



January 27, 2025

Re: Legal Rights of Immigrant Students in Michigan Schools

Dear Superintendent:

Recognizing the sensitivity of schools and certain other locations, U.S. Immigration and Customs Enforcement (ICE) and U.S. Customs and Border Protection (CBP) previously maintained a “sensitive locations” policy over several different presidential administrations that limited immigration enforcement at schools and certain other locations.¹ However, this policy was rescinded on January 21, 2025. Accordingly, it is no longer contrary to ICE or CBP policy to engage in enforcement operations at or near schools, school playgrounds, or bus stops.

We have heard from many educators who are concerned about how the federal government’s revocation of the “sensitive locations” policy will affect their ability to educate their students. Educators have reached out to us with questions about how best to serve their immigrant students, what is required to meet their legal obligations, and what they can do to ensure that schools will remain safe places for all children to learn and grow.

We are writing to provide you with answers to some common questions, and to provide tools that can help you to ensure that all students in your district feel welcome.²

At the outset, it is important to understand that the federal government’s revocation of the “sensitive locations” policy does not affect the constitutional right of immigrant children to an education, does not affect the legal responsibilities of school districts towards their students, and does not affect a school’s own legal rights regarding who enters their property. The end of the sensitive locations policy, however, makes it more likely that immigration enforcement operations will take place at schools. Therefore, it is critically important for schools to understand both children’s rights and schools’ responsibilities.

¹ U.S. Immigration and Custom Enforcement, Guidelines for Enforcement Actions in or Near Protected Areas, https://www.dhs.gov/sites/default/files/publications/21_1027_opa_guidelines-enforcement-actions-in-near-protected-areas.pdf.

² This letter should not be as legal advice, but rather as a strong recommendation that you seek legal guidance promptly relative to issues in this letter. The law in this area is complex and every situation is different.

Federal and State Law Protects Students Regardless of Immigration Status

Federal laws prohibit discrimination in public education, including discrimination on the basis of race, color, or national origin.³ Federal law specifically prohibits schools from “utiliz[ing] criteria or methods of administration which have the effect of subjecting individuals to discrimination because of their race, color, or national origin, or have the effect of defeating or substantially impairing accomplishment of the objectives of the program as respects individuals of a particular race, color, or national origin.”⁴ The Supreme Court, in the case *Plyler v. Doe*,⁵ also held that discrimination on the basis of immigration status in access to basic public education violates the Constitution. As the Court explained, denying access to education “imposes a lifetime hardship on a discrete class of children not accountable for their disabling status.”⁶

The Michigan Constitution likewise protects education access: “Every school district shall provide for the education of its pupils without discrimination as to religion, creed, race, color or national origin.”⁷ Michigan’s Elliott-Larsen Civil Rights Act similarly provides that schools may not “[e]xclude, expel, limit, or otherwise discriminate against an individual seeking admission as a student or an individual enrolled as a student in the terms, conditions, or privileges of the institution, because of . . . national origin”⁸ All children and youth ages 5-20, regardless of immigration status, can attend Michigan’s free public schools.⁹ The Revised School Code declares that “[u]nder the state constitution of 1963, long-standing state law, and federal law, Michigan children have the right to a free, quality, equitable public education.”¹⁰ This right to an education is not limited by immigration status. Nor is the right of all children to an education affected by the president’s recent executive order purporting to end birthright citizenship, as recently explained by the Michigan Department of Education.¹¹

In addition, Michigan law requires all districts to have policies in place that prevent students and staff from bullying any pupil, which includes any action that has “actual and substantial

³ Title IV of the Civil Rights Act of 1964, 42 U.S.C. § 2000c-6 (public elementary and secondary education); Title VI, 42 U.S.C. § 2000d (recipients of federal funds).

⁴ 28 C.F.R. § 42.104(B)(2); 34 C.F.R. § 100.3(b)(2); *see also* U.S. Dep’t of Educ., Office for Civil Rights & Office of the General Counsel, U.S. Dep’t of Just., Civil Rights Div., *Dear Colleague Letter: School Enrollment Procedures* 1 (May 8, 2014), https://www.aclumich.org/sites/default/files/doj_doe_dear_colleague_letter.pdf.

⁵ 457 U.S. 202 (1982).

⁶ *Id.* at 223.

⁷ Mich. Const. 1963, art 8 § 2.

⁸ Mich. Comp. Laws § 37.2402(b) (2024).

⁹ Mich. Comp. Laws § 380.1147; 380.1561; 388.1606(4)(l) (2024). The student may be able to enroll through age 26 if they are enrolled in a special education program or service or 22 if they are in an alternative school program.

