

# **SCHOOL BOARD WELCOMING SCHOOLS TEMPLATE**

## **GUIDING PRINCIPLES AND BEST PRACTICES FOR WELCOMING SCHOOLS POLICIES**

School districts can and should reaffirm their commitment to serving as a welcoming environment for all students, regardless of immigration status; clarify their policies related to information sharing with law enforcement agencies such as ICE; and develop clear procedures to follow in the event of immigration enforcement actions on or near school property, which take into account students' constitutional rights. These are all important elements of a "Welcoming Schools" policy.

U.S. Immigration and Customs Enforcement ("ICE") has [rescinded its previous "sensitive locations" policy](#), which limited immigration at schools and certain other locations, but this does not change immigrant children's constitutional right to an education. It also does not alter a school district's legal responsibility toward its students or legal rights regarding control over who enters its property.

Some Pennsylvania school districts may already have Welcoming Schools policies in place that they wish to reevaluate and strengthen, while others may be considering adopting Welcoming Schools policies for the first time. In either case, districts should consider the following guiding principles and best practices when passing or fortifying their policies:

1. **Establish clear policies on who has the authority to respond to requests for student information – and ensure that all district employees, contractors, volunteers, school resource officers, vendors, and others, are trained on them:** If a law enforcement agency such as ICE requests information from a school official, instruct all district employees or agents to send the request to the Superintendent and legal department, who can make the final decision as to whether and how to comply with the request. Improperly providing information to law enforcement can result in legal consequences under the Family Education Rights and Privacy Act ("FERPA").

**Do not collect any personal information that you do not actually need:** Do not inquire into the immigration or citizenship status of students or their parents. And where it is necessary to gather certain forms of identifying information such as to establish a child's age or residency, state law accepts a broad range of forms of documentation and state guidance instructs that schools should be flexible and consider what is reasonable in light of a family's circumstances as some parents may not have a drivers' license to establish residency for example. In addition, schools are prohibited from inquiring into a child's immigration status and requiring documents such as a passport or social security number.

2. **Do not let immigration enforcement agents enter non-public areas of school grounds and buildings, absent a signed judicial warrant:** Schools can protect their students by clearly identifying and demarcating which areas in schools (if any) are open to the public and which are not. Any requests from immigration enforcement agencies to enter non-

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public areas should be referred to the Superintendent and legal department to make a decision whether to grant access. The Superintendent and legal department should ask to see a warrant or subpoena and only grant entry when law enforcement officers have a *judicial* warrant or subpoena (signed by a federal judge). ICE often only has what is known as an “administrative warrant” or “agency warrant” or order signed by an immigration judge which does not grant them legal authority to access a non-public space without consent. Here are [examples of invalid administrative warrants](#) and examples of the difference between a [judicial warrant and an administrative warrant](#). Know how to spot them!

3. **Document any actions taken by immigration agents:** Schools should make copies of officers’ identification documents, as well as any warrants or subpoenas - and also promptly take written note of the officers’ request. If the immigration agents violate any students’ rights, exceed their lawful authority, or otherwise act improperly, this documentation can help create a record. An immigration attorney may be able to use this documentation to suppress information gathered during the encounter with immigration enforcement in immigration court.
  
4. **Ensure that all district employees, contractors, vendors, consultants, volunteers, security, and school resource officers understand and comply with these policies – and communicate these policies to parents (in multiple languages, where possible):** Post these policies publicly and promptly train all school employees, contractors, vendors, consultants, volunteers, security, and resource officers on them. And make the policies available to parents in languages spoken at home so that they can understand their – and their children’s – rights.

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## **SCHOOL BOARD OF EDUCATION**

### **WELCOMING SCHOOLS RESOLUTION & SAFE ZONES POLICY**

**WHEREAS**, it is the right of every child, regardless of immigration status, to access a free public K-12 education and [SCHOOL DISTRICT or CHARTER SCHOOL] welcomes and supports all students; and

**WHEREAS**, [SCHOOL DISTRICT or CHARTER SCHOOL] has a responsibility to ensure that all students, regardless of immigration status, who reside within its boundaries safely access a free public K-12 education; and

**WHEREAS**, through its policies and practices, the [DISTRICT/CHARTER SCHOOL] has made a commitment to provide a quality education for all students, which includes a safe and stable learning environment, means of transportation to and from school, effective classroom instruction, and ensuring school attendance; and

**WHEREAS**, this School Board recognizes that a climate of fear and stress among students and parents runs counter to the policy of providing a safe space for learning to all children; and

