





March 12, 2025

#### Re: Legal Rights of Immigrant Students in New Jersey's Public Schools

Dear Superintendent and School District Leaders:

On behalf of the communities we serve, the ACLU of New Jersey, the New Jersey Consortium for Immigrant Children, and Education Law Center are reaching out to public school superintendents, administrators, and other school leaders to provide you information about the legal rights of immigrant students in New Jersey.

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 "protected areas" policy (formerly referred to as "sensitive locations" policy) across several different presidential administrations that limited immigration enforcement at schools and certain other locations. In January, however, the Trump Administration rescinded that policy.<sup>2</sup> Accordingly, ICE and CBP policy now permits their agencies to engage in enforcement operations at or in proximity to schools, school playgrounds, bus stops and other surrounding areas. But simply because internal agency guidance may permit activity does not mean that schools must, or even can consistent with law, allow immigration agents to enter schools, inspect records, or engage with students and staff. No agency directive can override the U.S. Constitution.

We have received many questions from educators and school administrators throughout the state asking how the federal government's revocation of the "sensitive locations/protected areas" 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

<sup>1</sup> U.S. Dep't of Homeland Sec., Guidelines for Enforcement Actions in or Near Protected Areas (Oct. 27, 2021), https://www.dhs.gov/sites/default/files/publications/21\_1027\_opa\_guidelinesenforcement-actions-in-near-protected-areas.pdf.

<sup>&</sup>lt;sup>2</sup> Rebecca Santana, Trump Administration Throws Out Policies Limiting Migrant Arrests at Sensitive Spots Like Churches, Associated Press (Jan 21, 2025), https://apnews.com/article/immigration-enforcement-sensitive-locations-trumpab0d2d2652e9df696f14410ebb52a1fc.

learn and grow. We are writing to provide you with answers to some common questions, and general guidance to help you ensure that all students in your district feel welcome. This letter should not be considered legal advice, but rather as a starting point to understanding the issues in this letter and as a strong recommendation that you promptly seek legal guidance relative to issues in this letter. The law in this area is complex and rapidly changing. Every situation is different, and you should consult with your attorney as to specific questions you might have.

At the outset, it is important to understand that the federal government's revocation of the "sensitive locations" policy does not alter 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 the legal rights and obligations of school staff regarding who enters school property and what private information may be shared. While the "sensitive locations" policy may have been rescinded, federal statutory and constitutional law has not changed. Terminating the policy, however, has made it more likely that immigration enforcement operations could take place at or surrounding schools, targeting your students or their family members when they come to schools. Therefore, it is critically important for school staff and administrators to understand both students' rights and schools' responsibilities.

#### 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.<sup>3</sup> 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." The Supreme Court, in the landmark case *Plyler v. Doe*, held that the Constitution forbids discrimination on the basis of immigration status in access to basic public education. As the Court explained, denying access to education "imposes a lifetime hardship on a discrete class of children not accountable for their disabling status."

Independent of these federal protections, the New Jersey Constitution likewise protects access to education for all children regardless of immigration status: "The Legislature shall provide for the maintenance and support of a thorough and efficient system of free public schools for the

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<sup>&</sup>lt;sup>3</sup> 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).

<sup>&</sup>lt;sup>4</sup> 28 C.F.R. § 42.104(b)(2); 34 C.F.R. § 100.3(b)(2); see also U.S. Dep't of Educ., Off. for C.R. & Off. of the Gen. Counsel, U.S. Dep't of Just., C.R. Div., Dear Colleague Letter: School Enrollment Procedures 1 (May 8, 2014), <a href="https://www.aclu-nj.org/sites/default/files/doj\_doe\_dear\_colleague\_letter.pdf">https://www.aclu-nj.org/sites/default/files/doj\_doe\_dear\_colleague\_letter.pdf</a>.

<sup>&</sup>lt;sup>5</sup> 457 U.S. 202 (1982).

<sup>&</sup>lt;sup>6</sup> *Id.* at 223.

instruction of *all the children* in the State between the ages of five and eighteen years." This right to an education is not limited by immigration status. Further, the New Jersey Administrative Code prohibits the barring of any student from public elementary and secondary schools based on a student's immigration/visa status, which shall not affect eligibility to attend school, except for certain student visa holders. The New Jersey Department of Education (NJDOE) recently made clear that it is "unwavering in its commitment to ensuring that every student, regardless of immigration status, national origin, or religion, can attend public school safely."

