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“IMMIGRATION POLICY 101” **WHAT MIGRANT EDUCATORS NEED TO KNOW**

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Executive Director, Migrant Legal Action Program

AMET Conference
South Padre Island, Texas
November 2018

- I. Background/Overview of the Issues
- II. ABCs of U.S. Immigration
- III. Family-Sponsored Immigration
- IV. “Adjustment of Status” for Undocumented Persons – old §245(i) program
- V. Deferred Action for Childhood Arrivals (DACA)//DACA Renewals
- VI. Current Crisis/Current Needs/Avoiding Scams
- VII. Consequences of the failure to pass Immigration Reform legislation: State and Local Anti-Immigrant Laws/Ordinances (Hazelton, PA; Farmers Branch, TX; Oklahoma; Arizona; Georgia; Alabama; and recently the State of Texas)
- VIII. State and Local Law Enforcement of Federal Immigration Laws: Can local police stop anyone and ask for immigration documents?
- IX. Practical Issues for Immigrants: Enforcement at Home and Work
- X. Access to Public Schools (K-12)
- XI. Immigrants and Government Benefits : Citizen Children/”Public Charge”

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- XII. Current Enforcement Policies
- A. Border Enforcement
 - B. Arrests/Releases/Deportations -- “Sensitive Locations” Memo, School Records (FERPA)
 - C. Secure Communities Program
 - D. 287 (g) Program
 - E. E-Verify
- XIII. Questions

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The A,B,Cs of U.S. Immigration

What is an Immigrant? An immigrant is a foreign-born individual who has been admitted to reside permanently in the United States as a Lawful Permanent Resident (LPR).

How Do Immigrants Get Admitted to Permanently Reside Here? Typically a foreign-born individual seeking to become an LPR can attain legal status in one of two ways:

- Through **family-sponsored immigration**, a U.S. citizen can sponsor her spouse, foreign-born parent (if the sponsor is over the age of 21), minor and adult children, and brothers and sisters. A lawful permanent resident can sponsor her spouse, minor children, and adult unmarried children.
- Through **employment-based immigration**, a U.S. employer can sponsor someone for a specific position where there is a demonstrated absence of U.S. workers.

A small number of **diversity visas** are also awarded through a special lottery to individuals from specifically-designated countries.

What is a refugee? A person *outside* of the United States who seeks protection on the grounds that he or she fears persecution in his or her homeland is a **refugee**. To attain refugee status, the person must prove that he or she has a "well-founded fear of persecution" on the basis of at least one of five specifically-enumerated and internationally-recognized grounds. Those grounds include the person's ① *race*, ② *religion*, ③ *membership in a social group*, ④ *political opinion*, or ⑤ *national origin*.

A person who has *already entered* the United States, and who fears persecution if sent back to his country, may apply for **asylum** here. Once granted asylum, the person is called an "**asylee**." Like a refugee, an asylum applicant must also prove that he has a "well-founded fear of persecution" based on the same enumerated grounds.

Both refugees and asylees may apply to become LPR's after one year.

What is an Undocumented Immigrant? An undocumented immigrant is a person who is present in the United States without the permission of the U.S. government. Undocumented immigrants enter the U.S. either:

- Illegally, without being inspected by an immigration officer, or by using false documents; or
- Legally, with a temporary visa, and then remain in the U.S. beyond the expiration date of the visa.

What are Non-Immigrants? Non-immigrants are individuals who are permitted to enter the U.S. for a period of limited duration, and are given only temporary visas. Some non-immigrant (temporary) visas are given to: students, tourists, temporary workers, business executives, and diplomats.

What is a Naturalized Citizen? Lawful permanent residents are eligible to apply for U.S. citizenship through a process called **naturalization**. To qualify to naturalize, applicants must reside in the U.S. for 5 years (3 if they are married to a U.S. citizen) demonstrate a knowledge of U.S. history and government, show they have committed no serious crimes, have paid their taxes, are of "good moral character," and demonstrate that they understand, speak, and write ordinary English.

