



Sample
Checklist
Inside

Educating Undocumented Students: Are Your Policies in Line with Current Immigration Laws?

At 9 am on a Monday morning, a school superintendent received a panicked call from one of her district's principals, wondering what to do about an ICE agent who came to the school asking for information about a student's immigration status. The principal wants to know how he should handle the ICE agent. Is the principal allowed to give the ICE agent information about the student or the student's parents?

This scene is strikingly similar to what is alleged to have happened in the Boston Public Schools.¹ Federal immigration policy occupied center stage in the

¹ "Chang, BPS sued over secrecy surrounding student information sharing with ICE," The Boston Globe, June 21, 2018, available at <https://www.bostonglobe.com/metro/2018/06/21/chang-bps-sued-over-secrecy-surrounding-student-information-sharing-with-ice/AWsz0zx7M8xhRwya9qrvhM/story.html>.

2016 Presidential election and continues to dominate national political debate and discussion. Politicians, policy makers, and pundits not only disagree about how to handle unauthorized immigration, but also dispute the number of unauthorized immigrants present in the U.S.² Stepped-up immigration

² Estimates provided herein are from the Pew Research Center. However, estimates concerning unauthorized immigrants can vary widely because there is no central database, the Department of Homeland Security tabulates only those who enter and leave in a lawful manner, and other significant challenges to collecting accurate exist. See "How Many Illegal Aliens are in the US," Federation for Immigration Reform, October 23, 2017, available at <http://www.fairus.org/issue/illegal-immigration/how-many-illegal-immigrants-are-in-us>. Some have extrapolated that a more accurate estimate of unauthorized immigrants is much higher than the 11 million that is frequently cited in news articles. See "As many as 30 million people live in US illegally, says Texas Lt. Gov. Dan Patrick," The Washington Examiner, June 22, 2018, available at <https://www.washingtonexaminer.com/news/as-many-as-30-million-people-live-in-us-illegally-says-texas-lt-gov-dan-patrick>.

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enforcement undertaken during the Obama administration³ has continued under the Trump Administration with the signing of an Executive Order⁴ directing increased enforcement efforts and the Department of Homeland Security's rescission of the Deferred Action for Childhood Arrivals ("DACA") program.⁵

Although the U.S. Supreme Court declared that children of undocumented immigrants have the same right to attend public primary and secondary schools as do U.S. citizens and permanent residents, at times there are significant impediments to their attendance. In the last six years, for example, myriad news accounts highlight the plight that undocumented students face, such as school-created requirements for enrollment,⁶ ICE arrests at or near schools,⁷ and on-campus incidents that lead to immigration detention.⁸

How do the changes in federal immigration policies effect school districts? SLRMA's newly revised resource, Equal Access to Education for Undocumented Students 2018 Update, aims to bring school districts up to speed. This checklist addresses the key issues of equal enrollment access to educational opportunities for undocumented students and how to handle potential immigration enforcement on school grounds.

3 "U.S. authorities begin raids, taking 121 illegal immigrants into custody over the weekend," The Washington Post, January 4, 2016, available at <https://www.washingtonpost.com/>. See also "Obama Has Deported More People Than Any Other President." ABC News, August 29, 2016, available at <https://abcnews.go.com/Politics/obamas-deportation-policy-numbers/story?id=41715661>.

4 Executive Order no. 13768, Enhancing Public Safety in the Interior of the United States, available at <https://www.whitehouse.gov/presidential-actions/executive-order-enhancing-public-safety-interior-united-states/>.

5 Department of Homeland Security, Memorandum on Rescission Of Deferred Action For Childhood Arrivals (DACA), September 5, 2017, available at <https://www.dhs.gov/news/2017/09/05/memorandum-rescission-daca>.

6 "New Orleans public schools accused of allegedly violating federal law," The Louisiana Weekly, October 20, 2014, available at <http://www.louisianaweekly.com/n-o-public-schools-accused-of-allegedly-violating-federal-law/>.

7 "ICE Agents Detain Undocumented Immigrants Taking Their Kids To School," Think Progress, October 18, 2012, available at <https://thinkprogress.org/ice-agents-detain-undocumented-immigrants-taking-their-kids-to-school-20d3bb99666a/>; "West Meck High student says ICE agents arrested him at school bus stop." The Charlotte Observer, July 1, 2016, available at <https://www.charlotteobserver.com/news/local/article87169637.html>.

