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Photo Credit: Griselda Nevarez/Arizona Center for Investigative Reporting

# Immigration in a New Administration: What Educators Need to Know

April 5, 2017

Panorama Village Building, Room A

# Why Are We Here?



- During Sen. Chuck Schumer's US-Mexico border press conference, 13-year-old Fatima Avelica opens up about her father being arrested by ICE on her way to school.

# The Goal of the Event

Provide the basics of immigration law and policy

Provide information about relevant federal standards and educators' rights and responsibilities in the classroom

Provide resources on how to work with immigrant students and their families.

# Center for Immigrants' Rights Clinic





CENTER FOR EDUCATION AND CIVIL RIGHTS



**PennState**  
College of Education

- Works to promote racial and ethnic equality in education through work three areas:
  - **Generate and Disseminate Knowledge**
  - **Support Networks of Collaboration**
  - **Facilitate Change**



**PennState Law**

# Disclaimer

- This presentation does NOT serve as legal advice.
- If you have an individual question, please contact the clinic or consult an immigration attorney.

# Immigration and Nationality Act



Photo Credit: CBS News

# Who are the key players?

- **Department of Homeland Security**
  - Immigration and Customs Enforcement (ICE)
  - Customs and Border Protection (CBP)
  - United States Citizenship and Immigration Services (USCIS)
- **Department of Justice**
  - Executive Office for Immigration Review
  - Office of Immigration Litigation
  - Civil Rights Division
- **Department of Education**



Photo Credit:  
DHS,  
[www.dhs.gov](http://www.dhs.gov)



Photo Credit: DOJ,  
[www.justice.gov](http://www.justice.gov)



# What are the Key Terms?

- “Alien”
- Nonimmigrant (temporary)
- Immigrant (permanent)
- Lawful Permanent Resident



PHOTO CREDIT:  
DAILY

# How is Immigration Law Enforced?

- Arrest
- Interrogation
- Detention
- Court Hearing
- Removal



Photo Credit: Blog Café con Leche

# The Administration's Executive Orders



Seal of the President of the United States

# The Executive Orders On Enforcement

- Enhancing Public Safety in the Interior of the United States
- Border Security and Immigration Enforcement Improvements



Photo credit: Latino USA

# Scope of Enforcement Priorities

*“Arguably, an undocumented parent living in the United States for several years and taking care of children who have formal or permanent immigration status, or United States citizenship, could be targeted as a person “in violation of the immigration laws,” whereas before this same person would have more clearly been eligible for prosecutorial discretion and not been labeled as a priority.*

*Similarly, a student who overstays her visa and then jaywalks may be treated as an enforcement priority because jaywalking constitutes a chargeable offense.”*

# Executive Order on Travel Ban (signed March 6, 2017)

- Suspends entry to the United States of anyone who is a national of one of six “designated” countries – Iran, Libya, Somalia, Sudan, Syria, and Yemen for 90 days.
- Suspends US Refugee program for 120 days
- Cuts refugee numbers by one-half (50,000 down from 110,000)



Photo Credit: News2Share

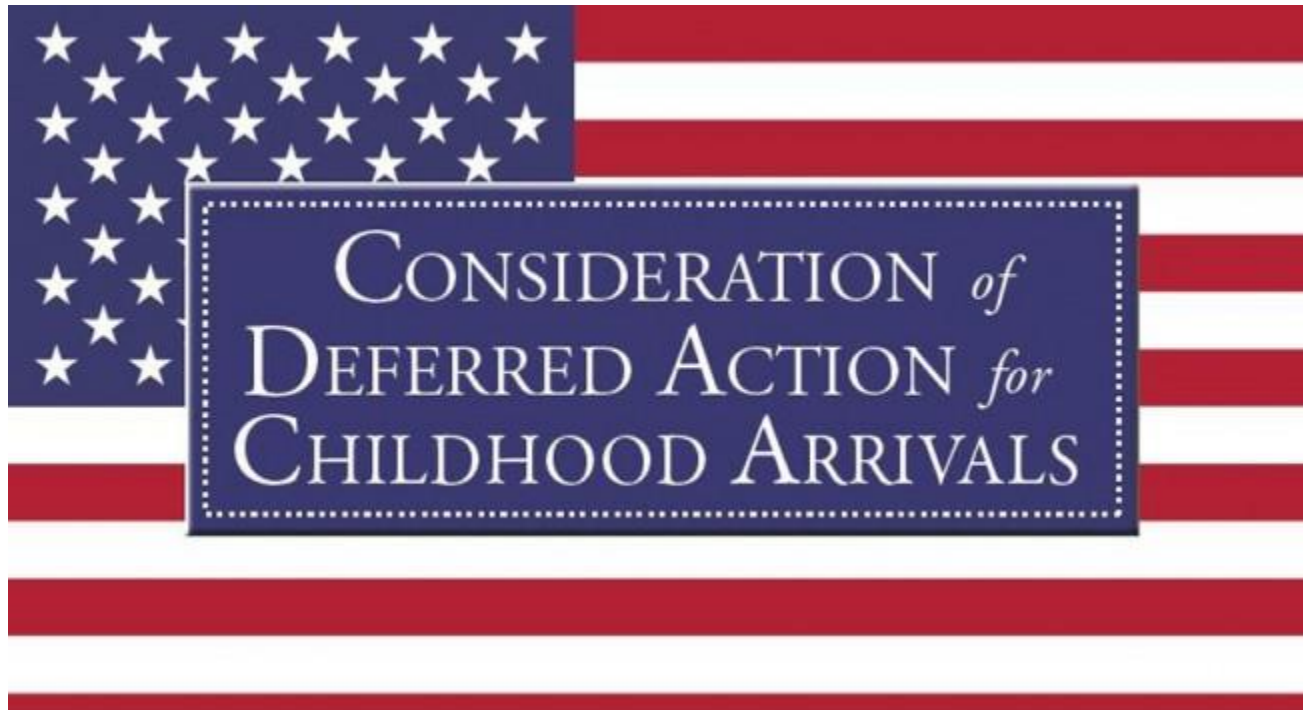


Photo Credit: Asian Journal

## **BENEFITS**

- Two year renewable period of deferred action from deportation
- Eligible for a work permit