¹⁰ Mich. Comp. Laws § 380.1281a (2024).

¹¹ Mich. Dep’t of Educ. *Additional Guidance on the Responsibility to Educate All School-Age Children Regardless of Citizenship and Immigration Status* (Jan. 23, 2025), www.michigan.gov/mde/-/media/Project/Websites/mde/Memos/2025/01/Protecting-All-Students-Memo.pdf.

detrimental effect on a pupil's physical or mental health.”¹² Any threat or insinuation that immigrant children and their families are unwelcome could violate such a policy.

A summary of relevant Michigan law is attached.

School Districts Should Have Procedures to Respond If Immigration Agents Take Enforcement Action at Schools

Every district should develop procedures in consultation with legal counsel, if it has not done so already, to be prepared for immigration enforcement at or near schools, school events, bus stops, etc. Schools must protect students’ rights, including their Fourth Amendment rights against unreasonable searches and seizures, their Fifth Amendment right against self-incrimination, and their privacy rights under Family Educational Rights and Privacy Act (“FERPA”), as well as numerous other laws.

Schools will also need to comply with valid *judicial* warrants and subpoenas. Importantly, administrative warrants, which are commonly used by ICE, do not give ICE agents authority to enter school property that is not otherwise open to the public. To enter those places, ICE would need the school’s consent, which the school is free to refuse (absent a judicial warrant). If ICE agents present a warrant, it is critical to read it and determine whether it is issued by an ICE officer or a judge. A useful fact sheet explaining what is required and how to respond to different types of warrants and subpoenas is available at: www.nilc.org/wp-content/uploads/2020/09/Warrants-Subpoenas-Facts-1.pdf.

Important steps to take include:

- Clearly demarcate the public and non-public areas in your schools. If school playgrounds, sports fields, etc., are not open to the public during certain hours, you can also post signage setting out those limits.
- Establish protocols for exactly what school staff should do if immigration agents come to a school. The Grand Rapids Public Schools protocols are a good example. See www.aclumich.org/sites/default/files/grps_public_safety_immigration_visit_protocols_2.pdf.
- Train all school staff, based on your protocols, that if immigration agents come to a school, staff should immediately inform a designated trained contact person (for example the principal), who should then consult the school’s attorney. School staff should not themselves consent to immigration enforcement officers entering non-public areas and should not allow immigration enforcement officers to interview students. Schools may also

¹² Mich. Comp. Laws § 380.131b(10)(c)(iii) (2024).

face legal repercussions if staff provide information to immigration agents about students, which is why legal review of all requests for student information is critical.

- Because immigration agents sometimes wear clothing intended to suggest they are local police, and because a variety of law enforcement agencies can be involved in immigration investigations and enforcement, the procedures above should be used whenever any law enforcement officials come to a school (other than in emergency situations or when called by the school to come there).
- An attorney should review what immigration enforcement officials are requesting, including any warrant or subpoena presented. The attorney can ensure that schools are acting consistent with their legal responsibilities to students and can provide advice to school decision makers about how to proceed.
- Judicial warrants and subpoenas are often limited to particular places or people. The school's attorney and decision-makers should hold immigration agents to the limits in the warrant or subpoena.
- Any actions by immigration agents should be observed and documented. Schools should make copies of officers' identification documents, as well as any warrants or subpoenas.

School Districts Cannot Require Information About Immigration Status and Should Limit the Other Information They Collect

Requiring students, parents or guardians to provide schools with information regarding their immigration status, or taking other actions that significantly interfere with the right to a basic public education, violates the constitutional principles set out in *Plyler v. Doe*.¹³

Schools should not require students to provide a social security number and, consistent with *Plyler*, should identify a range of documents (e.g. birth certificate, family bible, parent affidavit) that may be used to establish a child's age. To further remove barriers to enrollment, schools can limit the information required to enroll to proof of residency, proof of age, and immunization records, and request any other information after enrollment. In sum:

- Schools should not ask about or require students to provide proof of immigration status.¹⁴

¹³ See *Hispanic Interest Coal. of Alabama v. Governor of Alabama*, 691 F.3d 1236, 1245 (11th Cir. 2012); *League of United Latin Am. Citizens v. Wilson*, 908 F. Supp. 755, 774 (C.D. Cal. 1995), on reconsideration in part, 997 F. Supp. 1244 (C.D. Cal. 1997).