8 "In Houston, outrage over a school arrest that landed a student in immigration detention," NBC News, February 15, 2018, available at <https://www.nbcnews.com/news/latino/houston-outrage-over-school-arrest-landed-student-immigration-detention-n848141>.

Our nation's immigration policies are ever-evolving, and new federal laws and legal decisions could come at any time. SLRMA encourages school districts to stay informed on immigration-related topics, and to go to SLRMA.org to download the full checklist today.

Fast Facts:

11 million*

Unauthorized immigrants residing in U.S.

3.9 million*

Children of unauthorized immigrants in K-12 U.S. public schools

690,000*

Unauthorized immigrants enrolled in DACA (as of 9/2017)

*estimates based on government data. Sources: estimates provided on Pew Research Center website: "20 metro areas are home to sixteen unauthorized immigrants in U.S.," February 9, 2017, available at <http://www.pewresearch.org/fact-tank/2017/02/09/us-metro-areas-unauthorized-immigrants/>;" Children of unauthorized immigrants represent rising share of K-12 students," available at <http://www.pewresearch.org/fact-tank/2016/11/17/children-of-unauthorized-immigrants-represent-rising-share-of-k-12-students/>; and "Key facts about unauthorized immigrants enrolled in DACA," September 25, 2017, available at <http://www.pewresearch.org/fact-tank/2017/09/25/key-facts-about-unauthorized-immigrants-enrolled-in-daca/>.

"Whoever showed up in my class was my student. End of story. I never asked, prodded, or even considered their documentation status."

– Sharon Slovak,
teacher in El Centro, California

Source: "What Teachers of Immigrant Students Want You to Know," WeAreTeachers.com, June 25, 2018, available at <https://www.wareteachers.com/teachers-of-immigrant-students-want-you-to-know/>

Recent Updates from the Newsroom Available on SLRMA.org

Protecting FERPA rights when using Third-Party Educational Services

September 11, 2018

The U.S. Department of Education issued a guidance letter clarifying student and parental rights under the Family Educational Rights and Privacy Act (FERPA). This discussion offers a summary of important points of the guidance for school districts to know for compliance with FERPA when using third-party educational services.

National Public Opinion Poll Results on K-12 School Security

July 20, 2018

The 2018 PDK Poll of the Public's Attitudes Toward the Public Schools is out - and it shows that parents do not feel confident regarding student safety. The School Security poll results touch on topics such as training and arming teachers, armed police in schools, and mental health screening.

Marjory Stoneman Douglas Students file Federal Civil Rights Suit

July 12, 2018

On July 11, 2018, fifteen student survivors of the Marjory Stoneman Douglas High School shooting filed a lawsuit against Broward Schools Superintendent Robert Runcie and several other government entities and officials, claiming violation of Federal civil rights under 42 U.S.C. § 1983. This lawsuit is the first Federal action arising out of this shooting incident.

3D Printer Give-Away

Congratulations to Our 2018 Give-Away Winners!

Scotland School District - South Dakota

Dixon U.S.D. #170 - Illinois

Melstone School District - Montana

Norman Public Schools - Oklahoma

Ogallala Public Schools - Nebraska

Marais Des Cygnes Valley USD 455 - Kansas

Teton County School District - Wyoming



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2018 Top 4 Downloads

- 1) Due Process Requirements for Out of School Suspension Checklist
- 2) Stoneman Douglas Students Complaint
- 4) School Employee Speech First Amendment Checklist
- 4) Transgender and Gender Non Conforming Student 2018 Update

The Mission of the School Leaders Risk Management Association (SLRMA) is to assist public school districts (K-12) with supplemental risk management support. We help you accomplish your own mission of risk avoidance in a number of ways.

- We provide pro-active, timely tools to help prevent unwanted and unwarranted school board legal liability claims.
- We keep members informed of the current legal issues that will likely affect your school district through our work with the Federal Legislation Insurance Committee (FLIC).
- We give members access to special reports featured in our Newsroom. The topics are specific to the School Board Legal Liability school boards face today and will in the future.

