

MEMORANDUM

TO: Superintendents, Principals, Independent School Heads of School
FROM: Zoie Saunders, M.Ed., Secretary of Education
SUBJECT: Updated Immigration Guidance for Vermont Schools
DATE: January 31, 2025

This updated guidance is intended to assist schools in ensuring that all students have equal access to educational opportunities regardless of actual or perceived immigration status. Each school board should consult with their legal counsel regarding any specific policy or guidance that they may wish to issue to their staff related to requests for student information and/or compliance with immigration enforcement actions involving their schools or students. School administrators also may choose to work with advocacy organizations to support their students and families at their discretion.

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 school administrators and board members to review.

The Agency will continue to monitor the immigration enforcement environment and will update this guidance as needed.

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]. Students or their parents/guardians may file a complaint with the [Vermont Human Rights Commission](#) if

they believe they have been subjected to discrimination based on their real or perceived race or national origin. Students or their parents/guardians also may make a report of harassment, hazing, or bullying to their school. Students or their parents/guardians also may make a report of harassment, hazing, or bullying to their school.

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 SU/SDs 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.

We would encourage school boards to review what information they consider "directory information" under FERPA. Directory information is student information that can be shared with third parties without the student's or parent's consent under FERPA. School districts must provide parents/guardians with written notice of their directory information policy and provide them with the option to refuse release of their child's information. This policy regarding directory information should be provided in form(s) that are accessible to all the parents/guardians in the school.

School Enrollment

School districts may accept a variety of documents to demonstrate proof of residency or proof of a child's age. When providing information for proof of a student's residency or age, schools should not ask for documents that could reveal information related to student or their parent/guardian's immigration status. A Social Security number is **not** needed for school enrollment. Also, as a reminder, proof of residency is not required if it has been determined that a student's living situation meets the definition of homelessness under the McKinney-Vento Homeless Education Act.

Preparing for Emergencies

While some states allow parents to delegate educational rights or power of attorney to a non-parent for educational purposes, Vermont does not. Parents should be discouraged from relying on written forms delegating parental authority or custody for the purpose of

ensuring residency in a particular school district or for assigning educational decision-making rights.

The Agency recommends that schools encourage all parents/guardians to regularly update their emergency contacts to prepare in advance of any family emergency.

The protections of the McKinney-Vento Homeless Assistance Act may be triggered if a student's parent/guardian(s) are deported or detained and the child or youth's housing is no longer fixed, regular, and adequate, even if they are staying with friends or other relatives. Such children should be identified and supported as unaccompanied homeless youth under the McKinney-Vento Act, which guarantees certain educational rights and supports for students experiencing homelessness.

Immigration Enforcement at Schools

Previously, guidance from the U.S. Department of Homeland Security restricted federal immigration enforcement on or around school grounds or school buses. However, this guidance was rescinded on January 21, 2025, 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 authorities 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 their 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, SU/SDs, 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.