Personal Responsibility and Work Opportunity Reconciliation Act of 1996

(Welfare Reform Law)

signed into law on August 22, 1996

Illegal Immigration Reform and Immigrant Responsibility Act of 1996

(Immigration Reform Law)

signed into law on September 30, 1996

Balanced Budget Act of 1997

(Budget Act)

signed into law on August 5, 1997

WHAT THESE LAWS DO NOT DO:

1. Make legal immigrants immediately deportable if they participate in federal or state funded programs.
2. Deny all legal immigrants access to federal, state, and local funded programs.
3. Deny undocumented children the right to receive a free public education.

Facts on Family-Sponsored Immigration

Family-Sponsored Immigration is how U.S. citizens and lawful permanent residents bring family members from other countries to live permanently in the U.S. Citizens may only bring their spouses, unmarried children, parents (if the citizen is over 21 years), married children, and brothers and sisters (if the citizen is over 21 years). Lawful Permanent Residents (LPRs) may bring only their spouses and unmarried minor and adult children. Neither citizens nor LPRs may bring in more distant family members, such as aunts, uncles, and cousins.

Our immigration system divides the family members eligible for sponsorship into two tiers. "Immediate relatives" of U.S. citizens (excluding brothers and sisters, unmarried and married adult children) receive an unlimited number of visas each year. All others fall into the "family preference system" which has an annual maximum limit of 226,000 visas issued per year.

IMMIGRATION BASED ON FAMILY RELATIONSHIPS

<u>CATEGORY</u>	<u>U.S. SPONSOR</u>	<u>RELATIONSHIP</u>	<u>VISAS ALLOCATED</u>
Immediate Relative	U.S. Citizen	spouses, unmarried minor children and parents (if the U.S. citizen is 21 years or older)	not numerically limited (approximately 250,000 have been issued annually in recent years)
1st Preference	U.S. Citizen	unmarried adult children (21 years or older)	23,400 visas/year, plus any visas left from the 4 th Preference
2nd A Preference	LPR	spouses and minor children	87,900 visas/year
2nd B Preference	LPR	unmarried adult children (21 years or older)	26,300 visas/year
3rd Preference	U.S. Citizen	married adult children	23,400 visas/year, plus any left over from the 1 st and 2 nd Preferences
4th Preference	U.S. Citizen (21 years or older)	brothers and sisters	65,000 visas/year, plus any left over from the previous Preferences

Limits on Immigrants from One Country

In addition to the limits on the number of visas allocated to the different categories, U.S. law also limits the number of visas that may be issued to any one country in a year. This "per-country ceiling" (about 25,600 visas) represents the total number of family preference *and* employment-based visas that may be issued to nationals of a given country.

Income Requirements

To begin the process, the citizen or LPR must file a petition with the Immigration and Naturalization Service, seeking an "immigrant visa" for the family member. All citizens or LPRs wishing to petition for a family member must also earn at least 125% of the federal poverty level and sign a legally enforceable *affidavit of support* promising to support the immigrant financially. Petitioners are allowed to get another person to co-sign the affidavit of support on behalf of the immigrant to satisfy this financial requirement. (In this case the co-signer also assumes unlimited liability to support the immigrant.)

While this requirement was recently added to the law to ensure that immigrants will be provided for by family members and will not become a "public charge," for some hardworking but low paid Americans, it closes off an opportunity to reunite with close family members. For example, a domestic worker earning the *median income* for her occupation earns less than 125% of the federal poverty level for a family of two. Farm workers and bank tellers earning the *median income* for their occupations earn less than 125% of the federal poverty level for a family of three. A kindergarten teacher earning the *median income* for her occupation would not make the required income if she provided for a family of four. Though they may be hard working, these Americans are the ones who will most likely have trouble meeting the new income requirement.

WHEN VISAS ARE NOT AVAILABLE

The law requires that family preference visas be issued to eligible immigrants in the order the petitions are filed. When there are more applicants applying for visas in a preference category than there are visas available, the preference category is considered "over-subscribed." Applicants must then wait until a visa becomes available before they can immigrate to the United States. Currently, waits can be up to 20 years depending on the preference category and country. In most cases, family members must wait outside the United States until a visa is available, and thus remain separated from their families. Control over the order and numbers of visas granted in each preference category remains in effect despite the existence of a waiting list.

Sources:

Immigration and Nationality Act, 102d Cong., 2d sess., April 1992.

U.S. Department of State, Bureau of Consular Affairs, *Visa Bulletin*, no. 93, vol. VII (November, 1998).