The New Jersey Law Against Discrimination also prohibits discrimination in places of public accommodation, which includes schools, based on actual or perceived national origin, nationality, or ancestry. <sup>10</sup> In addition, New Jersey law provides that all students have the right to be free from harassment, intimidation, and bullying that is reasonably perceived as being motivated either by any actual or perceived characteristic, including ancestry and national origin. <sup>11</sup> Any threat or insinuation that immigrant children and their families are unwelcome could violate these laws.

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

Every district—if it has not done so already—should develop procedures in consultation with legal counsel to prepare 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), 12 among many other laws.

While longstanding law requires schools to comply with valid *judicial* warrants and subpoenas, immigration agents often serve what are known as *administrative* warrants, which do not have the same legal force. A useful fact sheet explaining what is required and how to respond to different types of warrants and subpoenas is available at: <a href="https://www.nilc.org/wp-content/uploads/2025/01/2025-Subpoenas-Warrants">https://www.nilc.org/wp-content/uploads/2025/01/2025-Subpoenas-Warrants</a> .pdf., and is also available in <a href="https://www.nilc.org/wp-content/uploads/2025/01/2025-Subpoenas-Warrants">NJCIC's</a> toolkit.

<sup>&</sup>lt;sup>7</sup> N.J. Const. art. VIII, § IV, ¶ 1 (emphasis added).

<sup>&</sup>lt;sup>8</sup> N.J.A.C. 6A:22-3.3.

<sup>&</sup>lt;sup>9</sup> N.J. Dep't of Educ., *Guidance on School-Related State and Federal Requirements Pertaining to Immigrant Students and Families* (Jan. 22, 2025),

 $<sup>\</sup>frac{https://www.nj.gov/education/broadcasts/2025/jan/22Special/GuidanceonSchoolRelatedStateand}{FederalRequirementsPertainingtoImmigrantStudentsandFamilies.pdf}.$ 

<sup>&</sup>lt;sup>10</sup> L. 1945, c. 169 (N.J.S.A. 10:5-1 to -49).

<sup>&</sup>lt;sup>11</sup> N.J.S.A. 18A:37-14.

<sup>&</sup>lt;sup>12</sup> 20 U.S.C. § 1232g.

To be valid, a judicial warrant must:

- Be issued by a judicial court; 13
- Be signed by a state or federal judge or magistrate (not merely authorized by an immigration judge or agent within the Department of Homeland Security or ICE);<sup>14</sup>
- State the address of the premises to be searched; and
- Be executed within the limited time period specified on the warrant.

However, ICE typically does not present judicial warrants. Instead, ICE commonly relies on administrative warrants, signed by an immigration officer or immigration judge. Unlike judicial warrants, administrative warrants do not give ICE agents authority to enter areas of school property that are not otherwise open to the public. To enter those places (absent a judicial warrant), ICE would need consent to enter, which school officials have no legal obligation to give.

In short, it is critically important to examine warrants presented by ICE agents to determine who issued them: an ICE officer or a state or federal judge or magistrate.

Other important steps school districts should take include:

- Establish protocols for exactly what school staff should do if immigration agents come to a school. 15
- 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 superintendent and school's attorney. School
  staff should be instructed not to consent to immigration enforcement officers entering
  non-public areas and should not allow immigration enforcement officers to interview
  students.

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<sup>&</sup>lt;sup>13</sup> Judicial orders are required under the Fourth Amendment's guarantee to be free from unreasonable searches and seizures of persons or objects. *See U.S. Const.* amend. IV. As courts have explained, administrative warrants "lack the independent assurance guaranteed by the Fourth Amendment" and therefore are insufficient to enter a constitutionally protected area. *See*, *e.g.*, *Kidd v. Mayorkas*, 734 F. Supp. 3d 967, 979–80 (C.D. Cal. 2024) (holding that ICE's "knock and talk" policy violated Fourth Amendment).

<sup>&</sup>lt;sup>14</sup> See 8 C.F.R. § 1240.41. Warrants and subpoenas signed or otherwise authorized or issued by an immigration judge are not judicial warrants or judicial subpoenas.

