



MODEL POLICIES ON IMMIGRATION FOR EARLY CHILDHOOD EDUCATION CENTERS, CHILDCARE FACILITIES & FIRST 5 CALIFORNIA SITES

It is unlikely U.S. Immigration and Customs Enforcement (ICE) will carry out immigration enforcement operations at an early childhood education center, childcare facility, or First 5 site. ICE has an internal policy to refrain from enforcement actions at schools and childcare centers.¹ In general, ICE does abide by this policy, however it is just a policy that can be changed at any time and it is important for facilities to have policies that address the concerns of the parents, families, and communities they serve. In California, two state laws (The California Values Act or SB 54, and AB 699) require all public K-12 education agencies to adopt model policies for how to respond to enforcement actions by ICE. However, there is no similar requirement for early childhood education centers, childcare facilities, or First 5 sites.

To address that gap, the Immigrant Legal Resource Center (ILRC) has drafted the following model policies for early childhood education centers, childcare facilities, or First 5 sites (hereinafter “facilities”) in California. The model policy is meant to serve as a menu of options to choose from and adopt as relevant for your specific site. These policies can be incorporated into existing policies and the model policy does not need to be adopted in its entirety.

We relied heavily on the resources and policies drafted by the California Attorney General’s office, which are available below:

- Guide for K-12: <https://oag.ca.gov/sites/all/files/agweb/pdfs/bcj/school-guidance-model-k12.pdf>
- Quick Reference for School Officials: <https://oag.ca.gov/sites/all/files/agweb/pdfs/bcj/school-guidance-quick-reference.pdf>

If you need additional technical assistance, have immigration-related questions for the families you work with, would like help crafting or revising immigration-related policies such as what to do if ICE comes to a childcare center or school, please contact Nikki Marquez at the ILRC at nmarquez@ilrc.org.

¹ ICE’s internal memo is available at <https://www.ice.gov/doclib/ero-outreach/pdf/10029.2-policy.pdf>. For additional information, see ICE’s FAQs on Sensitive Locations at <https://www.ice.gov/ero/enforcement/sensitive-loc>.

I. GATHERING AND HANDLING STUDENT AND FAMILY INFORMATION

Model Policies for Collecting and Retaining Student Information

- The **(title of appropriate official or name of unit)** shall maintain in writing **(facility)** policies and procedures for gathering and handling sensitive student information, and appropriate personnel shall receive training regarding those policies and procedures.
- If the **(facility)** possesses information that could indicate immigration status, citizenship status, or national origin information, the **(facility)** shall not use the acquired information to discriminate against any child or families or bar children from enrolling in or attending the facility.
- If parents or guardians choose not to provide information that could indicate their or their children's immigration status, citizenship status, or national origin information, the **(facility)** shall not use such actions as a basis to discriminate against any child or families or bar children from enrolling or attending the facility.
- The **(facility)** shall not allow facility resources or data to be used to create a registry based on race, gender, sexual orientation, religion, ethnicity, or national origin.

Model Policies for Inquiries Regarding Immigration Status, Citizenship Status, and National Origin Information

- **(Facility)** personnel shall not inquire specifically about a child's citizenship or immigration status or the citizenship or immigration status of a child's parents or guardians; nor shall personnel seek or require, to the exclusion of other permissible documentation or information, documentation or information that may indicate a child's immigration status, such as a green card, voter registration, a passport, or citizenship papers.
- Where any law contemplates submission of national origin related information to satisfy the requirements of a special program, **(facility)** personnel shall solicit that documentation or information separately from the enrollment process.
- Where permitted by law, the **(title of officer or unit)** of the **(facility)** shall enumerate alternative means to establish residency, age, or other eligibility criteria for enrollment or programs, and those alternative means shall include among them documentation or information that are available to persons regardless of immigration status, citizenship status, or national origin, and that do not reveal information related to citizenship or immigration status.
- Where residency, age, and other eligibility criteria for purposes of enrollment or any program may be established by alternative documents or information permitted by law or this **(resolution/policy)**, the **(facility's)** procedures and forms shall describe to the applicant, and accommodate, all alternatives specified in law and all alternatives authorized under this **(resolution/policy)**.

Model Policies for Inquiries About Social Security Numbers or Cards

- The **(facility)** shall not solicit or collect entire Social Security numbers or cards.
- The **(facility)** shall solicit and collect the last four digits of an adult household member's Social Security number only if required to establish eligibility for federal benefit programs.

- When collecting the last four digits of an adult household member’s Social Security number to establish eligibility for a federal benefit program, the **(facility)** shall explain the limited purpose for which this information is collected, and clarify that a failure to provide this information will not bar the child from enrolling in or attending the facility.
- The **(facility)** shall treat all children equitably in the receipt of all services, including, but not limited to, the gathering of child and family information for transportation and educational instruction.