Median income statistics for 1996 from the Bureau of Labor Statistics. 1998 Poverty level figures from the Department of Health and Human Services.

UNDERSTANDING DACA RENEWALS

Under USCIS' January 2018 Guidelines



WHO IS ELIGIBLE TO APPLY?

Individuals who were previously granted DACA

WHAT DOCUMENTS DO YOU NEED TO SUBMIT?

IF YOUR DACA WILL EXPIRE ON OR AFTER SEPTEMBER 5, 2016

- Form I-821D (Mark Renewal Request on Form)
- Form I-765
- Form I-765WS
- Copy of your prior work permit and/or DACA approval notice
- A check or money order for \$495 filing fee

IF YOUR DACA EXPIRED BEFORE SEPTEMBER 5, 2016

- Form I-821D (Mark Initial Request on Form)
- Form I-765
- Form I-765WS
- Copy of your prior work permit and/or DACA approval notice
- A check or money order for \$495 filing fee
- Evidence that you meet all DACA eligibility criteria

LEGAL SERVICES AND FINANCIAL GRANTS

To obtain free or low-cost legal
advice, visit www.immigrationlawhelp.org
To get a \$495 filing fee assistance grant, visit
www.IC4daca.org

IMMIGRATION ENFORCEMENT

Know Your Rights at Home and at Work

REVISED: January 2017

When may Immigration enter my home?

Immigration officers *may NOT* enter your home unless they have a “warrant.” A warrant is a document issued by a court or government agency. There are two types of warrant — one for when they are coming to *arrest* you, and another for when they have permission



from a judge to *search* your home. U.S. Immigration and Customs Enforcement (ICE) can issue arrest warrants, but only a court can issue a search warrant.

- ☑ If an officer knocks on your door, do not open it. Ask the officer through the closed door to identify himself. You can say, “Who are you with?” or “What agency are you with?”
- ☑ The officer might say that he is with “Department of Homeland Security” or “U.S. Immigration and Customs Enforcement.” The officer might name another agency. No matter what, keep the door closed. Through the closed door, ask the officer if he has a warrant.
- ☑ If he says “yes,” still do not open the door. Ask him to show you the warrant by slipping it under the door.
- ☑ When examining the warrant, look for your name, your address, and a signature. This can

help you decide whether or not the warrant is valid (true). The warrant will be in English. If you have trouble reading it or understanding it, get someone else in your house to help you read it or translate it, if possible.

- ☑ If the warrant does not look valid, you should return it under the door and say it is incorrect.
- ☑ If the warrant the officer shows you looks valid, look to see if it was issued by a court or by U.S. Immigration and Customs Enforcement (ICE).

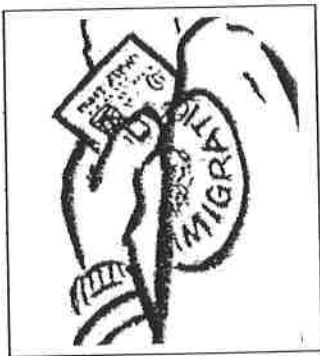
This factsheet was revised in Jan. 2017 in the following way: Graphic elements and contact information were updated.

LOS ANGELES (Headquarters)
3435 Wilshire Blvd. #108 – 62
Los Angeles, CA 90010
213 639-3900
213 639-3911 fax



WASHINGTON, DC
1121 14th Street, NW, Ste. 200
Washington, DC 20005
202 216-0261
202 216-0266 fax

- ☑ If the valid warrant was issued by a *court* and authorizes a search of your house, you should let the officer in the house.
- ☑ If the valid warrant looks like it was issued by *Immigration and Customs Enforcement (ICE)* but not a court, you have the right not to let the officer enter your house. If the warrant authorizes your arrest but not a search of your house, you may want to go outside to meet the officers but not let them in the house. This is especially important if you live with other people who might have immigration problems, because once you allow the officer into your house, he can ask questions of anyone else who is there, too.
- ☑ If you do talk to the officer (again, outside your house — do not let him in), do not answer any questions. Do not sign any papers. Tell the officer you want to talk to a lawyer before you say anything. Do not provide any kind of identification documents that say what country you are from. Make sure not to carry any false documents with you at any time.



