

MEMORANDUM

TO: Assistant Superintendents, Executives, Principals & Directors
FROM: Superintendent Putnam
RE: On-Campus Activities by Agents of Immigration & Customs Enforcement
DATE: January 23, 2025

We have received questions from our community related to school district policy or procedures with regard to any action by the Immigration & Customs Enforcement Agency (ICE) on our school campuses or on other district property. Generally, ***School Board Policy 519, Interviews of Students by Outside Agencies***, and ***School Board Policy 903, Visitors to School District Buildings and Sites***, will guide our administrative response to a request from an ICE official presenting themselves on school property to make any inquiry related to students which may include information related to the student's name, contact information, parent/guardian information, home address, attendance status or other educational data related to the student, or in response to a request to make contact with or interview any student of the school district. Those policies in relevant part are found below for your immediate review:

519 INTERVIEWS OF STUDENTS BY OUTSIDE AGENCIES

I. PURPOSE

The purpose of this policy is to identify the occasions in which persons other than school district officials and employees find it necessary to speak with a student during the school day. Student safety and disruption of the educational program is of concern to the school district. The purpose of this policy is to establish the procedures for access to students by authorized individuals during the school day.

II. GENERAL STATEMENT OF POLICY

- A. Generally, students may not be interviewed during the school day by persons other than a student's parents, school district officials, employees and/or agents, except as otherwise provided by law and/or this policy.
- B. Requests from law enforcement officers, except liaison officers (see letter D.) and those other than a student's parents, school district officials, employees and/or agents to interview students shall be made through the principal's office. Upon receiving a request, it shall be the responsibility of the principal to determine whether the request will be granted. The principal may designate an alternate to review these requests in his or her absence. Any reference to "principal" in the following paragraphs shall include the principal's designee. Prior to granting a request the principal shall attempt to contact the student's parents to inform them of the request, except where otherwise prohibited by law.

III. REMOVAL OF STUDENTS

- A. A. Students shall not be taken from school district property without the consent of the principal and without proper warrant, except as authorized under the Maltreatment of Minors Act.

903 VISITORS TO SCHOOL DISTRICT BUILDINGS AND SITES

I. PURPOSE

The purpose of this policy is to inform the school community and the general public of the position of the school board on visitors to school buildings and other school property.

III. GENERAL STATEMENT OF POLICY

- A. The school board welcomes visits to school buildings and school property by parents and community members provided the visits are consistent with the health, education and safety of students and employees and are conducted within the procedures and requirements established by the school district.
- B. The school board reaffirms its position on the importance of maintaining a school environment that is safe for students and employees and free of activity that may be disruptive to the student learning process or employee working environment.

III. RESPONSIBILITY

The school district administration is responsible for communicating and enforcing this policy.

IV. VISITOR LIMITATIONS

- A. An individual or group may be denied permission to visit a school or school property or such permission may be revoked if the visitor(s) does not comply with the school district procedures and regulations or if the visit is not in the best interest of students, employees or the school district.
- B. An individual or group who enters school property without complying with the procedures and requirements may be guilty of criminal trespass and thus subject to criminal penalty. Such persons may be detained by the school principal or a person designated by the school principal in a reasonable manner for a reasonable period of time pending the arrival of a police officer.

Based on these policies, all district administrative staff shall respond as follows should an ICE official appear at a school site or otherwise on school district property.

