Immigration Enforcement On or Near School Grounds

The Department of Homeland Security has rescinded its sensitive locations policy that restricted enforcement by Immigrations and Customs Enforcement (ICE) at or near K-12 campuses. Immigration enforcement officers must still have proper authority to enter the non-public areas of a school campus, but they can access public areas on and near a K-12 campus without the consent of school officials.

Local educational agencies (LEAs) should develop written procedures in consultation with their legal counsel:

- To guide the actions of staff when immigration officers are operating in a public area, on the school campus, or nearby; and
- For responding to requests for access from immigration officers to non-public areas.
    - See pages 25-32 of Promoting a Safe and Secure Learning Environment for All: Guidance and Model Policies to Assist California's TK-12 Schools in Responding to Requests for Access and Information for Immigration Enforcement Purposes for information.

Public vs. Non-Public Areas

- Public areas are places on a school campus where the public can enter without authorization. School parking lots and areas that are not fenced or that allow unmonitored access are generally considered public areas.
- Non-public areas of the school are those that cannot be entered without the express authorization of school officials. These areas generally include the interior of school buildings, fenced areas of the school campus, and areas with posted signage indicating that permission is required to enter.

Planning Considerations

Discuss the following recommendations with the LEA's legal counsel when developing procedures related to the presence of immigration enforcement officers in a public area, on, or near school grounds. These considerations are not intended as legal advice and local educational agencies are encouraged to contact legal counsel for further guidance.

- Safeguard Access to Non-Public Areas
    - Adopt a policy that requires all visitors to check in with the front office when entering a school property or administrative building.
    - Ensure signs are visible in the lobby and other areas of the campus that clearly designate what areas are open to the public and what areas are for staff and students only.
    - Educate all employees on the distinction between public and private spaces, and alert them to the possibility that immigration officers can choose to operate in the public spaces on and near campus.
    - Advise employees that they are prohibited from granting access to the non-public areas of the campus and required to refer to the school office anyone seeking access to the non-public areas of the campus.
    - Many campuses drop their access controls after the school day has ended. Review the LEA's procedures for access to before- and after-hours programs and activities to delineate those that are open to the public and those which should be classified as non-public.

- Train employees on the school's plan for responding to immigration enforcement activities in the public areas on and near the school. (See also What to Do During Immigration Enforcement template.)
    - Site staff should alert the superintendent or designee immediately.
    - Advise employees in advance that they are prohibited from interfering with law enforcement officers, including immigration officers, in the performance of their duties. Doing so could result in the employee's arrest.

- Be ready to provide emergency childcare for students who are afraid to leave campus.

    - Pre-select several rooms. To minimize trauma, choose rooms that don't have a view of the public areas where enforcement activities might occur. Keep students indoors.
    - To minimize trauma and allay fear, start facilitating student contact with parents as soon as students enter the childcare location.
    - Keep a supply of games, activities, and art supplies for crisis intervention needs stocked and ready.
    - Have staff present to:
        - Support mental health/crisis intervention needs.
        - Assist with communication in the students' home languages.
        - LEAs that are unable to provide staff trained in mental health crisis intervention or to assist as interpreters should consider contracts with providers who can assist by telephonic/virtual means.
    - Plan how to reunite parents with their children and be ready to offer alternatives.
        - Is there anyone the parent has authorized or could authorize to pick the child up from school?
        - Would the LEA be able to provide a late bus?
        - Would the LEA be able to transport the students to another school site for pickup by their parents?
        - Would using a ride-share service, with parent permission, be appropriate given the student's age and level of independence?
        - If there are only a few children waiting, would the LEA be able to authorize staff to take them home?
    - Identify staff who are willing to remain at work to care for students.
    - Determine how these employees will be compensated.

- Keep lines of communication open with law enforcement agencies, including ICE, who are staging or otherwise operating near school sites to understand their intended purpose. ICE is regularly seen throughout San Diego County, and their presence may not be related to the school community.

- Develop communications plans and tools (talking points, message scripts, and letter templates) in advance to be ready for inquiries from:

    - Media and members of the public
    - Parents and guardians
    - Site and LEA staff
- Develop plans to assist parents who are afraid to send their children to school following this incident.
    - Consider offering tutoring to recover from absences and distance learning options.

- Monitor attendance following the incident and check-in with the families of students who may have stopped attending due to the incident.

- In the days following the incident:
  - Provide mental health crisis intervention responses to students who are traumatized by the incident.
  - Implement plans to assist families who:
    - Have a family member who was detained
    - Are afraid to send their child to school
    - Have gone silent (children have stopped attending and phone contacts have failed)
  - Convene an after-action review with LEA and site personnel about the impacts of the incident.
    - Revise plans and procedures based on the LEA's experience.
    - Consider related crises that could develop. Examples could include:
      - Increased activity from 1st Amendment Auditors
      - Demonstrations on or near the school
      - Attendance and enrollment declines
      - Increased demand for distance learning options
      - Increased need for mental health support at school sites

Questions that may be asked by stakeholders:

1. **Can immigration agents access public areas of the school without LEA consent?** Yes. Public areas (parking lots, school entrances, bus stops, etc.) can be legally accessed by immigration enforcement officers without a warrant or exigent circumstances being present.
2. **Could ICE be present in the school parking lot during arrival or dismissal?** Yes. A school parking lot is considered a public area that can be freely accessed by immigration enforcement.
3. **Can school personnel record video of immigration officers working in these spaces?** In some circumstances, immigration officers could consider the conduct of a person creating video to be interfering with a federal officer in the performance of their duties. LEAs should pose this question to their attorney.
4. **Can school personnel warn students and parents when immigration officers are operating near the school?** The LEA should establish a policy on this topic in consultation with their attorney.
5. **Can immigration officers access school activities (practices, performances, competitions, club meetings) and/or expanded learning programs?** Immigration officers may enter any area that is open to the public. LEAs should work with their legal counsel to evaluate before- and after-school activities and programs and their settings to determine if they should be designated as non-public areas.