

INTRODUCTION

Increased immigration enforcement in 2025, including mass deportations and rescission of protections from immigration enforcement in schools, presents significant challenges to schools committed to provide safe and supportive learning environments where all children can learn and grow to their greatest potential. These challenges include, among other critical issues, the pressure to collect or report students' immigration status – raising concerns about privacy – and the long-lasting negative effects that immigration enforcement can have on students' overall emotional well-being and ability to learn and succeed in school.

The Center of Law and Education ("CLE") is mindful of the need to prioritize guidance for how to best protect children whose parents may be detained by Immigration and Custom Enforcement ("ICE") and to assist schools in navigating the shifting landscape of immigration law enforcement while meeting their legal and moral obligation to educate all children irrespective of immigration status or national origin. In this document, CLE provides six simple, practical steps a district can take to safeguard students' information and provide safe and supportive school environments for all students: (1) collect only the information you need; (2) create non-stigmatizing procedures for parents to identify other adults who may pick up their children from school; (3) ensure school policy provides for the sharing of directory information only if parents "opt in" to such sharing; (4) refer requests for student information by local, state, or federal police to legal counsel and district administrative offices; (5) encourage families to prepare for emergencies, including by filing out caregiver authorization affidavits; and (6) create supportive environments for students whose parents have been detained by ICE.

A. COLLECT ONLY THE INFORMATION YOU NEED

Although the Family Educational Rights and Privacy Act ("FERPA"), discussed later in this document, protects certain personally identifiable information from disclosure without prior consent, exemptions in the law do not provide certainty that law enforcement agencies will not compel the production of student information. As Parents may be unsure what information they need to provide to a school (for example, when registering their child), the first step a school should take is to ensure that it does not ask (and is not collecting) information

PROCEDURES FOR SAFEGUARDING STUDENT INFORMATION AND PROTECTING SCHOOL-AGE CHILDREN WHOSE PARENTS MAY BE DETAINED BY ICE

about families that would reveal their immigration status if disclosed.¹

B. CREATE NON-STIGMATIZING PROCEDURES FOR PARENTS TO IDENTIFY OTHER ADULTS WHO MAY PICK UP THEIR CHILDREN FROM SCHOOL

Procedures adopted by a *supportive* school/district should apply to *all families*, and be simple and non-demanding for school personnel and parents. The Orange County Public Schools's "Emergency Information Form" provides an example of a simple, effective and minimally demanding procedure. The form allows parents to update and provide additional emergency contacts and explicitly asks if the parents would like to grant permission for these individuals to pick up their child from school.²

ADDITIONAL CONTACTS

Last Name	First Name	Relationship	Contact Phone	Custody	Pick up
				<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
				<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
				<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
				<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No

This chart provides schools with all the information they would need without requiring parents to reveal specific situations in which individuals could pick the child up, or any unnecessary information regarding themselves, their child or the adult authorized to pick their child up from school. Other school districts allow parents to write a note to the school identifying an adult(s), with his/her contact information, who is authorized to pick up their child. Schools and districts should adopt procedures similar to these so that parents can arrange for their children to be picked up from school without unnecessary disclosure of personal information. To avoid attaching any stigma to the process while encouraging vulnerable families to avail themselves of the protection

¹ Children's Justice Unit, Massachusetts Office of Attorney General, Immigrant Students' Right to Attend School: A Guide for Families (February 2025), <https://www.mass.gov/doc/immigrant-students-right-to-attend-school-a-guide-for-families/download> ("When you enroll your child in school, the school district may not ask for your or your child's immigration status or ask that you provide immigration documents.") (emphasis in original). *See also* G.L. c 76, § 5 ("Every person shall have a right to attend the public schools of the town where he actually resides... No person shall be excluded from or discriminated against in admission to a public school of any town, or in obtaining the advantages, privileges and courses of study of such public school on account of...national origin, immigration or citizenship status....").

² Orange County Public Schools, New Student Registration Packet, Student Enrollment Form: Emergency Information Form, p. 5, https://files.smartsites.parentsquare.com/6888/student_registration_form_2025-26_online_250129_w_opt_out.pdf (last visited November 18, 2025).