<sup>&</sup>lt;sup>15</sup> In its recently released guidance, the NJDOE refers to "exigent circumstances," which is an exception for law enforcement officers to enter without a warrant when there is a risk of the imminent destruction of evidence or a threat to public safety. *See* N.J. Dep't of Educ., *supra* note 9. These circumstances seem unlikely to occur in the general course of immigration enforcement at a school.

- 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. Train staff—especially staff who encounter people seeking access to non-public areas, whether indoors or outdoors—that ICE is not permitted to enter any non-public areas without a judicial warrant.
- Instruct school staff that immigration agents sometimes wear clothing intended to suggest they are police. Regardless of how they dress, federal immigration enforcement officials should not be allowed entry to a school and other non-public areas on school grounds absent a valid judicial warrant.
- Have an attorney review any requests and documents from immigration enforcement, 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. School staff may face legal repercussions under FERPA if staff provide student information to immigration agents, which is why legal review of all requests for student information is critical.
- Judicial warrants and subpoenas are often limited to particular places or people. The school's attorney and decision makers should carefully review warrants and subpoenas for this information and hold immigration agents to the limits articulated therein.
- Observe and document any actions by immigration agents on school property. Schools should make copies of officers' identification documents, as well as any warrants, subpoenas, or other documents presented.

# School Districts Cannot Require Information About Students' or their Families' 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* and New Jersey law.<sup>16</sup>

The information required to enroll a student is limited under state law to proof of residency, proof of age/identity, <sup>17</sup> and immunization records. Schools cannot require students to provide any information relating to immigration status. Specifically:

<sup>17</sup> School districts cannot deny enrollment or attendance based on failure to provide a birth certificate or other proof of identity. *See* N.J.A.C. 6A:22-4.1(g).

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<sup>&</sup>lt;sup>16</sup> See Hispanic Int. Coal. of Ala. 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). See also N.J. Const. art. VIII, § IV, ¶ 1.

- Schools cannot ask about, or require students to provide proof of, immigration status. <sup>18</sup> If a staff member is presented with proof of age/identity documents that reveal immigration status, they should review those documents for verification purposes but should not retain those documents in their files.
- Schools cannot require students to provide a social security number or place of birth that may indicate a student's immigration status, with the limited exception that schools are required to identify those students born outside the United States who are eligible to participate in Title III federal education programs.<sup>19</sup>
- Schools cannot require specific documents for determining eligibility to attend school
  (e.g. U.S. passport, driver's license, etc.), especially documents that may be difficult to
  obtain without U.S. citizenship or current immigration status. Instead, schools
  should provide a variety of means for establishing information necessary for
  enrollment.<sup>20</sup>
- Schools must comply with all other requirements of N.J.A.C. 6A:22, Student Residency regulations, including the right to immediate enrollment "except in cases of clear, uncontested denials." N.J.A.C. 6A:22-4.1(c).

School administrators should limit the information collected from students, parents and guardians. Student education records should be limited to basic student information, such as grades, transcripts, course schedules, health records, directory information, enrollment dates, special education records, and disciplinary records. Beyond that, consider the general rule of thumb: *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 provide notice to parents, guardians and adult students *that they have a right to opt out of* having their information included in the directory. <sup>21</sup> This information should be provided in several languages. While FERPA generally permits the release of directory information, the law requires notice to parents regarding their right to refuse disclosure by opting out. <sup>22</sup> Schools should also remove any unnecessary information from the directory. For example, if schools currently include place of birth in their directories, that information should be removed for all students.

<sup>&</sup>lt;sup>18</sup> N.J.A.C. 6A:22-3.3(b); *Plyler*, 457 U.S. at 223.

<sup>&</sup>lt;sup>19</sup> See 20 U.S.C.§ 7011(5) (defining "immigrant children" eligible to receive federal funding for language instruction as students who "were not born in any State" and "have not been attending one or more schools in any one or more States for more than three full academic years").

<sup>&</sup>lt;sup>20</sup> N.J.A.C. 6A:22-3.4(c).

<sup>&</sup>lt;sup>21</sup> 20 USC 1232g(a)(5)(B).

<sup>&</sup>lt;sup>22</sup> 34 C.F.R. § 99.37.