**WHEREAS**, in compliance with federal and state law, including 22 Pa. Code 11.11(d) the [DISTRICT/CHARTER SCHOOL] does not inquire into the immigration status of any student; and

**WHEREAS**, the Family Education Rights and Privacy Act (“FERPA”) protects the privacy of student education records and prevents schools from releasing student information without consent; and

**WHEREAS**, federal immigration law enforcement may seek to enter school property, whether by surveillance, interview, demand for information, arrest, detention, or any other means; and

**WHEREAS**, such activities harmfully disrupt the learning environment to which all students, regardless of immigration status, are entitled and significantly interfere with the ability of all students to access a free public K-12 education; and

**WHEREAS**, there is no written state or federal law that mandates local school districts to assist federal immigration enforcement agencies in the enforcement of immigration laws; and

**WHEREAS**, under the Tenth Amendment of the United States Constitution, the federal government cannot coerce localities to enforce immigration laws; and

**WHEREAS**, this School Board recognizes that its duty to uphold students’ rights, including their Fourth Amendment rights against unreasonable searches and seizures and Fifth Amendment right against self-incrimination; and

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**WHEREAS**, parents, students, and school staff have expressed fear and confusion about the physical and emotional safety of all students and barriers to exercising their right to access a free public K-12 education through schools and programs; and

**AND WHEREAS**, our school community wants to be a source of support and learning and to implement policies and protocols to support student learning, which includes students' emotional health; and

**NOW, THEREFORE, BE IT RESOLVED** that [DISTRICT/CHARTER SCHOOL] shall follow the Policy and Protocol, now incorporated into this Resolution, to ensure that the [DISTRICT/CHARTER SCHOOL] meets its duty to provide all students, regardless of immigration status, access to a free public K-12 education.

**BE IT FURTHER RESOLVED**, that:

- (1) [DISTRICT/CHARTER SCHOOL] declares its schools to be Safe Zones for all students where all students shall be safe to learn, thrive, and as needed, seek information and support related to immigration law enforcement that may occur at school;
- (2) Within 10 school days of the date of this Resolution, [DISTRICT/CHARTER SCHOOL] shall designate a Rapid Response Team to meet as needed to address issues which may arise regarding immigration enforcement, including policies and trainings on what to do if ICE agents or others engaged in immigration enforcement seek to enter school buildings and/or request student records or in the event a minor child attending school is deprived of adult care, supervision, or guardianship due to a federal law enforcement action, such as detention by ICE or a cooperating law enforcement agency;
- (3) It is the policy of [DISTRICT/CHARTER SCHOOL] not to allow an ICE agent or other person engaged in immigration enforcement to enter non-public areas of a school, school property, or a school-sponsored event, without a judicial warrant and to ensure that educational settings are not disrupted;
- (4) It is the policy of this [DISTRICT/CHARTER SCHOOL] that only a designated Chief School Administrator, (Superintendent/CEO or Designee) ("Administrator") shall respond to any requests by ICE or other agencies engaged in immigration enforcement.
- (5) Upon notification, the Administrator shall request and review all documentation and identifications presented by Immigration Agents and shall immediately contact the attorney for the [DISTRICT/CHARTER SCHOOL] to determine, upon advice of counsel, whether to permit access to a non-public area of a school. A written legal determination based on advice of counsel must be made before any Immigration Agent enters a non-public area of any school;

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- (6) It is the policy of this [DISTRICT/CHARTER SCHOOL] that no data shall be collected with respect to students' immigration status or place of birth except in the case of a foreign exchange student and only when such information is required to be provided by law;
- (7) It is the policy of this [DISTRICT/CHARTER SCHOOL] , consistent with state law, that parents or guardians may establish a child's age and residency using a range of documents, and that schools are not permitted to inquire into the immigration status of students by requesting a U.S. passport or social security number and must be flexible in requesting documents to establish residency. School administrators shall create a list of acceptable alternative documents to establish age and residence within 20 days of this Resolution;
- (8) It is the policy of this [DISTRICT/CHARTER SCHOOL] to protect student privacy and ensure that student records are protected from disclosure in accordance with the Family Educational Rights and Privacy Act ("FERPA"). To that end, should ICE or other immigration law enforcement agents request any student information, the request shall be referred to the designated Administrator who shall contact legal counsel for advice. Based on advice of counsel and in compliance with all applicable FERPA protections, constitutional rights of students and parents, and other limitations on disclosure, a determination shall be made as to whether to disclose requested information. This review shall be conducted and a legal opinion rendered in writing before any production of information is made to law enforcement agents.
- (9) The provisions of this Resolution shall apply to all individuals within the control of, or acting on behalf of, this District, including, but not limited to, District employees, after-school providers, contractors, consultants, volunteers, vendors, school security officers, School Resource Officers acting under contract with [DISTRICT/CHARTER SCHOOL], or service providers. Such individuals shall be notified of this Resolution within 10 days and required to abide by it.
- (10) The Board hereby directs the Superintendent to review District policies and practices that may be impacted by this new policy to determine if revisions are necessary, including policies relating to bullying and harassment of students.
- (11) The Board further directs the Superintendent/CEO to communicate to staff, students, and parents the importance of this Resolution, and provide training to all individuals within the control of, or acting on behalf of, this District on its implementation. To that end, this Resolution shall:
  - a. be posted at every school and distributed to all staff, students, and families using usual means of communication.