PROCEDURES FOR SAFEGUARDING STUDENT INFORMATION AND PROTECTING SCHOOL-AGE CHILDREN WHOSE PARENTS MAY BE DETAINED BY ICE

provided, schools should send out notices to *all* parents with instructions for updating permissions.

C. ENSURE SCHOOL POLICY PROVIDES FOR THE SHARING OF DIRECTORY INFORMATION ONLY IF PARENTS “OPT IN” TO SUCH SHARING

Schools that use these procedures will obtain information about individual students on forms that qualify as “education records” under FERPA and which should not be disclosed.³ The information provided on the emergency contact list could become “directory information” once a parent is detained and a student is in the custody of one of the listed emergency contacts.⁴ FERPA allows, but does not require, schools to publish directory information without parent/student consent, and schools must offer parents and students (if 18 years of age or older) the ability to affirmatively “opt-out” of the school sharing directory information.⁵ However, to avoid any possibility that inadvertent disclosure of emergency contact information might identify students or immigrant parents without documents, schools should go beyond offering an “opt-out”, and require parents/students to affirmatively “*opt-in*” to directory information being shared. An “*opt-in*” mechanism provides families an additional layer of protection, particularly where parents do not know they can “opt-out” of

³ See 20 U.S.C. § 1232g(4). The basic requirements for education records are that they contain information directly related to a student and that they are maintained by the educational agency or its agent. *Id.*

⁴ 34 C.F.R. § 99.3 (“Directory information means information contained in an education record of a student that would not generally be considered harmful or an invasion of privacy if disclosed.”). The regulations implementing FERPA further define a parent as “a parent of a student and includes a natural parent, a guardian, or an individual acting as a parent in the absence of a parent or a guardian.” *Id.* Schools should be mindful that to the extent an individual designated on the emergency pickup form would be at risk of harm from the disclosure of their name, phone number, etc., what may have otherwise been directory information is actually “personally identifiable information” that cannot be released to third parties without written consent.

⁵ 34 C.F.R. § 99.37(a) (“An educational agency or institution may disclose directory information if it has given public notice to parents of students in attendance and eligible students in attendance at the agency or institution of: (1) The types of personally identifiable information that the agency or institution has designated as directory information; (2) A parent's or eligible student's right to refuse to let the agency or institution designate any or all of those types of information about the student as directory information; and (3) The period of time within which a parent or eligible student has to notify the agency or institution in writing that he or she does not want any or all of those types of information about the student designated as directory information.”). Under Massachusetts law, students can concurrently exercise opt-out rights with their parents “upon reaching 14 years of age or upon entering ninth grade, whichever comes first. 603 C.M.R. § 23.01; 603 C.M.R. § 23.07(4)(a). School committees may also “act[] pursuant to 603 C.M.R § 23.01(4) [to] extend the rights and provisions of 603 C.M.R § 23.00 to students under the age of 14 or to students who have not yet entered 9th grade. 603 C.M.R. § 23.02 (eligible student); 603 C.M.R. § 23.01(4).

PROCEDURES FOR SAFEGUARDING STUDENT INFORMATION AND PROTECTING SCHOOL-AGE CHILDREN WHOSE PARENTS MAY BE DETAINED BY ICE

sharing directory information or where submitting the request to opt out may prove to be a burden.⁶ A sample “opt-in” form is attached to this document as *Release of Directory Information - Sample Form* under Appendix I of this brief.⁷

D. REFER REQUESTS FOR STUDENT INFORMATION BY LOCAL, STATE, OR FEDERAL POLICE TO LEGAL COUNSEL AND DISTRICT ADMINISTRATIVE OFFICES

Law enforcement presence in schools can result in a serious disruption to school operations and can potentially give rise to a crisis management situation that schools must either prevent or be prepared to respond to effectively. School districts should adopt policies that clearly outline the procedures that local, state, and federal police (including immigration law enforcement agents) must follow to request access to schools or students’ information, including that school personnel should refer any requests for student information to the district’s administrative building and to the district’s legal counsel.⁸ The need for student information requests to proceed through district legal counsel is particularly critical when the request for student information is made pursuant to a “judicial order” or “lawfully issued subpoena,”⁹ as teachers and school administrators are not in a position to determine the validity of the judicial order or whether the subpoena has, in fact, been “lawfully issued.”¹⁰