# Sensitive Locations: Where Immigration Enforcement Cannot Take Place

- **Schools** (e.g., preschools, primary schools, secondary schools, post-secondary schools, colleges and universities);
- **Hospitals;**
- **Places or Worship** (e.g., churches, synagogues, mosques, or other institutions of worship, such as buildings rented for the purpose of religious services);
- **Public demonstrations** (e.g., march, rally, or parade).



Hospitals

Hospitals



Schools

Schools (all levels from preschool through college, also vocational and trade schools)



Places of Worship

Places of worship or buildings rented for religious services



Funerals

Public religious ceremonies, such as funerals



Weddings

Public religious ceremonies, such as weddings



Demonstrations

During a march, rally, parade, or other public demonstration

Photo Credit: Catholic Legal Immigration Network, Inc.



# Who may be vulnerable?



Photo Credit: EdVotes.org



Photo credit: CNN



Photo Credit: Idreamz Media

# Legal Basis for Undocumented Students' Access to K-12 Schools

- Titles IV & VI of 1964 Civil Rights Act
  - Prohibit discrimination on the basis of race, color, and national origin in public schools and institutions receiving federal funds
- U.S. Supreme Court: *Plyler v. Doe* (1982)
  - Undocumented children have the same right to free public education as U.S. citizens and permanent residents
  - Public schools and school personnel are prohibited from adopting policies or taking actions that would deny students access to education based on immigration status

# Prohibited Practices under *Plyler*

- **Barring access** to a student on basis of legal status or alleged legal status
- Treating students disparately for residency determination purposes on the basis of their undocumented status
- **Inquiring** about a student's (or student's parents) **immigration status**, including **requiring documentation** of a student's legal status at initial registration or at any other time

# Dear Colleague Letter, 2014

- “The immigration status of a student (or his or her parent or guardian) is irrelevant to that student’s entitlement to an elementary and secondary public education.”
  - Review information requested of families to reduce “chilling effect”
  - Review enrollment data for sharp drops by certain groups of students that may suggest barriers to enrollment that should be investigated
- A district may not deny enrollment to a student if he or she (or parent or guardian) chooses not to provide social security no.
  - If, as for one example, a school/district must state that disclosure is voluntary, give rationale for such request, & explain how it will be used.
  - Requests for information like social security nos. must be done uniformly.

# FERPA & Immigration Status

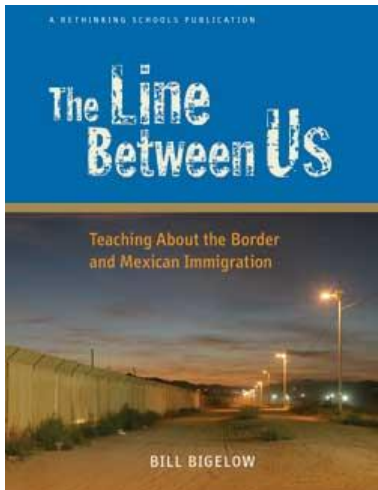
- Generally, written consent is needed before providing identifiable information from students' educational records
- There are “narrow, enumerated circumstances under which Federal immigration laws require or permit a school district to provide specific information about a student to another Federal, state, or local government entity.”
- There are no specific exemptions to FERPA that would allow for records to be released to ICE agents.
  - Under FERPA, districts may release what they have designated as “directory information” but they do not have to release students' names or attendance in school to ICE officers.

# A Few Additional Notes

- Responsibility for compliance with federal law in this area rests with states and districts, and may require training to ensure that educators are not inadvertently preventing students from exercising their right to an education.
- The federal guidance recommends that districts proactively notify all parents of the right to send their child(ren) to public schools.
  - This could include outreach to specific communities to inform them that all residents in a district can attend the district's schools.
- All students have the right to be safe at school, and schools should take appropriate action to prevent bullying or harassment of students and families on their actual or perceived race or national origin.

# Ways Schools Can Express Support to Vulnerable Students and Their Families

- Letters to Parents
- Resolutions (Institutional Policy)
- Guidance for educators and administrators on how to help their student within the bounds of the law
- Statement of Diversity and Inclusivity
- Safety Planning



# Classroom Curriculum

- **Guiding principle:** Teachers should always be able to justify classwork in the context of their discipline's curriculum. Age-appropriateness is also a consideration. Consult Board policy and local collective bargaining agreements.
- A few resources:
  - [The Line Between Us](#)
  - [Videos about immigration-related topics for curriculum use](#)
  - [List of classroom resources from Teaching Tolerance related to immigration](#)
  - [Teaching resources about Central America](#)



## Other resources

- What to say to students? From *Teaching Tolerance*:
  - Your voice—and other students’ voices—matter.
  - I’m here for you.
  - You have the right to be in this school, learning, no matter where you are from.
  - Here are the facts.
  - There is a lot happening right now; it’s OK to be confused.
- Also use anti-bullying strategies, be on the lookout for signs of trauma, encourage courage, and combat Islamophobia in your school or classroom.

# Questions?



Picture Credit: BoBaa22 (Shutterstock)

# Thank you!!

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