II. SHARING CHILD AND FAMILY INFORMATION

Model Policies and Procedures Regarding Information Sharing

- The **(facility)** shall avoid the disclosure of information that might indicate a child’s or family’s citizenship or immigration status.
- **(Facility)** personnel shall take the following action steps upon receiving an information request related to a child’s or family’s immigration or citizenship status:
 - Notify a designated **(facility)** official about the information request.
 - Provide children and families with appropriate notice and a description of the immigration officer’s request.
 - Document any verbal or written request for information by immigration authorities.
 - Unless prohibited, provide children and parents/guardians with any documents issued by the immigration-enforcement officer.
- Except for investigations of child abuse, child neglect, or child dependency², or when the subpoena served on the local **(facility)** prohibits disclosure,³ the **(facility)** shall provide parental or guardian notification of any court orders, warrants, or subpoenas before responding to such requests.
- The **(facility)** shall require written parental or guardian consent for release of child information, unless the information is relevant for a legitimate educational interest. Neither exception permits disclosing information to immigration authorities for immigration-enforcement purposes; no child’s information shall be disclosed to immigration authorities for immigration enforcement purposes without a court order or judicial subpoena.
- The **(facility)** request for written or parental or guardian consent for release of child information must include the following information:
 - (1) the signature and date of the parent or guardian providing consent;
 - (2) a description of the records to be disclosed;
 - (3) the reason for release of information;
 - (4) the parties or class of parties receiving the information; and
 - (5) if requested by the parents or guardians, a copy of the records to be released.
- The **(facility)** shall permanently keep the consent notice with the record file.

² Pen. Code, § 11174.3, subd. (a).

³ 20 U.S.C. § 1232g(b)(1)(J)(i),(ii).

- The parent or guardian is not required to sign the consent form. If the parent or guardian refuses to provide written consent for the release of student information that is not otherwise subject to release, the **(facility)** shall not release the information.

Model Policies for Annual Information Notice to Parents and Guardians

- The **(facility)** must provide an annual notice to parents and guardians of the facility’s general information policies that includes:
 - Assurances that the **(facility)** will not release information to third parties for immigration-enforcement purposes, except as required by law or court order.
 - A description of the types of records maintained by the **(facility)**.
 - A list of the circumstances or conditions under which the **(facility)** might release a child’s information to outside people or entities.
 - A statement that, unless the **(facility)** is required by law to disclose the information, the **(facility)** shall notify parents or guardians—and receive their written consent—before it releases a child’s personally identifiable information.

III. MODEL POLICIES: RESPONDING TO REQUESTS FOR ACCESS TO FACILITY GROUNDS FOR IMMIGRATION-ENFORCEMENT PURPOSES

Model Policies for Monitoring and Receiving Visitors onto Campus

- No outsider—which would include immigration-enforcement officers—shall enter or remain on **(facility)** grounds during operating hours without having registered with the **(facility administrator or designee)**. If there are no exigent circumstances necessitating immediate action, and if the immigration officer does not possess a judicial warrant or court order that provides a basis for the visit, the officer must provide the following information to the **(facility administrator or designee)**:
 - Name, address, occupation;
 - Purpose in entering facility grounds;
 - Proof of identity; and
 - Any other information as required by law.
- The **(facility)** shall adopt measures for responding to outsiders that avoids interruptions to childcare services, and preserves the peaceful conduct of the facility’s activities, consistent with local circumstances and practices.
- The **(facility)** shall post signs at the entrance of its grounds to notify outsiders of the hours and requirements for registration.
- **(Facility)** personnel shall report entry by immigration-enforcement officers to any appropriate administrator as would be required for any unexpected or unscheduled outside visitor coming on the premises.