⁶ In the event a school chooses not to adopt a policy providing for the sharing of directory information only if parents opt in to such sharing, to avoid any confusion regarding the status of this information and its protection, parents should affirmatively exercise their right to “opt-out” of any disclosure of “directory information.” So that this action does not inadvertently identify students or immigrant parents without documents, the school should make an announcement about its “directory information” policy and the corresponding “opt-out” option available to all parents under FERPA. Parents should keep a copy of the written request to opt out in their home files. Absent a school developed “opt out” form, parents may submit a written statement to proactively deny the release of their child’s directory information.

⁷ See *infra* App. I at pg. 9.

⁸ Please see *Fugees Family, School Crisis Playbook: Deportation Response* for a comprehensive crisis management response protocol framework that incorporates roles and responsibilities of staff, training, tools, and a communication plan for encountering ICE in the school setting. *Fugees Family, SCHOOL CRISIS PLAYBOOK: DEPORTATION RESPONSE*, (2025), available at https://drive.google.com/file/d/1k45epDnZHcRVF63xV27kJGbiKYF_gF2F/view.

⁹ FERPA allows disclosure of protected information without written consent if “[t]he disclosure is to comply with a judicial order or lawfully issued subpoena.” See 34 C.F.R. § 99.31(a)(9). Except for limited circumstances, information can be disclosed in this instance “only if the agency or institution makes a reasonable effort to notify the parent or eligible student of the order or subpoena in advance of compliance, so that the parent or eligible student may seek protective action...”

¹⁰ 34 C.F.R. § 99.31(a)(9). Relatedly, requests for information of students pursuant to a “health or safety emergency” should be met with skepticism in the immigration context. FERPA’s health and safety emergency exception is incredibly narrow, requiring “knowledge of

PROCEDURES FOR SAFEGUARDING STUDENT INFORMATION AND PROTECTING SCHOOL-AGE CHILDREN WHOSE PARENTS MAY BE DETAINED BY ICE

E. ENCOURAGE FAMILIES TO PREPARE FOR EMERGENCIES, INCLUDING BY FILLING OUT CAREGIVER AUTHORIZATION AFFIDAVITS

School districts must also provide parents guidance on how to prepare for family emergencies, and encourage parents to develop and implement a Family Emergency Plan that addresses what would happen to the children if a parent or guardian is unavailable for an extended period of time or even permanently.¹¹ The guidance must highlight the importance for every family to proactively have in place this type of plan and how vulnerable populations may benefit from it, including immigrant families who run the risk of having a parent or guardian being detained by ICE.¹² At a minimum, in preparation for the possibility of a parent's extended detention, schools should encourage parents to identify an adult who is prepared to act as the child's guardian or caregiver.

Massachusetts law provides a direct, simple procedure for a parent to designate a caregiver defined as “an adult with whom a minor resides.”¹³ The law states: “A parent, legal guardian or legal custodian of a minor, by a *caregiver authorization affidavit*, may authorize a designated caregiver to exercise certain concurrent parental rights and responsibilities relative to designated minor’s education and health care...”¹⁴ The parents should prepare and sign this simple ‘caregiver authorization affidavit’ in the presence of two witnesses (neither of whom is the caregiver), obtain the signature of the adult caregiver, and have the document notarized.¹⁵ The caregiver

the information [to be necessary] to protect the health or safety of the student or other individuals,” and “an articulable and significant threat to the health or safety of a student or other individuals....” Clearly, the presence of students without documents in schools does not meet this standard. *See also* United States Department of Education, “*When is it permissible to utilize FERPA’s health or safety emergency exception for disclosures?*”, <https://studentprivacy.ed.gov/faq/when-it-permissible-utilize-ferpas-health-or-safety-emergency-exception-disclosures> (“...disclosures must be related to an actual, impending, or imminent emergency, such as a natural disaster, a terrorist attack, a campus shooting, or the outbreak of an epidemic disease”).