#### **School Districts Must Protect the Privacy of Student Records**

FERPA generally prohibits schools and school districts that receive U.S. Department of Education funds from releasing personal information contained in a student's education records without the written consent of the parent/guardian or adult student.<sup>23</sup> 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.<sup>24</sup>

FERPA allows a law enforcement officer to obtain student information from a school *if* they have a valid *court* order or *judicial* subpoena. Schools must make a reasonable effort to alert parents or adult students to a subpoena before providing information so that the parent or eligible student may seek protective action. As mentioned earlier, 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. Any subpoena presented by immigration agents should be reviewed by legal counsel before any information is produced.

Releasing directory information for immigration enforcement purposes could likewise violate the law. <sup>28</sup> Therefore, requests for directory information by immigration agents should also be reviewed by legal counsel.

As a general practice, 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.

<sup>&</sup>lt;sup>23</sup> See 20 U.S.C. § 1232g; 34 C.F.R. § 99.1-99.67.

<sup>&</sup>lt;sup>24</sup> 20 U.S.C. § 1232g; 34 C.F.R. §§ 99.1-99.67. The U.S. Department of Education Privacy Technical Assistance Center provides a Data Security Checklist that schools can consult. *See* Priv. Tech. Assistance Ctr., U.S. Dep't of Educ., *Data Security Checklist* (rev. 2015), <a href="https://studentprivacy.ed.gov/sites/default/files/resource\_document/file/Data%20Security%20Checklist\_0.pdf">https://studentprivacy.ed.gov/sites/default/files/resource\_document/file/Data%20Security%20Checklist\_0.pdf</a>.

<sup>&</sup>lt;sup>25</sup> 20 U.S.C. § 1232g(b)(2)(B), (b)(1)(J).

<sup>&</sup>lt;sup>26</sup> 34 C.F.R. § 99.31(a)(9)(ii).

<sup>&</sup>lt;sup>27</sup> See National Immigration Law Center, *Warrants and Subpoenas: What to Look Out For and How to Respond* 4-6 (Sept. 2020), <a href="www.nilc.org/wp-content/uploads/2020/09/Warrants-Subpoenas-Facts-1.pdf">www.nilc.org/wp-content/uploads/2020/09/Warrants-Subpoenas-Facts-1.pdf</a>.

<sup>&</sup>lt;sup>28</sup> See e.g. Hispanic Int. Coal. of Ala. v. Governor of Alabama, 691 F.3d 1236 (11th Cir. 2012).

#### Districts Must Ensure that School Security Officers Abide by Student Privacy Laws

To protect students' privacy rights, districts with school security officers, school resource officers or other police officers assigned to schools (including those employed by a school district) must ensure that such security officers do not have general access to FERPA-protected records.

Under FERPA, school security officers may access FERPA-protected information only if they have been designated as a "school official" in order to fulfill a "legitimate educational interest." Schools may only permit such access if the school has informed parents of the criteria for the terms "school official" and "legitimate educational interest" in their annual FERPA notification letter. Importantly, a security officer is considered a "school official" only if a school has direct control over the officer's maintenance and use of education records and student information can only be re-disclosed for the purposes for which the disclosure was made, unless the school security officer does so on behalf of the school and under one of FERPA's exceptions. In these instances, school security officers may not re-disclose that information to other law enforcement officers who are not acting as "school officials" for the same task—or for a non-educational purpose such as law enforcement. To be clear, immigration enforcement is not a "legitimate educational interest."

School officials have a continuing legal responsibility to protect student privacy, including how student records are used, when those records are shared with "school officials" having "legitimate educational interests." This means that school officials have an ongoing legal responsibility to ensure that security officers do not improperly use or re-disclose protected information in their possession.

#### We recommend that:

- Districts require school security staff to 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 educate school security officers about the legal protections for immigrant students and inform them that if they engage in immigration enforcement activities, they

<sup>&</sup>lt;sup>29</sup> 34 C.F.R. § 99.8(b)(2); 34 C.F.R. § 99.31(a)(1)(i)(A).

<sup>&</sup>lt;sup>30</sup> 34 C.F.R. § 99.7(a)(3)(iii) (schools must notify parents of "specification of criteria for determining who constitutes a school official and what constitutes a legitimate educational interest").

<sup>&</sup>lt;sup>31</sup> 34 C.F.R. § 99.31(a)(1)(i)(B)(2).

<sup>&</sup>lt;sup>32</sup> 34 C.F.R. § 99.33(a)(2).