Model Policies for Responding to On-Campus Immigration Enforcement

- As early as possible, **(facility)** personnel shall notify the **(facility administrator or designee)** of any request by an immigration-enforcement officer for facility or child access, or any requests for review of facility documents (including for the services of lawful subpoenas, petitions, complaints, warrants, etc.).
- In addition to notifying the **(facility administrator or designee)**, **(facility)** personnel shall take the following action steps in response to an officer present on the facility campus specifically for immigration-enforcement purposes:
 1. Advise the officer that before proceeding with his or her request, and absent exigent circumstances, facility personnel must first receive notification and direction from the **(facility administrator or designee)**.
 2. Ask to see, and make a copy of or note, the officer's credentials (name and badge number). Also ask for and copy or note the phone number of the officer's supervisor.
 3. Ask the officer for his or her reason for being on the facility grounds and document the response.
 4. Ask the officer to produce any documentation that authorizes facility access.
 5. Make a copy of all documents provided by the officer. Retain one copy of the documents for facility records.
 6. If the officer declares that exigent circumstances exist and demands immediate access to the campus, **(facility)** personnel should comply with the officer's orders and immediately contact the **(facility administrator or designee)**.
 7. If the officer does not declare that exigent circumstances exist, respond according to the requirements of the officer's documentation. If the immigration-enforcement officer has:
 - An ICE (Immigrations and Customs Enforcement) administrative warrant, **(facility)** personnel shall inform the agent that he or she cannot consent to any request without first consulting with the **(facility)**'s counsel or other designated agency official.
 - A federal judicial warrant (search-and-seizure warrant or arrest warrant), prompt compliance with such a warrant is usually legally required. If feasible, consult with the **(facility)**'s counsel or other designated agency official before providing the agent access to the person or materials specified in the warrant.
 - A subpoena for production of documents or other evidence, immediate compliance is not required. Therefore, **(facility)** personnel shall inform the **(facility)**'s legal counsel or other designated official of the subpoena, and await further instructions on how to proceed.
 8. While **(facility)** personnel should not consent to access by an immigration-enforcement officer, except as described above, he or she should not attempt to physically impede the officer, even if the officer appears to be exceeding the authorization given under a warrant or other document. If an officer enters the premises without consent, **(facility)** personnel shall document his or her actions while on campus.
 9. After the encounter with the officer, **(facility)** personnel shall promptly take written notes of all interactions with the officer. The notes shall include the following items:
 - List or copy of the officer's credentials and contact information;
 - Identity of all facility personnel who communicated with the officer;

- Details of the officer’s request;
 - Whether the officer presented a warrant or subpoena to accompany his or her request, what was requested in the warrant or subpoena, and whether the warrant or subpoena was signed by a judge;
 - **(Facility)** personnel’s response to the officer’s request;
 - Any further action taken by the agent; and
 - Photo or copy of any documents presented by the agent.
10. **(Facility)** personnel shall provide a copy of those notes, and associated documents collected from the officer, to **(the facility’s legal counsel and other designated officials)**.
 11. In turn, the **(facility)** shall submit a timely report to the **(facility)**’s governing board regarding the officer’s requests and actions and the **(facility’s)** response(s).
 12. E-mail the Bureau of Children’s Justice in the California Department of Justice, at BCJ@doj.ca.gov, regarding any attempt by a law-enforcement officer to access a school site or a student for immigration-enforcement purposes.

Model Policies for Parental Notification of Immigration-Enforcement Actions

- **(Facility)** personnel must receive consent from the student’s parent or guardian before a student can be interviewed or searched by any officer seeking to enforce the civil immigration laws at the school, unless the officer presents a valid, effective warrant signed by a judge, or presents a valid, effective court order.
- **(Facility)** personnel shall immediately notify the child’s parents or guardians if a law-enforcement officer requests or gains access to a child for immigration-enforcement purposes, unless such access was in compliance with a judicial warrant or subpoena that restricts the disclosure of the information to the parent or guardian.

IV. MODEL POLICIES: RESPONDING TO THE DETENTION OR DEPORTATION OF A CHILD’S FAMILY MEMBER

Model Policies for Responding to the Detention or Deportation of a Child’s Family Member

- The **(facility)** shall encourage that families and children have and know their emergency phone numbers and know where to find important documentation, including birth certificates, passports, Social Security cards, doctors’ contact information, medication lists, lists of allergies, etc., which will allow them to be prepared in the event that a family member is detained or deported.
- The **(facility)** shall provide all families with a copy of family preparedness plans and encourage all families to complete or update their family preparedness plan at the beginning of each year.
 - The Immigrant Legal Resource Center’s *Step-by-Step Family Preparedness Plan* is available in English, Spanish, and Chinese at <https://www.ilrc.org/step-step-family-preparedness-plan>.
 - To help staff work with families on their family preparedness plans, the Immigrant Legal Resource Center’s *Train-the-Trainers Material for Family Preparedness Planning* is available at <https://www.ilrc.org/step-step-family-preparedness-plan>.

- The **(facility)** shall permit children and families to update children's emergency contact information as needed throughout the year, and provide alternative contacts if no parent or guardian is available.
 - The **(facility)** shall ensure that families may include the information of an identified trusted adult as a secondary emergency contact in case a student's parent or guardian is detained.
 - The **(facility)** shall communicate to families that information provided within the emergency cards will only be used in response to specified emergency situations, and not for any other purpose.
- In the event a child's parent or guardian has been detained or deported by federal immigration authorities, the **(facility)** shall use the child's emergency card contact information and release the child to the person(s) designated as emergency contacts. Alternatively, the **(facility)** shall release the child into the custody of any individual who presents a Caregiver's Authorization Affidavit on behalf of the child. The **(facility)** shall only contact Child Protective Services if the **(facility)** personnel are unsuccessful in arranging for the timely care of the child through the emergency contact information that the school has, a Caregiver's Authorization Affidavit, or other information or instructions conveyed by the parent or guardian.