¹⁴ U.S. Dep't of Educ., Office for Civil Rights & Office of the General Counsel, U.S. Dep't of Just., Civil Rights Div., *Dear Colleague Letter: School Enrollment Procedures 1* (May 8, 2014), https://www.aclumich.org/sites/default/files/doj_doe_dear_colleague_letter.pdf; U.S. Dep't of Educ., Office for Civil Rights & Office of the General Counsel, U.S. Dep't of Just., Civil Rights Div., *Information on the Rights of All Children to Enroll in School: Questions and Answer for States, School Districts and Parents 1* (May 8, 2014), https://www.aclumich.org/sites/default/files/doj_doe_letter_on_imm_records.pdf.

- Schools should not ask students for information such as social security numbers or place of birth that may indicate a student’s immigration status.¹⁵
- Schools should not require documents for determining residency or age that only people with U.S. citizenship or current immigration status can have (e.g. U.S. passport, driver's license, etc.). Instead, schools should provide a variety of means for establishing information necessary for enrollment.¹⁶
- School administrators should limit the information collected from students, parents and guardians. If there is no reason to collect it, then do not collect it.

Schools should also review what information is contained in school directories, and remind parents, guardians and adult students that they have a right to opt out of having their information included in the directory.¹⁷

School Districts Must Protect the Privacy of Student Records

FERPA generally prohibits schools and school districts that receive federal funds from releasing personal information contained in a student’s education records without the written consent of the parent/guardian or adult student.¹⁸ FERPA embodies the principle that schools should act with sensitivity in collecting and retaining information regarding children, and should take precautions to ensure that school records are not disclosed or used in a way that could harm students.¹⁹

FERPA allows a law enforcement officer to obtain student information from a school **if** they have a valid court order or **judicial** subpoena.²⁰ Schools must make a reasonable effort to alert parents or adult students to a subpoena before providing information.²¹ ICE administrative subpoenas are **not** judicial subpoenas and are not enforceable on their own, absent a separate judicial order or legal proceeding to enforce the subpoena.²² Any subpoena presented by immigration agents should be reviewed by legal counsel before any information is produced.

¹⁵ See *id.*

¹⁶ See Michigan Dept. of Educ., Pupil Accounting Manual 2024-2025, at 1-6, www.michigan.gov/mde/-/media/Project/Websites/mde/OFM/State-Aid/Pupil-Accounting/Manual/Final-PAM-24-25.pdf?rev=854110f8006949cf810cac84dbec99c9&hash=E475383D5A22C0AC5602EA91C06669CE; U.S. Dep’t of Educ., Office for Civil Rights & Office of the General Counsel, U.S. Dep’t of Just., Civil Rights Div., *Information on the Rights of All Children to Enroll in School: Questions and Answer for States, School Districts and Parents 2-3* (May 8, 2014), https://www.aclumich.org/sites/default/files/doj_doe_letter_on_imm_records.pdf.

¹⁷ 20 USC 1232g(a)(5)(B).

¹⁸ See 20 U.S.C. § 1232g; 34 C.F.R. § 99.1-99.67.

¹⁹ 20 U.S.C. § 1232g; 34 CFR Part 99. The U.S. Department of Education Privacy Technical Assistance Center provides a Data Security Checklist that schools can consult. Privacy Technical Assistance Center, *Data Security Checklist* (rev. 2015), https://studentprivacy.ed.gov/sites/default/files/resource_document/file/Data%20Security%20Checklist_0.pdf.

²⁰ 20 U.S.C. § 1232g(b)(2)(B), (b)(1)(J).

²¹ See 34 C.F.R. § 99.31(a)(9)(ii).

²² See National Immigration Law Center, *Warrants and Subpoenas: What to Look Out For and How to Respond*, 4-6 (Sept. 2020), www.nilc.org/wp-content/uploads/2020/09/Warrants-Subpoenas-Facts-1.pdf.

Releasing directory information for immigration enforcement purposes could likewise violate the law.²³ Therefore, requests for directory information by immigration agents should also be reviewed by legal counsel.

Districts should review policies and practices regarding the management and use of student data. Districts must ensure that staff, contractors, consultants, agency partners, and volunteers who come into contact with students or who access student records respect students' FERPA rights.

Districts Must Ensure Any School Security Officers Abide By Student Privacy Laws

Ensuring that students' privacy rights are respected is particularly important if a district has school security officers, school resource officers or other police officers assigned to schools. Districts must ensure that such security officers do not have general access to FERPA-protected records.

Under FERPA, school security officers may use FERPA-protected information if they are acting as a "school official" in order to fulfill a "legitimate educational interest." School security officers may not redisclose that information to other law enforcement officers who are not acting as "school officials" for the same task.²⁴ Immigration enforcement is not a "legitimate educational interest." Note that school administrators can be held responsible for the actions of school security officers who violate FERPA because security officers are acting as "school officials" when accessing FERPA-protected information.