<sup>&</sup>lt;sup>33</sup> See 34 C.F.R. §§ 99.31(a)(1)(i)(B), 99.31(a)(1)(ii),99.33(a)(2).

<sup>&</sup>lt;sup>34</sup> See Priv. Tech. Assistance Ctr., U.S. Dep't of Educ., supra note 24, at 15-17.

run the risk of violating federal and state law, including the Attorney General's Immigrant Trust Directive, <a href="https://www.njoag.gov/trust/">https://www.njoag.gov/trust/</a>.

Districts must also ensure that such school security officers properly follow Fourth and Fifth Amendment standards for detention, interrogation, search, and seizure, and do not arrest students for incidents that can be handled as matters of school discipline. Too often, police in schools arrest students for misdemeanor offenses like disorderly conduct when the school disciplinary process could better address such behaviors. Police in schools sometimes also collect intelligence on students, for example to enter them into a database of alleged gang associates. In addition to numerous detrimental impacts these forms of policing have on any student, immigrant students risk being prioritized for deportation or having their application for citizenship or other immigration benefits placed in jeopardy. School policing also has the potential to undermine immigrant students' education rights guaranteed in *Plyler. 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

Districts can take many steps to support their immigrant students. We encourage you to communicate to district families that all students continue to be welcome in your schools. 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 they are committed to ensuring an emotionally and physically safe learning environment for all students. To that end,

<sup>36</sup> See, e.g., Sarah E. Redfield & Jason P. Nance, American Bar Association, *Preliminary Report:* 

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<sup>&</sup>lt;sup>35</sup> 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 in Schools: A Multi-integrate System Approach to Improve Outcomes for Adolescents, J. 24 OF CHILD AND ADOLESCENT PSYCH. Nursing 88 (2011); Matthew T. Theriot, School Resource Officers and the Criminalization of Student Behavior, 37 J. OF CRIM. Just. 280 (2009).

School-to-Prison Pipeline (Feb. 2016), <a href="https://www.americanbar.org/content/dam/aba/publications/criminaljustice/school\_to\_prison\_pipeline\_report.pdf">https://www.americanbar.org/content/dam/aba/publications/criminaljustice/school\_to\_prison\_pipeline\_report.pdf</a>; American Psychological Association Zero Tolerance Taskforce, Are Zero Tolerance Policies Effective in the Schools?: An Evidentiary Review and Recommendations, AM. PSYCHOLOGIST (Dec. 2008), <a href="https://www.apa.org/pubs/info/reports/zero-tolerance.pdf">https://www.apa.org/pubs/info/reports/zero-tolerance.pdf</a>; 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

schools should inform students and their families that they are entitled to, and welcome to use, all school services and resources.

• 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.

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

- Update Forms with Emergency Contacts and Permissions to Pick Up a Child:
   Schools should remind parents and guardians to update their emergency contact information and permissions for non-parent individuals to pick up their child from school. These forms should be circulated by schools for updates at regular intervals for all students, including now.
- Non-Parent Caregiver Enrollment and Education Decision Maker: In cases of family or economic hardship, including the event a parent is detained or deported, New Jersey law allows a non-parent with whom the child is living to enroll the student as an "affidavit student" in school and act as the student's education decision maker, even if the non-parent does not have legal guardianship of the child.<sup>37</sup> A notarized power of attorney form (see next bullet), prepared in advance, could support an affidavit student application. Note that schools cannot insist on legal custody for affidavit students.<sup>38</sup>
- Planning for a Non-Parent Caregiver: Parents may wish to engage in emergency planning in the event of detention or deportation. A sample power of attorney form has been prepared courtesy of the Rutgers Law School Child Advocacy Clinic and Lowenstein Sandler LLP.<sup>39</sup> A list of commonly asked questions can be accessed here: (<a href="https://static1.squarespace.com/static/6270343397fdb3056f3ee9f2/t/67a110a24bfc7474ec6e6cf5/1738608802548/FAQ+English+and+Spanish+12.20.2021+FINAL.pdf">https://static1.squarespace.com/static/6270343397fdb3056f3ee9f2/t/67a110a24bfc7474ec6e6cf5/1738608802548/FAQ+English+and+Spanish+12.20.2021+FINAL.pdf</a>)
- Prioritize the Immediate Receipt of Educational Services to Children Living in Your District: A lack of particular documentation cannot stand in the way of school enrollment of children who are physically residing in your district and have no other possibility of school attendance.<sup>40</sup>

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.

