



THE SCHOOL-TO-DEPORTATION PIPELINE

What you need to know about the phenomenon that is pushing immigrants and youth of color out of school and into prison, detention and deportation proceedings. PLUS the questions every parent and advocate should be asking their school today.

The School-to-Deportation Pipeline: Things You Should Know



Immigrant students have a right to public education.

Like every U.S. citizen, every immigrant young person has a right to attend public school in grades K-12. *Plyler v. Doe*, 457 U.S. 202 (1982).

The school-to-deportation pipeline is not new. The school-to-deportation pipeline is part of a larger trend within the school-to-prison pipeline that disproportionately harms Black and Brown youth. Immigrants, undocumented students and youth of color are pushed out of school and into the criminal justice system, detention and potentially deportation proceedings thanks to harsh discipline policies and practices, school policing and heightened surveillance. It is another aspect of over-policing communities of color.

School policies protecting student rights are better than unenforceable resolutions. While a “safe” or “welcoming” resolution in your school is not legally enforceable, it is better to have a policy in place that protects immigrants and other students and limits disruption to students, school personnel and school activities. What that policy looks like will depend on the unique needs of the community.

***This document does not constitute or offer legal advice. For specific questions, please consult with an attorney about your individual situation.**

ICE warrants ≠ arrest warrants. If Immigration and Customs Enforcement (ICE) shows up at your school with an ICE administrative warrant, this is not a document that can order school personnel to help ICE in its enforcement actions. An ICE warrant differs from an arrest warrant from local law enforcement or a federal arrest warrant. Unlike ICE warrants, a valid arrest warrant must be signed by a judge or a magistrate.*



ICE uses gang information to detain youth. In recent months, ICE has used information about immigrant youth and alleged “gang affiliation” to detain young people. Some of this information likely comes from School Resource Officers (SROs). Schools in New York and Maryland have assigned additional police to schools where they suspect “gang” activity. Youth of color, especially Latinx youth, are disproportionately affected by this label of “gang affiliation.” This is racial profiling and it is wrong.

*For more information, see Immigrant Legal Resource Center, “ICE Warrants and Local Authority: What is an ICE administrative warrant and what legal authority does it confer?” May 2017 <http://bit.ly/2AXxE17>.

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There are national standards for the treatment, detention and release of immigrant minors 18 and younger. National standards apply to youth in Department of Homeland Security and Office of Refugee and Resettlement custody. Immigration agencies (ICE and U.S. Customs and Border Protection) must follow these policies because of a lawsuit and a consent decree called the Flores Settlement. *Flores v. Reno* Settlement Agreement (Case No. CV 85-4544-RPJ (Px)).

Detained immigrant students have rights. Students have the right to remain silent, the right to ask to speak to a lawyer and the right to call someone they trust to let them know they have been apprehended by ICE, based upon the 5th Amendment of the U.S. Constitution.



SCHOOL-TO-DEPORTATION PIPELINE FREQUENTLY ASKED QUESTIONS

Q: What exactly is the school-to-prison pipeline?

A: The school-to-prison pipeline is a national trend in which various K-12 policies and practices directly and indirectly push students – particularly students of color – out of school and into juvenile detention, prison and the criminal justice system. These practices include zero tolerance and harsh discipline policies, and practices ranging from suspensions, expulsions, arrests, hyper-surveillance, police presence in schools, underinvestment in public schools and high-stakes testing. For immigrants and undocumented youth, school pushout can result in detention and deportation.

Q: I thought schools were safe from ICE because they are designated as “sensitive locations.” What does that mean?*

A: “Sensitive locations” are locations where ICE has said it would not conduct immigration enforcement including schools, churches and hospitals. The term “sensitive locations” comes from a 2011 ICE memo that the current administration has not rescinded.

Q: Does a “sensitive location” designation mean that ICE will never enter a school?

A: No. Because the memo is a policy and not a law, ICE can eliminate it at any time. Even if it does not eliminate the policy, ICE may still conduct an enforcement action in a school if there are “exigent circumstances.”

*See Memorandum from John Morton, Director, U.S. Immigration & Customs Enforcement, “Enforcement Actions at or Focused on Sensitive Locations” (Oct. 24, 2011), <http://bit.ly/2AQq6fK>

SCHOOL-TO-DEPORTATION PIPELINE FREQUENTLY ASKED QUESTIONS

Q: What are “exigent circumstances?”

A: “Exigent circumstances” refers to emergency situations when ICE is allowed to enter “sensitive locations” without permission from ICE headquarters. These situations include: threats to national security or terrorism, an imminent risk of harm to a person or property, pursuit of a dangerous felon or other threat to public safety, or imminent destruction of evidence.