Members are equipped with an array of self-audits and checklists to help ensure you are in compliance with the latest requirements and guidelines which govern school boards and school districts. We are a not-for-profit and are governed by a Board of Directors. The Board consists of current Executive Directors of State School Boards Associations.

SCHOOL LEADERS RISK MANAGEMENT ASSOCIATION

Equal Access to Education for Undocumented Student Practice and Policy 2018 Update

This Self-Audit Checklist is intended to assist school districts to examine if procedures are in place to demonstrate compliance and accountability to federal laws addressing undocumented students.

III. Does the district have policy(ies) and/or (internal or external) procedure(s) that address the potential for immigration enforcement at school?		
	<u>Yes</u>	<u>No</u>
◆ Does the district have policies and procedures that address the potential for immigration enforcement at school?		
◆ Has the district’s legal counsel reviewed and approved such policies and procedures?		
◆ Do the policies and procedures describe the district’s philosophy regarding immigration enforcement at school or in connection with school-related activities?		
◆ Do the policies and procedures contain an express statement that the district intends to comply with all applicable legal requirements?		
◆ Is the rationale for the policies and procedures grounded in the district’s obligations under <i>Plyler</i> and other applicable federal and state legal obligations (e.g., the Family Educational Rights and Privacy Act (“FERPA”) and the INA)?		
◆ Do the policies and procedures seek to funnel all immigration enforcement and other law enforcement activity through one point/contact person or office (e.g., the Office of the General Counsel)?		
◆ Do the policies and procedures address requests for purposes of immigration enforcement of student records protected by FERPA?		
<ul style="list-style-type: none"> • Do the policies and procedures state that FERPA generally prohibits release of such records without signed, written consent of a parent or student who is at least 18? 		
<ul style="list-style-type: none"> • Do the policies and procedures address the FERPA exception to the consent requirement for “directory information” and explain how students and parents/guardians/sponsors can prohibit the non-consensual disclosure of such information? 		

Download the complete checklist at SLRMA.org

<ul style="list-style-type: none"> Do the policies and procedures address the FERPA exception for release of information pursuant to a judicial order or a lawfully issued subpoena (including the circumstances under which prior notice will and will not be provided to a parent or eligible student to contest the judicial order or lawfully issued subpoena)? 		
<ul style="list-style-type: none"> Do the policies and procedures address the lack of protection for Student and Exchange Visitor Program (“SEVP”) records (as distinct from the records of undocumented students)? 		
<ul style="list-style-type: none"> Do the policies and procedures address whether the district will consider resisting through judicial challenges immigration enforcement in appropriate cases under <i>Plyler v. Doe</i> or otherwise? 		
<ul style="list-style-type: none"> Do the policies and procedures address how the district will respond to subpoenas (both administrative and judicial), including, for example, verifying validity, confirming FERPA compliance, and resisting where appropriate? 		
<ul style="list-style-type: none"> Do the policies and procedures address how the district will respond to search and arrest warrants (both administrative and judicial)? 		
<ul style="list-style-type: none"> Do the policies and procedures address ICE’s Sensitive Locations Memorandum and that the Sensitive Locations Memorandum could change? 		
<ul style="list-style-type: none"> Do the policies and procedures address enforcement activities that are and are not covered by ICE’s Sensitive Locations Memorandum? 		
<ul style="list-style-type: none"> Do the policies and procedures address the exceptions to ICE’s Sensitive Locations Memorandum? 		
<ul style="list-style-type: none"> Do the policies and procedures provide specific guidance to school building leaders regarding who to contact and what steps to take in the event that ICE or other law enforcement agencies seek to enter school grounds to enforce the immigration laws? 		
<ul style="list-style-type: none"> Are leaders instructed to verify the officers’ credentials and note their identifying information? 		
<ul style="list-style-type: none"> Are leaders instructed to politely ask the officers to wait if possible while the leaders contact the district’s office of general counsel or other attorney? 		
<ul style="list-style-type: none"> Are leaders directed not to attempt to physically block the officers’ entry? 		
<ul style="list-style-type: none"> Are leaders instructed to take detailed notes of the officers’ actions? 		