<sup>&</sup>lt;sup>37</sup> N.J.S.A. 18A:38-1.b. *See also* N.J.A.C. 6A:22-3.2(a).

<sup>&</sup>lt;sup>38</sup> N.J.A.C. 6A:22-4.1(b)(1)(i).

<sup>&</sup>lt;sup>39</sup> Rutgers Law School, Child Advocacy Clinic, <a href="https://law.rutgers.edu/sites/default/files/2024-09/POA%20billingual%2012.20.2021%20FINAL.pdf">https://law.rutgers.edu/sites/default/files/2024-09/POA%20billingual%2012.20.2021%20FINAL.pdf</a> (last visited Feb. 24, 2025).

<sup>&</sup>lt;sup>40</sup> See, e.g., N.J.A.C. 6A:22-3.2(a)(2) and (3).

We also encourage you to share other Know Your Rights materials. For example, the NJCIC website provides resources and guides for the needs of immigrant children, <a href="https://www.njcic.org/resources">https://www.njcic.org/resources</a>, and the ACLU-NJ and national ACLU have information about immigration enforcement, <a href="www.aclu-nj.org/kyr">www.aclu-nj.org/kyr</a> and <a href="www.aclu.org/know-your-rights/immigrants-rights">www.aclu.org/kyr</a> and <a href="www.aclu.org/know-your-rights/immigrants-rights">www.aclu.org/kyr</a> and <a href="www.aclu.org/know-your-rights/immigrants-rights">www.aclu.org/kyr</a> and <a href="www.aclu.org/know-your-rights/immigrants-rights">www.aclu.org/kyr</a> and <a href="www.aclu.org/know-your-rights/immigrants-rights">www.aclu.org/know-your-rights/immigrants-rights</a>, <a href="https://edlawcenter.org/issues/immigrant-students/">https://edlawcenter.org/issues/immigrant-students/</a>. Low-income families in need of free legal assistance related to the public education of immigrant children can be referred to ELC's intake at (973) 624-1815, ext. 300.

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 provide the following resources:

- The Office of New Americans provides free and low-cost services (https://www.nj.gov/humanservices/njnewamericans/programs/legal/).
- The New Jersey Consortium for Immigrant Children provides free legal intakes for children and youth under the age of 21 (https://www.njcic.org/refer-a-child).
- The American Immigration Lawyers Association has compiled a list of private immigration attorneys (<a href="https://ailalawyer.com/">https://ailalawyer.com/</a>).
- A state-funded program, the Detention & Deportation Defense Initiative, offers free legal screenings for New Jerseyans in immigration detention
   (https://forms.office.com/pages/responsepage.aspx?id=lwW5vbx5uEet7Hh\_TkKqimYb\_M5D54UJMiK6QvdQvCM5UQ1JDQ1NWVFdVVkxLSDhCMINLWlBJSEJQOS4u&ro\_ute=shorturl).
- In addition, the organizations below may provide other types of support or assistance:
  - o First Friends of New Jersey and New York helps with visitation and support for people in ICE detention, including bond assistance; accompaniment and support for ICE check-ins and court hearings; transportation (<a href="https://firstfriendsnjny.org/">https://firstfriendsnjny.org/</a>).
  - Deportation & Immigration Response Equipo (DIRE) runs a toll-free legal information hotline at 1-888-DIRE-SOS (1-888-347-3767).

### **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 websites and resources identified above, the following may be helpful:

• The National Immigration Law Center (<a href="https://www.nilc.org/resources">https://www.nilc.org/resources</a>) is an excellent source for current information about changing immigration policies.

• The National Education Association's *Guidance on Immigration Issues* (<a href="https://www.nea.org/resource-library/guidance-immigration-issues">https://www.nea.org/resource-library/guidance-immigration-issues</a>) has information specifically for educators.

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

Sincerely,

Amol Sinha, Executive Director American Civil Liberties Union of New Jersey

Robert Kim, Executive Director Education Law Center

Priscilla Monico Marín, Executive Director New Jersey Consortium for Immigrant Children

cc: New Jersey Principals and Supervisors Association New Jersey School Boards Association