We recommend that:

- School security officers should commit through a signed agreement or official policy not to inquire about immigration status, not to engage in immigration enforcement activities, and not to detain students and family members for purposes of immigration enforcement.
- Districts should educate school security officers about the legal protections for immigrant students, and should inform them that if they engage in immigration enforcement activities, they run the risk of violating federal and state law.

Districts must also ensure that such school security officers are properly following Fourth and Fifth Amendment standards for detention, interrogation, search, and seizure, and are not arresting students for incidents that can be handled as matters of school discipline. These concerns carry extra weight for immigrant students, for whom school policing has the potential to undermine the education rights outlined in *Plyler*. Police in schools commonly arrest students for misdemeanor offenses like disorderly conduct when behaviors could easily be addressed through school discipline.²⁵ Police in schools sometimes also collect intelligence on students, for example to enter

²³ See e.g. *Hispanic Interest Coalition of Alabama v. Governor of Alabama*, 691 F.3d 1236 (11th Cir. 2012).

²⁴ See 34 C.F.R. § 99.31(a)(1)(i)(B), § 99.31(a)(1)(ii) and § 99.33(a)(2).

²⁵ See, e.g., Chongmin Na & Denise Gottfredson, *Police Officers in Schools: Effects on School Crime and the Processing of Offending Behaviors*, 30 JUST. Q. 619, 620 (2013); Steven C. Teske, *A Study of Zero Tolerance Policies*

them into a database of alleged gang associates. In addition to numerous detrimental impacts these forms of policing have on any student,²⁶ immigrant students risk having their application for citizenship or other immigration benefits placed in jeopardy or being prioritized for deportation. We recommend that:

- Districts review their policing practices to focus attention on protecting the school community from outside threats and limit law enforcement interactions with students to immediate threats to physical safety.

Steps That Schools Can Take to Ensure that They Are Welcoming for All Students

There are many steps districts can take to support their immigrant students.

- The attached self-assessment tool provides a checklist that both the district and each school in the district can use to review your policies and procedures.

In addition, we encourage you to communicate with district families that all students are welcome in your schools.²⁷ Districts should adopt policies for how staff should handle interactions with law enforcement, including ICE, that are consistent with federal and state law. Districts should clearly communicate these policies to the school community to help assuage fears and minimize misinformation. Districts should also share with the school community that you are committed to ensuring an emotionally and physically safe learning environment for all students.

Children and families in your district may well be afraid. As educators, you know the importance of information, and we encourage you to:

- Share the “Preparing Your Family Guide” and videos with your school community. These resources, which are available on the MIRC website (<https://bit.ly/MIRCKYR>) in

in Schools: A Multi-integrate System Approach to Improve Outcomes for Adolescents, J. OF CHILD AND ADOLESCENT PSYCH. NURSING; Matthew T. Theriot, *School Resource Officers and the Criminalization of Student Behavior*, 37 J. OF CRIM. JUST. (2009).

²⁶ See, e.g., Sarah E. Redfield & Jason P. Nance, American Bar Association, Preliminary Report: School-to-Prison Pipeline (Feb. 2016), https://www.americanbar.org/content/dam/aba/administrative/diversity_pipeline/stp_preliminary_report_final.authcheckdam.pdf; American Psychological Association Zero Tolerance Taskforce, *Are Zero Tolerance Policies Effective in the Schools?: An Evidentiary Review and Recommendations*, AM. PSYCHOLOGIST (Dec. 2008), <https://www.apa.org/pubs/info/reports/zero-tolerance.pdf>; Gary Sweeten, *Who Will Graduate?*” *Disruption of High School Education by Arrest and Court Involvement*, 23 JUST. Q. 4 (2006)(a first time arrest during high school almost doubles the odds of drop out); Paul Hirschfield, *Another Way Out: The Impact of Juvenile Arrests on High School Dropout*, 82 SOC. OF EDUC. 4 (2009).

²⁷ For sample letters, see Grand Rapid Public Schools Letter, available at https://www.aclumich.org/sites/default/files/grand_rapids_immigration_info_jan_23_2025.pdf; Detroit Public Schools Letter, available at www.detroitk12.org/cms/lib/MI50000060/Centricity/Domain/4/Parent%20Letter%20-%20Sanctuary%20District%20Policy%20-%20English.pdf.

numerous languages, can help parents make arrangements for the care of their children if they are detained or deported.

If parents have filled out a delegation of parental authority or made other legal arrangements, school officials will be able to send a child to the appropriate caregiver if the parents are suddenly taken away. In addition, districts should remind parents and guardians to update their children's emergency contact information.