1. If an ICE agent approaches a school asking for student information or for access to a student, we will adhere to our current procedures related to visitors by having all visitors, including law enforcement visitors, sign in and requiring the agent to present valid identification. The ICE agent should be asked to follow the same procedures as other visitors and then be directed immediately to the office of the Principal
 - a. If the agent makes a request for student data, including whether a particular student is a student at the school or in attendance at school at the time of the visit, **school district staff shall not disclose** whether a student is an enrolled student of the school, the school district or is in attendance at school that day. **All inquiries for student data must be directed to the school district's Data Practice Officer, Tracy Flynn Bowe, for review and/or consultation with school district legal counsel.**
2. **The agent should then be referred to the Superintendent's office at the District Administrative Office as the appropriate designee for this purpose under School District Policy 519.** The Superintendent will consult with the Executive Director of Human Resources & Labor Relations as the Data Practices Officer of the District, and may contact the school district's attorney if they have any questions about how to proceed. In the absence of the Superintendent, an Assistant Superintendent will be charged with responding consistent with these guidelines.
3. The Superintendent will ask the ICE agent to state the reason and authority for the visit. If the agent does not have a warrant or subpoena, the Superintendent or designee will decline entry. If the agent presents a warrant or subpoena, the Superintendent will consult with the District's attorney to determine appropriate next steps, including whether to allow the ICE agent to move forward with his or her request and notifying appropriate parties, such as the student's parents, as required by Board Policy 519.
4. If the agent asks for private educational data on a student, the Superintendent will ask the ICE agent for a warrant or subpoena for the requested data. If the agent presents a warrant or subpoena, the Superintendent will consult with the District's attorney to determine appropriate next steps, including notifying appropriate parties, such as the student's parents, and whether and when to provide the requested data, consistent with FERPA and the Minnesota Government Data Practices Act (MGDPA).

Below is further guidance and background information from school district legal counsel related to enforcement activities by ICE on school district property.

IMMIGRATION ENFORCEMENT ACTIVITIES ON SCHOOL CAMPUSES

In 2011, and again in 2021, the U.S. Immigration and Customs Enforcement issued a memorandum and guidance limiting enforcement activities near protected areas, including schools, hospitals, and places of worship. On January 6, 2025, President Trump signed an executive order rescinding that guidance. Consequently, Immigration authorities can now enter schools, healthcare facilities and places of worship to conduct arrests, according to a new policy from the Department of Homeland Security.

LIMITATIONS ON RELEASE OF SCHOOL DATA OR TO DETAIN OR QUESTION EMPLOYEES, STUDENTS OR FAMILY MEMBERS

Pursuant to FERPA, the District may release education records to law enforcement pursuant to a court order or lawfully issued subpoena. 99 C.F.R. 99.31(a)(9)(i). Unless a court order or subpoena issued for a law enforcement purpose states that the contents of the order or subpoena are not to be disclosed, the District must make a reasonable effort to notify parents, or students over the age of 18, that it will be disclosing educational information and provide them with time to potentially seek to quash the subpoena/court order.

Under current laws, there are very limited circumstances in which immigration authorities would be exempt from obtaining a subpoena or court order before meeting with a student or obtaining District records because immigration officials do not have unbridled authority to interrogate or detain individuals who are suspected of being in the United States illegally. While federal immigration officials may “interrogate any alien or person believed to be an alien as to his right to be or to remain in the United States,” federal courts have held that such interrogations are still subject to Fourth Amendment search and seizure principles. 8 U.S.C. 1357(a)(1); *United States v. Rodriguez-Franco*, 749 F.2d 1555, 1559 (11th Cir. 1985) (citing *United States v. Brignoni-Ponce*, 422 U.S. 873 (1975)). Immigration officials may not detain persons for questioning about their citizenship on less than a reasonable suspicion that they may be aliens. *Rodriguez-Franco*, 749 F.2d at 1559. Unless a new law is adopted, FERPA would require a court order or lawfully issued subpoena before immigration officials could require the District to disclose student information even if immigration authorities had reason to believe a student is in the country illegally. 99 C.F.R. 99.31(a)(9)(i). If immigration officials are seeking District records, federal law contains a mechanism whereby they can issue a subpoena and obtain the records. 8 U.S.C. 1225(d)(4).

Further, unless there is reason to believe an alien poses an imminent risk to escape, federal immigration authorities must generally obtain a warrant before arresting an alien. *See, e.g.*, 8 U.S.C. 1357(a)(2) (providing that immigration officials may arrest an alien if there is “reason to believe that the alien so arrested is in the United States in violation of any [immigration law] and *is likely to escape before a warrant can be obtained for his arrest*”). In the absence of a circumstances leading an immigration official to believe an alien is likely to escape, a warrant is generally required to arrest and detain an alien pending proceedings to remove the person from the United States. 8 U.S.C. 1226(a).