ANOTHER WAY AN immigration officer can enter your home legally (besides if he has a valid warrant) is if you give the officer permission to enter. This is called giving the officer your “*consent*” to enter your home.

- ☑ If you open your door, or if the officer asks if he can come in and you say “yes,” you are probably consenting to his entering your home.
- ☑ The best thing to do is to keep the door closed and ask the officer to identify himself. Then ask to see a warrant. **DO NOT OPEN THE DOOR IF HE CANNOT SHOW YOU A WARRANT.**
- ☑ An officer *is NOT ALLOWED* to force you to consent to his entering your home. For example, if your house is surrounded by Border Patrol or Immigration cars with their lights flashing, and the officer is holding his gun as he asks for permission (your consent) to enter your home, and you say “yes” because you’re afraid, a court would probably not consider this to be valid consent.

How can I protect myself if Immigration comes to my house?

If you hear that Immigration has been asking questions about you at your job or if you learn that Immigration is conducting an investigation at your job, it is possible that officers may show up at your house.

- ☑ Make sure that someone you trust knows where you are, and that you know how to reach them in case of an emergency (if you have been detained by Immigration).
- ☑ You and your family or close friends should have the names and phone numbers of good immigration attorneys posted near the telephone at home so that they can call the attorney in case you are detained.

- In general, it is also a good idea to keep a copy of your important papers (birth certificate, any immigration papers, etc.) at the home of a friend or relative whom you trust and can call in case you are detained.

What should I do if Immigration comes to my workplace?

Immigration officers are not allowed to enter your workplace — whether it is a factory, store, high rise, farm, or orchard — without permission from the owner or manager. If an officer does get permission, the officer is free to ask you questions about your immigration status.

- You have a right to keep silent. In most states, you don't even have to tell the agent your name. Although you may want to provide your name only so your family or attorney can locate you.
- You also have the right to talk to a lawyer before you answer any questions. You can tell the officer, "I wish to talk to a lawyer," in response to any question the officer asks you.
- You do *not* need tell the immigration officer where you were born or what your immigration status is.
- You do not have to show the officer your papers or any immigration documents. If the officer asks you for your papers, tell the officer, "I wish to talk to a lawyer."

What can my union do?

If you belong to a labor union, there are ways it can help you. You should talk to your union representative about your concerns. If it would make you feel more comfortable, ask some of your co-workers to go with you to talk to your representative. Your union contract might have language that protects union members, such as an agreement with the employer that has one or more of the following provisions:

- The employer will not allow any Immigration officers to enter the workplace without a valid warrant signed by a federal judge or magistrate.
- The employer will immediately notify the union if the Immigration authorities contact the employer for any purpose so that the union can take steps to inform its members about their legal rights or to help them obtain legal assistance.
- The employer will allow lawyers or community advocates brought by the union to interview employees in as private a setting as possible in the workplace. The union might also have a legal plan, which provides workers with immigration attorneys.
- The employer agrees not to reveal the names, addresses, or immigration status of any employees to Immigration, unless required by law.
- The employer will not participate in any computer verification of employees' immigration or work authorization status.

How to respond if ICE questions you

CASA of Maryland, a group which works with the immigrant community in the Washington, DC area, has excellent material on its website on this issue. The materials, in both English and Spanish are found at

http://casademaryland.org/storage/documents/KYR%20booklet_English.pdf

http://casademaryland.org/storage/documents/RaidsMaterials_Spanish.pdf

The content of these materials are briefly summarized below:

- You have the right to remain silent or ask to speak to your lawyer, but do not lie to the officers or give them false documents.
- Do not give information about your immigration status if you are undocumented.
- If you are documented, always carry your documents and show them to the officers.
- Do not carry papers from another country.
- Show them your “know your rights” card, if you have one.
- You should ask to see a search warrant, if immigration officers knock on your door. You do not have to let officers into your home if they do not have one; if they do have one, make sure they only search where the search warrant says they can.
- Get the name and badge number of officers if they enter your house without a warrant, and get the name and phone number of any witnesses.
- They cannot arrest you without a warrant unless they have evidence that you are a non-citizen. You have the right to remain silent, so do not give them any evidence.
- Do not sign any documents you do not understand, and try to speak to a lawyer first.
- Call your attorney or a family member if you are arrested – you have the right to make a phone call.
- You also have the right to contact your consulate.
- Ask for bond to be released from jail, but to be released you must show you are not a flight risk or a danger.
- If you are arrested by the police, they must charge you with a crime or release you within 48 hours. But immigration can place a “detainer” on you, which gives them another 48 hours to pick you up. If you are held beyond that, then you should contact an attorney immediately.
- Make a plan for your family so some can take care of young children/elderly in case you are arrested or deported.
- Find an immigration attorney who specializes in deportation in advance, and have their contact information, just in case you need to speak to an attorney.