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- b. shared with any after-school providers and other vendors and service providers who work in schools and contract with the [DISTRICT/CHARTER SCHOOL].

This Resolution shall be translated into the all the languages spoken by students at home.

The Superintendent/CEO shall report back on compliance with this Resolution to the Board at its next meeting.

[FOLLOWED BY SCHOOL BOARD SIGNATURE PAGE]

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## **SAFE ZONES ADMINISTRATIVE POLICY & PROTOCOL**

### **GOVERNING ACCESS TO SCHOOLS, STUDENT PRIVACY, AND IMMIGRATION ENFORCEMENT ACTIVITIES**

**PURPOSE:** This protocol is intended to implement the **Welcoming Schools Resolution No. \_\_\_\_\_, adopted on \_\_\_\_\_**. The protocol seeks to ensure the physical and emotional safety and uninterrupted learning of all our students and delineates a common process for addressing immigration enforcement activities.

**DEFINITIONS:** As used in this policy, the terms below have the following meanings:

“Immigration Agent” means the U.S. Immigrations Enforcement Office (ICE), state or local law enforcement agencies acting on behalf of ICE, or agents or officers for any federal, state, or local agency attempting to enforce federal immigration laws.

“Safe Zones” means any non-public areas of a school, school property, or a school-sponsored event associated with a [DISTRICT/CHARTER].

#### **POLICY**

1. School personnel shall not allow any Immigration Agent to access to a Safe Zone except as permitted by this protocol and shall direct all such inquiries to Chief School Administrator (Superintendent or CEO) or their Designee (hereinafter “Administrator”).
2. The Administrator alone shall address any attempts by an Immigration Agent to enter any school area or obtain information.
3. The Administrator shall consult with legal counsel, \_\_\_\_\_ by calling \_\_\_\_\_ prior to taking any action to address efforts by an Immigration Agent to enter a Safe Zone or obtain information from a school.

#### **SAFE ZONES PROTOCOL**

4. In the event that an Immigration Agent seeks access to a Safe Zone, the following protocol shall apply.
  - a. If approached or questioned by an Immigration Agent, school personnel shall immediately contact the designated Chief School Administrator. Thereafter, school personnel shall also attempt to contact the parents or guardians of any student who is identified as the subject of such an inquiry.

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- b. The Superintendent or other Chief Administrative Officer shall document and comply with the following process in response to any requests to enter a school site:
  - i. Request official identification from the officers or agents and photocopy it;
  - ii. Request a judicial warrant and photocopy it or text it to legal counsel.
  - iii. Request the agents' contact information;
  - iv. Provide the agents with a copy of the Welcoming Schools Resolution;
  - v. If no warrant is presented, explain that you cannot permit access to a school site in the absence of a judicial warrant signed by a judge;
  - vi. If an agent provides a statement of other grounds for requesting access, take contemporaneous notes;
  - vii. Contact legal counsel for the District/Charter School and relay all of the information provided to you;
  - viii. Request and retain notes of the names of any students identified by the agent;
  - ix. If school personnel have not yet contacted the students' parents or guardians, do so.
- c. If the agency requests student records, ask for the reasons supporting any request for records. Explain that student records are confidential and cannot be disclosed except in limited circumstances and that all inquiries must be reviewed by legal counsel.
- d. **Do not** attempt to provide your own information or provide any information about students, their schedules, whereabouts, etc.
- e. **Do not** make statements without legal counsel present;
- f. With regard to any incident involving immigration enforcement activities or threats of engagement, school-wide resources shall be made available to all students and staff to support any mental and emotional health needs and to



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repair school climate relating to such engagement within the school community.