVE THE RIGHT TO REMAIN SILENT AND DO NOT HAVE TO ANSWER ANY QUESTIONS. You can explain that you are not authorized to speak with the immigration authority, and ask the officers or agents to wait outside away from the school's entrance while you wait for an authorized person. As always, follow your district's exact protocol. If a warrant is reviewed and the immigration official is allowed entry to a non-public area, you do not have an obligation to answer any questions about a particular person's whereabouts but **DO NOT LIE**. Federal and state law may protect student information and prohibit disclosure. Check with your district's counsel for more information.

DOCUMENT WHAT HAPPENED. Ask for the ICE agents' names and badge numbers. Write down and take pictures of everything that happened during the raid or visit.

IF ICE APPROACHES YOU PERSONALLY. You **DO NOT** have to **CONSENT TO A SEARCH**. If ICE attempts to search you can say, "No, I do not consent to this search."

DO NOT RUN. If you run, this could help ICE develop a legal reason to stop you.

Schools should LIMIT the collection or maintenance of information about immigration status, limit directory information, and ensure a clear opt-out for any information collected (in several languages). Ensure the district has set a clear chain of command for data requests and trains staff.

ENSURE THAT FAMILIES ARE NOT TURNED AWAY FROM REGISTRATION due to immigration status or inability to produce certain documents that are not required. Confirm your district uses clear and compliant instructions, audit those who interact with the public, train staff on the importance of complying with the letter and spirit of the law, and designate a contact person to be consulted before turning anyone away from registration.

Call us at 908-368-1196 -- Visit our website [maketheroadnj.org](https://www.maketheroadnj.org)



SOURCES OF PROTECTION IN SCHOOLS SEARCHES & ARRESTS, DATA PRIVACY, & REGISTRATION



Fourth Amendment (*Searches & Arrests, Data Privacy*): Protects people from unreasonable searches and seizures by the government. This applies to your person, your belongings, and your records, etc.

***Plyler v. Doe (Registration)*:** A state cannot deny students access to public schools because of their immigration status unless a substantial state interest is involved.

FERPA (*Data Privacy*): Federal Educational Rights and Privacy Act, a law that protects the privacy of students' education records. It applies to all public and private schools, as well as education agencies that receive federal funding. It gives parents and students the right to access education records, allows parents and students to request to change inaccurate or misleading records, **limits who can access student records**, and gives students the right to review their education records.

NJ State Constitution Article I, Paragraph 7 (*Searches & Arrests, Data Privacy*): The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated; and no warrant shall issue except upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the papers and things to be seized.

State Constitutional Protections provide equal protection, thorough and efficient public education, and fundamental fairness.

N.J.S.A. 18A:38-5.1 (*Registration*): Provides that children may not be excluded from school due to immigration status.

N.J.A.C. 6A:22-3.3(b) (*Registration*): Provides that immigration status does not affect eligibility to attend school. <https://www.nj.gov/education/code/current/title6a/chap22.pdf>

N.J.A.C. 6A:22-3.4(c-d) (*Registration*): Limits what documents can be requested for enrollment. <https://www.nj.gov/education/code/current/title6a/chap22.pdf>

N.J.A.C. 6A:32-7.5 (*Data Privacy*): <https://www.nj.gov/education/code/current/title6a/chap32.pdf>

Immigrant Trust Directive (*Searches and Arrests*): Limits the types of voluntary assistance that New Jersey's law enforcement officers may provide to federal immigration authorities and applies to state and local police officers, correctional officers working in state prisons and county jails, and state and county prosecutors. <https://www.nj.gov/oag/newsreleases18/Immigration-Trust-Directive-Summary.pdf>

Guidance from NJDOE: <https://nj.gov/education/security/studentrights/index.shtml>

Guidance from AFT: <https://www.aft.org/our-community/immigration>

Guidance from NJEA: <https://www.njea.org/immigration/>

Guidance from NJSBA: <https://www.njsba.org/news-information/school-board-notes/guidance-on-school-related-state-and-federal-requirements-pertaining-to-immigrant-students-and-families/>