We also encourage you to share other Know Your Rights materials about immigration enforcement, such as those available on the websites of MIRC and the ACLU (www.aclu.org/know-your-rights/immigrants-rights and www.aclumich.org/en/know-your-rights/know-your-rights-during-and-after-immigration-raids).

If a family member or child is arrested by immigration enforcement agents, schools should advise the family to immediately seek legal advice from an immigration attorney. If a family cannot afford an attorney, you can refer them to the Michigan Immigrant Rights Center at (734) 239-6863. Whenever possible, the directly impacted person should be the caller. The person should leave a message and indicate a language preference if they reach voicemail.

How Can Schools Learn More and Stay Up to Date?

Many organizations are working to provide up-to-date information for educators even as there has been a daily barrage of new executive orders and policies. In addition to the resources on the ACLU, ACLU of Michigan, and MIRC websites, the following resources may be helpful:

- The National Immigration Law Center (<https://www.nilc.org/resources>) is an excellent source for current information about changing immigration policies.
- The National Education Association's *Guidance on Immigration Issues* (<https://www.nea.org/resource-library/guidance-immigration-issues>) has information specifically for educators.

Thank you for your important work to ensure that all Michigan children receive the education they need in order to thrive.

Sincerely,

Loren Khogali
Executive Director
American Civil Liberties Union of Michigan

Susan Reed
Director
Michigan Immigrant Rights Center

District and School Self-Assessment

Enrollment and Information Collection Practices	
Eliminate requests for documentation at enrollment other than proof of residency, proof of age, and immunization history. In particular, requiring a driver’s license or state ID for enrollment excludes many immigrant parents and should be discontinued.	
Establish process for collecting additional documentation after enrollment (e.g. demographic data; home language surveys; school history).	
Utilize student identification numbers that do not include social security numbers.	
Remove requests for social security numbers from district forms, including forms for:	
(i) residency verification	
(ii) pre-k enrollment	
(iii) after school programs	
(iv) extracurricular activities	
(v) other application-based programs and services	
Offer multiple means of establishing residency, such as a mortgage, lease, or rental agreement; utility bill; tax bill; pay stub, voter documents, or other proof acceptable to the school.	
Review policies and procedures for enrollment of children without records to ensure best practices for compliance with the McKinney-Vento Homeless Assistance Act. ²⁸	
Ensure that staff accept multiple forms of establishing identity. The State of Michigan’s Pupil Accounting Manual provides the following examples of “other reliable proof”: “baptismal certificate indicating date and place of birth; court records; county, military, or immigration records; doctor or hospital records with sworn statements; certain family records; life insurance policy.” ²⁹ This manual also states that “A district must never deny enrollment or expel a pupil simply because the person enrolling the child did not provide a birth certificate.” ³⁰	
Remove any requests from home language surveys for information regarding place of birth, immigration status or length of attendance in U.S. schools. Make	

²⁸ See National Center for Homeless Education, *Prompt and Proper Placement, Enrolling Students without Records* (2006), https://nche.ed.gov/wp-content/uploads/2018/11/tool_app10.pdf.

²⁹ See Michigan Dept. of Educ., Pupil Accounting Manual 2024-2025, at 1-6, www.michigan.gov/mde/-/media/Project/Websites/mde/OFM/State-Aid/Pupil-Accounting/Manual/Final-PAM-24-25.pdf?rev=854110f8006949cf810cac84dbec99c9&hash=E475383D5A22C0AC5602EA91C06669CE.

³⁰ See *id.* at 1-7.

clear to families that the home language survey is not used to identify immigration status.	
Staff responsible for enrollment have received training within the past year and on any revised policies.	
Procedures for collecting, transferring, and storing enrollment information are secure. ³¹	
Parent Information	
Eliminate any requests for information regarding parent citizenship or immigration status.	
Review measures for parent and visitor screening to ensure these do not undermine parent engagement with the school. In particular, requiring a driver’s license or state ID can prevent immigrant parents from participating.	
Records Maintenance and Usage	
Review policy on directory information and revise as necessary to:	
(i) Limit the extent of information characterized as directory information.	
(ii) Remove any categories of information that could be used to identify or presume immigration status, such as place of birth.	
Review policies and provide notice to students and families:	
(iii) Ensure that no student information will be used or disclosed for purposes of immigration enforcement except as required under a valid court order or subpoena. Information on what to look out for and how to respond to warrants and subpoenas is available at: www.nilc.org/wp-content/uploads/2020/09/2025-Subpoenas-Warrants.pdf .	
(iv) Ensure that information collected related to English Language Learner status, including through home language surveys, is disclosed only to the extent necessary and or the purpose of providing language acquisition services.	
(v) Define “legitimate educational interests” in school policies to expressly exclude immigration enforcement and all forms of law enforcement. Records may be made available for law enforcement purposes under FERPA emergency or subpoena exceptions.	
(vi) Expressly define security camera footage inside of school buildings as educational records.	