¹¹ See Massachusetts Office of the Attorney General, *Emergency Planning Guide for Parents with Uncertain Immigration Status*, <https://www.mass.gov/doc/guide-to-care-custody-planning-eng/download> (available in English, Portuguese, Spanish, and Haitian Creole).

¹² See Massachusetts Law Reform Institute (MLRI), *Advice for Immigrant Families* (December 2024) (sample guidance for immigrant families). It is advisable that school districts adopt a broader guidance inclusive of all families to avoid singling out immigrant families and to promote the value of all families to adopt a Family Emergency Plan.

¹³ G.L. c 201F, § 1.

¹⁴ G.L. c 201F, § 2 (emphasis added).

¹⁵ G.L. c 201F, § 5.

PROCEDURES FOR SAFEGUARDING STUDENT INFORMATION AND PROTECTING SCHOOL-AGE CHILDREN WHOSE PARENTS MAY BE DETAINED BY ICE

authorization affidavit may be valid for up to two years, and may be reauthorized, amended, or revoked by the parent by notifying the caregiver in writing.¹⁶ Until such a time where it is necessary for the designated caregiver to begin exercising educational decision making, schools should not request, and parents should not provide, the child's school with copies of the caregiver authorization affidavit (or guardianship documents). While any documents included in a student's education record may be protected from disclosure without prior parental consent under FERPA, ambiguities contained in the exemptions listed in law, and the effect that future legislation may have, dictate that parents should not provide any unnecessary documentation to schools which may have to comply with future subpoenas or requests from the U.S. Attorney General.¹⁷

F. CREATE SUPPORTIVE ENVIRONMENTS FOR STUDENTS WHOSE PARENTS HAVE BEEN DETAINED BY ICE

Family separation due to the detention or deportation of a parent or primary caregiver by ICE is a traumatic event for a child that can have long-lasting damaging effects.¹⁸ It is incumbent upon the school district and school-based leadership to adequately prepare and respond to students facing these circumstances and to provide reassurances to all families (and all school staff) of the school's preparedness to maintain a safe and supportive learning environment for everyone. A supportive school district should review and update its crisis response protocols with provisions specific not only to how the school community will respond to the presence of ICE in the school premises if it were to happen, but also specific to the implementation of school-based interventions to

¹⁶ *Id.*

¹⁷ 20 U.S.C. § 1232g(a)(4)(B) (outlining information that is not an “education record”); 20 U.S.C. § 1232g(b) (outlining exceptions to FERPA’s consent requirement).

¹⁸ The American Psychological Association reported that immigrants experience high rates of depression or anxiety and that those symptoms worsen with fears of deportation. See American Psychological Association, *Working with Immigrant-Origin Clients: An Update for Mental Health Professionals* (2013), at pgs. 1, 5-7; and American Psychological Association, *Stress in America* (2019), at pg. 5 (identifying immigration as a significant source of stress among nearly half of adults, especially among Hispanic (66%) and Asian (52%) adults). Depression and anxiety were also prevalent among immigrant children who experience long separations from their parents and among unaccompanied children. See Manuel Paris, Jr., et.al, *Vulnerable but Not Broken: Psychosocial Challenges and Resilience Pathways among Unaccompanied Children from Central America* (IMMIGR. PSYCHOL. WORKING GROUP 2018), at pg. 50, <https://www.apa.org/topics/immigration-refugees/vulnerable.pdf>.