Q: Can ICE request access to a public school and interview or take a student into custody?

A: While a student attends school, the school has some custodial obligations. ICE can only interview a student in school or take them into custody if they have a valid warrant signed by a judge or magistrate. ICE administrative warrants are insufficient.



SCHOOL-TO-DEPORTATION PIPELINE

FREQUENTLY ASKED QUESTIONS

Q: What is an ICE warrant?

A: An ICE warrant is not a real warrant. It is an administrative form – something issued by ICE itself and directed at ICE agents. It is NOT the same as a criminal arrest or search warrant, which is reviewed by independent parties and signed by a judge.*

Q: Can ICE or other agencies from the Department of Homeland Security ask for documents from a school?

A: Generally, NO. There is a federal school privacy law for young people called the Family Education Rights and Privacy Act (FERPA). In addition, your state may also have additional privacy laws for school records. Parents or legal guardians must give permission to access school records for students under 18 years old. Generally, a parent or legal guardian can refuse access, but there may be some exceptions. There may be some information that the school is collecting that is not protected by FERPA. Find out what data your school is collecting. ICE must have a valid subpoena to obtain information and records from a school. Please note: if your school has School Resource Officers (SROs), the SROs may have access to records depending on what agreement or memorandum of understanding the district has with the police department. Check school board policy about the sharing of information with police where the school district has its own police department.

*See Immigrant Legal Resource Center, "What is an ICE administrative warrant and what legal authority does it confer?" May 2017, <http://bit.ly/2AXxE17>

SCHOOL-TO-DEPORTATION PIPELINE

FREQUENTLY ASKED QUESTIONS

Q: How can I find out who is in a gang database?

A: Unfortunately, it is almost impossible to know who is in a gang database and currently, there is no way to challenge inclusion in the database. California is the only state with a law that allows people to know if they are in the gang database with a process to challenge it. This change in the law in California came after considerable advocacy about problems with gang databases including unreliability and racial profiling. Often people are included in a gang database because they live in an area that allegedly has a lot of gang activity, live in the same house as someone who is in a gang, wear a certain type of sneaker, draw certain symbols and other problematic reasons that disproportionately affect Black and Brown youth.



*Youth Justice Coalition, *Tracked and Trapped: Youth of Color, Gang Databases, and Gang Injunctions*, December 2012, <http://bit.ly/2zMsCXo>

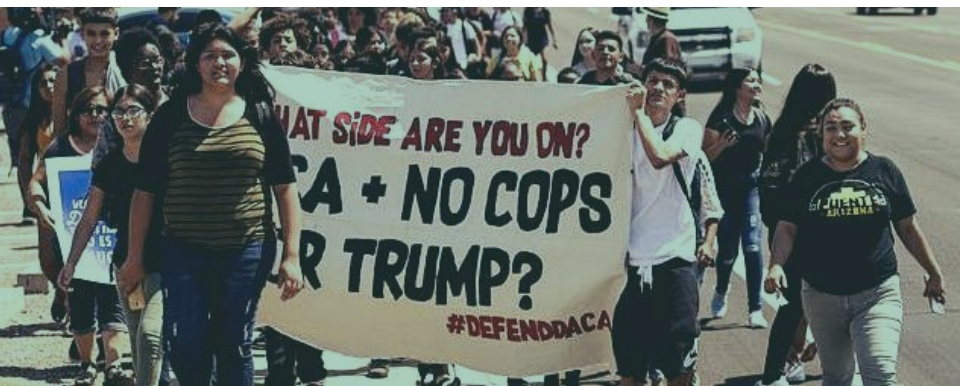
SCHOOL-TO-DEPORTATION PIPELINE FREQUENTLY ASKED QUESTIONS



**Q: HOW CAN I GET POLICE
OUT OF MY SCHOOL?**

**A: Connect with Advancement Project
at info@advancementproject.org!**

TAKE ACTION



QUESTIONS TO ASK YOUR SCHOOL TODAY

- Does my school district have a policy or process in place if Immigration and Customs Enforcement (ICE) shows up at school?
- Is there is a “safe” or “welcoming” resolution at my school? Are school employees trained on the policy? Is the training conducted with input from community partners?
- What information does the school collect that may be exempt from Family Educational Rights and Privacy Act (FERPA) protections?
- Do School Resource Officers share information with a state or federal gang taskforce?
- Do School Resource Officers get information from a gang database?
- Do School Resource Officers input information into a gang database?
- Are parents/guardians and students able to obtain a copy of their education file to see if it contains incorrect information?
- Am I able to challenge information in my education file identifying me as “gang affiliated?” Will I be granted an opportunity to be heard?