³¹ See Privacy Technical Assistance Center, *Data Security Checklist* (rev. 2015), https://studentprivacy.ed.gov/sites/default/files/resource_document/file/Data%20Security%20Checklist_0.pdf.

(vii) Remind families that they can opt out of disclosing directory information.	
Review security of student information systems and practices for access, disclosure, and use of student records.	
Confirm that any consultant or third party to which the district discloses information agrees to abide by district policies.	
Document all requests for disclosure of student records, actual disclosures, and the legitimate educational interest justifying disclosure.	
Responding to Immigration Enforcement Actions	
Develop protocols to handle immigration enforcement by ICE, CBP, or other law enforcement agencies, and ensure all staff are trained on these procedures. Such protocols can also be used for all law enforcement investigations at schools.	
Train all school staff, based on your protocols, that if immigration agents or other law enforcement come to a school seeking student information, seeking to interview students, or seeking to enter school property, staff should immediately inform a designated trained contact person (for example the principal), who should then consult the school’s attorney. Train staff that they should not themselves consent to immigration enforcement officers entering non-public areas and should not allow immigration enforcement officers to interview students. Train staff to ask officials to wait off school premises while any warrant or order is verified by an attorney. Train staff that schools may face legal repercussions if staff provide information to immigration agents about students, which is why legal review of all requests for student information is critical.	
Ensure that school entry areas clearly show the point at which visitors may not pass. Many schools already have signage to ensure that unauthorized individuals do not enter beyond the school office. Post signage at school playgrounds, sports fields, etc., regarding the hours when this property is not open to the public.	
Observe and document all contacts by immigration officials. Request proper identification from agents. Make copies of identification and any warrants or subpoenas.	
School Security Officers	
If a district uses school security officers, require officers to be trained on the education system’s <i>Plyler</i> obligations and other governing civil rights laws.	
Require law enforcement officers working in schools to affirmatively commit:	
(i) That officers will not inquire about the immigration status of any student or the family or friends of any student.	
(ii) That officers will not take immigration enforcement actions or detain any student for ICE.	

(iii)	That for any parent or family member on school grounds or participating in an educational activity, officers will not inquire about a family member's immigration status or detain a family member.	
(iv)	That officers will not arrest students for any misdemeanor offense and will endeavor to avoid arresting or citing a student whenever practicable.	
(v)	That officers will not enter information on students into a gang database and will not collect and retain other intelligence records on students.	
Educating Families		
Provide families with Preparing Your Family Guides and informational videos. Share Know Your Rights materials.		
Send letter to families about school policies and that the district is a welcoming place.		
Remind all parents regularly in many languages that they should have updated emergency contact information so that the school is able to reach the person to whom they would like their child released in the event that they are not able to pick them up. For immigrant families, this is critical to prevent children from unnecessarily being turned over to protective services in the event of a raid.		
School Climate		
Ensure policies effectively cover discrimination, including harassment.		
Designate one employee at each school as the person to whom students can report incidents of potential harassment or other discrimination. Ensure that students know about the designated employee.		
Engage in a school-wide positive climate program.		
Provide teachers with resources and support to instill a positive climate and address classroom incidents.		

The Michigan Immigrant Rights Center (MIRC) is a legal resource center for Michigan’s immigrant communities. MIRC works to build a thriving Michigan where immigrant communities experience equity and belonging. This document offers general guidance on accessing primary and secondary education in Michigan. This is for educational purposes and should not be considered legal advice.

Right to Attend a Free Public School

- All children and youth ages 5-20, regardless of immigration status, can attend Michigan’s free public schools. MCL 380.1147; 380.1561; 388.1606(4)(l).³²
- The Michigan constitution protects education access, “Every school district shall provide for the education of its pupils without discrimination as to religion, creed, race, color or national origin.” Const. 1963, art 8 § 2.
- The Revised School Code declares that, “[u]nder the state constitution of 1963, long-standing state law, and federal law, Michigan children have the right to a free, quality, equitable public education.” MCL 380.1281a. These broad terms, “children” and “pupil,” support robust access as they are not limited by immigration status, nationality, citizenship, or any similar aspects of the child’s identity.
- Michigan’s Elliott–Larsen Civil Rights Act provides that schools may not “[e]xclude, expel, limit, or otherwise discriminate against an individual seeking admission as a student or an individual enrolled as a student in the terms, conditions, or privileges of the institution, because of . . . national origin” MCL 37.2402(b).
- The U.S. Supreme Court has announced that, when a state provides education, such education “is a right which must be made available to all on equal terms.” *Brown v Bd of Ed*, 347 US 483, 493 (1954). Under *Plyler v. Doe*, the United States Supreme Court overturned a Texas statute that denied enrollment in the public schools to children not “legally admitted” in the country. The Supreme Court said that denial of education violates our political and cultural history, but also the Equal Protection clause of the U.S. Constitution. 457 US 202, 221 (1982). Accordingly, public schools may not:
 - Deny admission to a student during initial enrollment or at any other time on the basis of undocumented status
 - Treat a student differently to verify residency
 - Engage in any practices that “chill” or hinder the right of access to school
 - Make inquiries of students or parents that may expose their undocumented status
- Michigan law requires all districts to have policies in place that prevent students and staff from bullying any pupil, which includes any action that has “actual and substantial detrimental effect on a pupil's physical or mental health.” MCL 380.131b(10)(c)(iii). Any threat or insinuation that