Parents concerned about being separated from their children may wish to prepare a safety plan in the event they are detained by immigration officials. This planning may include executing a Delegation of Parental Authority (DOPA) form delegating another person to assume their parental responsibilities with regard to care for their children, including to be the acting parent for school and medical needs. A DOPA is effective for up to one year. Below is the Minnesota statute outlining the requirements and form for such a delegation.

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MINNESOTA STATUTES 2024

524.5-211

524.5-211 DELEGATION OF POWER BY PARENT OR GUARDIAN.

(a) A parent, legal custodian, or nonprofessional guardian of a minor or incapacitated person, by a properly executed power of attorney, may delegate to another person, for a period not exceeding one year, any powers regarding care, custody, or property of the minor or person subject to guardianship, except the power to consent to marriage or adoption of a minor person subject to guardianship.

(b) A professional guardian of a minor or incapacitated person, by a properly executed power of attorney, may delegate to another person, for a period not exceeding 30 days, any powers regarding care, custody, or property of the minor or person subject to guardianship, except the power to consent to marriage or adoption of a minor person subject to guardianship. A professional guardian delegating parental rights under this paragraph must submit the power of attorney to the court.

(c) A parent who executes a delegation of powers under this section must mail or give a copy of the document to any other parent within 30 days of its execution unless:

(1) the other parent does not have parenting time or has supervised parenting time; or

(2) there is an existing order for protection under chapter 518B or a similar law of another state in effect against the other parent to protect the parent, legal custodian, or guardian executing the delegation of powers or the child.

(d) A parent, legal custodian, or guardian of a minor child may also delegate those powers by designating a standby or temporary custodian under chapter 257B.

History: 2003 c 12 art 1 s 26; 2020 c 86 art 1 s 16

Below is a link to a DOPA form and fact sheet that can be completed by parents:

<https://www.lawhelpmn.org/sites/default/files/2018-11/Delegation%20of%20Parental%20Authority%20form.pdf>

Here is a link to the American Civil Liberties Union's "Know Your Rights" page for immigrant families with good resources about how to prepare and respond in the case that they are approached by ICE enforcement. It is available in English and Spanish.

<https://www.aclu.org/know-your-rights/immigrants-rights>

Here is a guide regarding immigration enforcement for educators by the American Federation of Teachers that provides other resources and information for educators. Please note that this guide was issued in 2017 and the guidance regarding schools as protected places for enforcement activities is no longer in effect:

https://www.aft.org/sites/default/files/media/2017/im_uac-educators-guide_2017.pdf

Statement from the Superintendent
January 22, 2025

As we all know, the district's mission begins with a commitment to providing a safe and caring climate and culture for all students, staff, and families.

In this time of heightened anxiety and worry from - and for - our immigrant community, I want to assure our school community that St Cloud Area School District is committed to the physical safety and emotional well-being of all students within its control, and is committed to ensuring that all schools and district facilities are welcoming and safe places for students and their families.

I want to assure this community that pursuant to federal law, all students of this district will continue to have access to the learning and other educational services available at their schools, including rigorous courses, extracurricular activities and athletics, and support services regardless of the student's or family's immigration status.

I further want to assure our community that we will act in accordance with *School Board Policy 519, Interviews of Students by Outside Agencies, and School Board Policy 903, Visitors to School District Buildings and Sites*, to ensure that we protect our schools and our students to the fullest extent possible under the law from any disruption of their educational programs and from any threat to the safety of our students.

To that end, I will issue a memorandum to all district leaders reminding them of these important policies and providing guidance for responding to any presence of immigration officials on district property. This guidance includes directing any immigration and customs enforcement agents that may appear at our schools to my office for full review of the purpose and authority for their visit, consistent with school board policy. Further, unless compelled by a valid court order or by law, I want to assure you that we will not disclose private student information about a student or allow immigration officials to have access to students. Where we are legally required to provide information or access based on a court order or other valid legal authority, we will take all legal steps available to provide proper notice to their parents consistent with FERPA, the Minnesota Government Data Practices Act, and/or other legal requirements before complying.

We want our students, families, and staff to know that we care deeply about your wellbeing and will act within our legal authority to ensure that our schools are safe and welcoming places during this difficult time.