PROCEDURES FOR SAFEGUARDING STUDENT INFORMATION AND PROTECTING SCHOOL-AGE CHILDREN WHOSE PARENTS MAY BE DETAINED BY ICE

help mitigate the effects of a family separation when deportation or detention of a parent by ICE happens while the child is in school. Schools may adopt trauma-sensitive approaches to mitigate the effects of a family separation in this context.¹⁹

A trauma sensitive school is one in which all students are “welcomed, supported, and empowered” to participate in all aspects of a school’s programming,²⁰ where the core goal is to address structural inequities, including signs of trauma in students, and the impacts of trauma on learning and on building community and a sense of belonging.²¹ The National Child Traumatic Stress Network (“NCTSN”) and the Trauma and Learning Policy Institute (“TLPI”) provide that trauma informed schools can support students, including immigrant children and their families, if (1) the leadership and staff share a school-wide and multidisciplinary team approach to integrating knowledge about trauma into all aspects of the school operations (policies, procedures, classroom practices, and curricula); (2) the school addresses students’ needs holistically and aims at implementing strategies to minimize triggers that may re-traumatize students; (3) the school intentionally connects students to the school community creating a safety net of belonging; (4) the school promotes teamwork in caring and sharing responsibility for all students through various strategies such as culturally-responsive instruction as well as discipline procedures that are trauma responsive and equitable; (5) the leadership and staff anticipate the needs of students and modify policies and procedures to meet those needs; and (6) the leadership supports staff development.²² While there is no one model of a trauma sensitive school applicable to every community, these

¹⁹ Intercultural Development Research Association (IDRA), *10 Strategies for How Schools Should Respond to Help Children Impacted by the ICE Raids* (April 10, 2025), https://www.idra.org/education_policy/10-strategies-for-how-schools-should-respond-to-help-children-impacted-by-ice-raids/.

²⁰ Trauma and Learning Policy Initiative (TLPI)-Massachusetts Advocates for Children and Harvard Law School, *What is a Trauma-Sensitive School?*, <https://traumasensitiveschools.org/tools-and-resources/what-is-a-trauma-sensitive-school/>

²¹ *Id.*

²² The National Child Traumatic Stress Network (NCTSN), *Creating, Supporting, and Sustaining Trauma-Informed Schools: A System Framework* (2017), at pgs. 9-12, <https://www.nctsn.org/print/1308>; Trauma and Learning Policy Initiative (TLPI)-Massachusetts Advocates for Children and Harvard Law School, *What is a Trauma-Sensitive School?*, <https://traumasensitiveschools.org/tools-and-resources/what-is-a-trauma-sensitive-school/>; and *Id.*, *Trauma-Sensitive Schools Help Children Feel Safe to Learn*,

PROCEDURES FOR SAFEGUARDING STUDENT INFORMATION AND PROTECTING SCHOOL-AGE CHILDREN WHOSE PARENTS MAY BE DETAINED BY ICE

common attributes are foundational to a school or school district seeking to be responsive to the immediate and long-term needs of immigrant students facing potential or actual family separation.

<https://traumasensitiveschools.org/trauma-and-learning/the-solution-trauma-sensitive-schools/> (outlining the six core attributes of trauma-sensitive schools). See, National Education Association (NEA), *Trauma-Informed Schools*, <https://www.nea.org/professional-excellence/student-engagement/trauma-informed-schools>; and James Paterson, *How Educators Can Support Immigrant and Migrant Students*, (NEA News March 21, 2024) (concluding that culturally responsive pedagogy and social emotional and mental health supports are best practices to help students thrive in their community), <https://www.nea.org/nea-today/all-news-articles/how-educators-can-support-immigrant-and-migrant-students>; Kelly Edyburn, et.al, *Supportive Schools Systems for Newcomer Immigrant Youth with Trauma Exposure*, Guidance for Practitioners (EDUC. NW., Jan. 2024), <https://educationnorthwest.org/sites/default/files/pdf/newcomer-trauma-brief-508c.pdf>.