³² The student may be able to enroll through age 26 if they are enrolled in a special education program or service or 22 if they are in an alternative school program.

immigrant children and their families are unwelcome could violate such a policy.

Right to Privacy of Information

- Educators are not allowed to release a student’s educational records without the parent’s consent under the *Family Educational Rights and Privacy Act (FERPA)*. Under FERPA, educators are NOT allowed to “expose” children and their families to immigration enforcement authorities. FERPA mandates that no funds shall be made available to any educational agencies or institutions that release a student’s “personally identifiable information” without the written consent of the student’s parents or guardians. The federal regulations defines “personally identifiable information” as including, but not limited to, the student’s name, the names of the student’s parents, and most importantly, a social security number or other personal identifier of the student. 20 USC 1232g(b)(1). Access to student records should only be allowed if the requesting agency, including an immigration enforcement agency, has a valid court order or subpoena in compliance with FERPA or other laws or regulations. 8 USC 1225; 34 CFR 99.31(a)(9)(i). There are some exceptions to FERPA’s protections which apply in limited situations. For example, the Department of Homeland Security and its ICE bureau is permitted to have access to student records in order to monitor the stay of international students in limited study abroad programs. 8 CFR 214.3(g). However, there is no general exemption to FERPA that grants ICE agents unfettered access to student information.
 - Consistent with FERPA, schools should ensure that any individual requesting student or parent information have a proper legal authority. Any requests should be referred to the district’s lawyer or legal department and staff should request that officers wait off the school premises while legal authority is verified.

Right to Enroll in School

- Social security numbers are not required for enrollment. The Privacy Act of 1974 prevents public schools from denying an education to any student because of the student’s failure to disclose his social security number. While a school may ask for a number, it must explain at the same time that it does not require the number. 5 USC § 552a (note) (“It shall be unlawful for any Federal, State or local government agency to deny to any individual any right, benefit, or privilege provided by law because of such individual’s refusal to disclose his social security account number.”).³³
- Birth Certificates cannot be required as the only identity document used for enrollment. The Michigan Revised School Code provides that a person enrolling in school can have either (1) a certified copy of the birth certificate; OR (2) other reliable proof of the student’s identity and age AND an affidavit explaining the inability to produce a copy of the birth certificate. MCL 380.1135(1).

³³ Section 7 was passed into law as part of the Privacy Act of 1974, Public Law 93–579, 88 Stat 1896. Unlike section 3 of the Privacy Act, however, which Congress designated as an amendment to Title V of the United States Code, Congress made no such statement about section 7. Thus, the reviser of the United States Code placed section 7 in a “Historical and Statutory” note following section 552a. See 5 U.S.C. § 552a (note). The fact that section 7 was never codified and appears only in the “Historical and Statutory Notes” section of the United States Code, does not diminish its weight, however: “The reverse is true: ‘the Code cannot prevail over the Statutes at Large when the two are inconsistent.’” *Schwier v. Cox*, 340 F.3d 1284, 1288 (11th Cir. 2003) (quoting *United States v. Welden*, 377 U.S. 95 (1964) (internal quotations omitted)). Therefore, section 7 carries the force of law.

- The Revised School Code is flexible as to what constitutes other reliable proof that could serve as an alternative to a birth certificate. The Pupil Accounting Manual provides the following examples of “other reliable proof”: “baptismal certificate indicating date and place of birth; court records; county, military, or immigration records; doctor or hospital records with sworn statements; certain family records; life insurance policy.” This manual also states that “A district must never deny enrollment or expel a pupil simply because the person enrolling the child did not provide a birth certificate.” Mich Dep’t Education, *Pupil Accounting Manual*, 2024–25, available www.michigan.gov/mde/-/media/Project/Websites/mde/OFM/State-Aid/Pupil-Accounting/Manual/Final-PAM-24-25.pdf?rev=854110f8006949cf810cac84dbec99c9&hash=E475383D5A22C0AC5602EA91C06669CE.
- Other items that may be reliable proof of identity may be a court order, including an order for name change, U.S. school records, or a signed statement by a parent or guardian who has presented their own identity document on behalf of a minor child. Mich Sec State, *Applying for a license or ID card?* (09/2024) (listing acceptable identity documents to support issuance of a state identity card) available www.michigan.gov/sos/-/media/Project/Websites/sos/03lawensn/Applying_for_lic_or_ID_SOS_428.pdf?rev=75502adf45634a2bb4ce3dbd1baa0da4&hash=8C51393047EFAAFB009944DF1A01180D; see also 8 C.F.R. §204.2(d)(2)(v) (accepting affidavits to establish identity relating to immigration petitions).
- Immunizations may be required before a child can be permitted to enter or attend school. School districts may require that parents or guardians present documentation at the time of registration or not later than the first day of school that (1) their child has received all required doses of vaccines OR (2) that their child has received at least one dose of each of the required vaccines and is waiting to receive the subsequent doses. Vaccinations may be waived if there is a valid medical complication or the parents have opposing religious convictions. MCL 333.9208; 333.9215.
- The key issue with respect to immunizations is that children should not be treated differently because of their national origin, English proficiency, or migratory status (eligibility for the Title I, Part C, Migrant Education Program). All children should be treated equally under the school district’s policy. School districts may not require additional or different immunizations for immigrant or migratory children.
- A student who has received a diploma (or its equivalent) from outside the United States remains eligible to enroll. The enrolling district would consider courses completed and create a new path to graduation using personal curriculum processes as they apply. The student should be enrolled with age-appropriate peers. Mich Dep’t Education, *Pupil Accounting Manual*, 2024–25, available www.michigan.gov/mde/-/media/Project/Websites/mde/OFM/State-Aid/Pupil-Accounting/Manual/Final-PAM-24-25.pdf?rev=854110f8006949cf810cac84dbec99c9&hash=E475383D5A22C0AC5602EA91C06669CE.
- Children who are experiencing homelessness must be enrolled immediately regardless of missing records or deadlines. This includes if they are sharing housing of other persons due to loss of housing, economic hardship, or a similar reason, staying in a shelter or other transitional space, or are migratory. 42 USC 11434a(2); 42 USC 11432(g)(3)(C)(i),(G).

Right to Participate in School Programs

- The Free and Reduced School Lunch or Breakfast programs are available to low-income children regardless of their immigration status or their parent's immigration status. While the application for the free and reduced meal programs has a blank for a parent or guardian's social security number, parents who have not been issued a social security number may indicate that they do not have one. Alternatively, if the household receives certain public benefits, they may use the identifier for those benefits instead of names of all household members, household income information and social security number. 7 CFR 245.6(6).
- Where an inability to speak and understand the English language excludes national origin minority students from effective participation in the educational programs of a school district, the district must take affirmative steps to rectify the language deficiency in order to open its instruction program to students. In other words, a school could be committing national origin discrimination under Title VI if it fails to provide some form of language assistance to limited English proficient students who are otherwise precluded from participating meaningfully in school. *Lau v Nichols*, 414 US 563, 568 (1974); see also US Dep't Education, Office for Civil Rights, Dear Colleague Letter: English Learner Students and Limited English Proficient Parents (Jan 7, 2015) available at www.ed.gov/media/document/colleague-el-201501pdf-0. English learner programs must be designed and reasonably calculated to enable English learner students to attain both English proficiency and parity of participation in the standard instructional program within a reasonable length of time.
- Newcomer and migratory students with special education needs are entitled to receive free appropriate education. Under the Individuals with Disabilities Act (IDEA), the law requires that children be fairly assessed in their native language and classified according to the type of disability. The assessment and the placement must be carried out quickly and parents must be kept informed of their child's educational plan in a language the parent understands. 20 USC 6312(e)(1), (4).

Rights of Parents to Participate

- School districts have the responsibility to adequately notify parents of national origin minority group students of school activities that are called to the attention of the other parents. Notification must be sufficient so that parents can make well-informed decisions about the participation of their children in a district's programs and services. This means that whenever practicable, written translations of printed information must be provided to parents in a language that they understand; but if written translations are not practicable, SEAs and school districts must ensure parents are provided oral interpretations of the written information. Dear Colleague Letter: English Learner Students and Limited English Proficient Parents (Jan 7, 2015) available at www.ed.gov/media/document/colleague-el-201501pdf-0.