*Appendix I - Release of Directory Information - Sample
Form*

Release of Directory Information Election Form

- I. The Family Educational Rights and Privacy Act (“FERPA”) is a federal law that provides parents and students¹ the right to review, inspect, and amend a student’s “education record”. FERPA also protects the privacy of education records, safeguarding students’ personally identifiable information contained in education records from disclosure without prior written consent.
- II. Schools generally can release “directory information” – information contained in a student’s education record which generally would not be considered “harmful or an invasion of privacy if disclosed” – without parental consent under certain conditions.² Directory information typically includes: a student’s name, address, telephone listing, date and place of birth, major field of study, participation in officially recognized activities and sports, weight and height of members of athletic teams, dates of attendance, degrees and awards received, and most recent previous educational institution attended by the student.³
- III. The [name of the district] acknowledges that the release of some or all directory information to a third party may create unintended risks for our students and families. Therefore, in order to provide the greatest possible level of protection and minimize any unintended risks, the **[name the district and/or school] does not disclose student directory information without parental consent, unless as required to do so or otherwise authorized by law.**⁴
- IV. Any parent or eligible student who wishes to have the child’s directory information disclosed to a third party must inform the school in writing. Please return to the school a complete and signed “Release of Directory Information Election Form” by the specified deadline. **You are under no obligation to complete this form. If you do not wish for the school to have the ability to release directory information to third parties then do not complete this form.**
- V. If you do choose to complete this form, you can elect both the directory information you want the school to have the ability to disclose, if any, and the purpose(s), if any, for which the school can disclose the information. Parents with multiple children enrolled in the school district must complete this form for each child and file with each child’s school.

¹ Under Massachusetts law, students can concurrently exercise these rights with their parents “upon reaching 14 years of age or upon entering ninth grade, whichever comes first.” 603 C.M.R. § 23.01. School committees may also “act[] pursuant to 603 C.M.R. § 23.01(4) [to] extend the rights and provisions of 603 CMR 23.00 to students under the age of 14 or to students who have not yet entered 9th grade.” 603 C.M.R. § 23.02 (eligible student); 603 C.M.R. § 23.01(4).

² 34 C.F.R. § 99.3 (“Directory information means information contained in an education record of a student that would not generally be considered harmful or an invasion of privacy if disclosed.”). School districts are obligated to provide families notice regarding the publication of directory information. 20 U.S.C. § 1232g (a)(5)(B) (“Any educational agency or institution making public directory information shall give public notice of the categories of information which it has designated as such information with respect to each student attending the institution or agency and shall allow a reasonable period of time after such notice has been given for a parent to inform the institution or agency that any or all of the information designated should not be released without the parent’s prior consent.”). A school district can restrict the disclosure of directory information for a specific purpose and to specific parties. 34 C.F.R. § 99.37(d).

³ 20 U.S.C. § 1232g(a)(5)(A).

⁴ See 20 U.S.C. § 1232g(b)(1) (concerning permissible disclosures under FERPA without parental consent).

Sample Opt-in Form

Release of Directory Information Election Form School Year: _____

Dear Principal _____:

I, _____, Parent, Legal Guardian, or Eligible Student (please circle one), of
[add child's name], understand that:

- a) [name the school district] does not release students' directory information to third parties without my consent unless as required to do so or otherwise authorized by law.
- b) I have a right to decide differently, and to allow the school to release my child's directory information consistent with my choices on this form.
- c) The choices I make on this form regarding the school's ability to disclose directory information remain in effect for the remainder of the school year unless amended (see (d) below).
- d) I may amend my elections for disclosure during the current school year by notifying the school in writing within a reasonable time for the school to be able to act on my request.
- e) This form should be filled out annually and kept on file with the school only if I choose an opt-in option to disclose all or some of my child's directory information.
- f) I must file this form for each of my children enrolled in the school district.

Therefore, I authorize the [name of district and/or school] to: *

____ 1. Disclose the following directory information for my named child above: (Please check all that apply)

- Student's Name
- Student address
- Student telephone number
- [Additional items as determined by the school district and consistent with FERPA]

____ 2. Disclose my child's directory information as elected above only for the following purpose(s):
(Please check all that apply)

- School's Yearbooks (including photos)
- Student Handbooks
- School Newsletters
- School or district websites
- Graduation, theater, athletic, and music programs
- School honor rolls, scholarships and other awards
- [Additional items as determined by the school district and consistent with FERPA]

Parent/Guardian's Name (Please Print)

Signature

Date: _____

* For your authorization to be valid, you must initial each of the two statements above and make elections under each statement in addition to signing and dating this form. Once complete, please return this form to the school by no later than _____.