The National Immigration Law Center has an excellent document on its website about what to do if you are arrested or detained by immigration. That document can be found at http://www.nilc.org/ce/nilc/to_do_if_arrested_2007-08.pdf. It is attached here.

What to Do if You Are Arrested or Detained by Immigration

August 2007

Immigrants who are arrested or detained by Immigration have certain rights. These rights change, however, if you are arrested or detained at the border or in an airport. In these cases, you may have fewer rights.

You probably have more rights if you are arrested by Immigration at work, on the street, after a traffic stop, or at home. If you are arrested and detained, it is important that you keep calm, and remember the following things:

- ✗ You have the right to remain silent. You should ask to speak to a lawyer.
- ✗ Do not sign anything without first talking to a lawyer. You may be signing away your right to see a lawyer or a judge.
- ✗ Write down the name and telephone number of the deportation officer assigned to your case.
- ✗ Do not take “voluntary departure” (that is, do not agree to leave the United States) without first talking to a lawyer. Signing a voluntary departure agreement means that you won’t get a hearing, you will have to leave the U.S., and you may never be allowed to enter the U.S. again or get legal immigration status.
- ✗ Do not sign “stipulated orders of removal” without first talking to a lawyer. Signing a stipulated order means that you waive your rights to a hearing before a judge and serves as a final order of removal (deportation) signed by the judge.
- ✗ Do not expect Immigration agents or the judge to explain your options, or to give you the right information. Wait to speak with a lawyer before saying or doing anything.



Portions of this document were adapted with permission from the National Lawyers Guild's Know Your Rights! pamphlet.



National
Immigration
Law Center
www.nilc.org

Los Angeles (Headquarters)

3435 Wilshire Blvd
Suite 2850
Los Angeles, CA 90010
213 639-3900
213 639-3911 fax

Washington, DC

1101 14th Street, NW
Suite 410
Washington, DC 20005
202 216-0261
202 216-0266 fax

Oakland, CA

405 14th Street, NW
Suite 1400
Oakland, CA 94612
510 663-8282
510 663-2028

- ☑ You have the right to call an attorney or your family if you are detained. You have the right to be visited by an attorney in detention (Immigration jail).
 - ✗ You have the right to a lawyer, but the government will not pay for or provide that lawyer. You must hire one or find someone who will represent you for free. (Immigration should give you a list of groups you can call that may provide free or low-cost legal advice or representation.) If you see a judge before you can get legal advice, you should ask the judge for more time to find a lawyer.
 - ✗ You have the right to contact your consulate. Telephone numbers to your consulate are posted in the jail or you can ask the deportation officer for a list. Your Consul may help you obtain a lawyer.
- ☑ When you get a lawyer, you should tell the lawyer everything you think is important about your immigration case, including whether you have ever been arrested for a crime. It is important that anyone giving you legal advice knows everything about your case so that she or he can give you the best advice. It does not pay to lie or keep information from your lawyer.
- ☑ If you think that your boss reported you to Immigration because you complained about your working conditions, make sure to tell the lawyer this fact. If your boss did report you for this reason, you might be able to bring an official complaint against him or her.
- ☑ In most cases, Immigration must decide within 48 hours whether to put you into immigration proceedings (in front of a judge), and whether to keep you in custody or to release you on bond. After 72 hours, Immigration must give you a Notice to Appear (NTA). This is the notice that provides you with the information about your hearing before an Immigration Judge.
- ☑ In most cases, you have the right to ask to be released from detention by paying a bond, or to ask for a bond hearing in front of a judge. (Bond is an amount of money paid to the government to guarantee that you will attend future court hearings.) The judge, though, may order that you stay in detention if the judge decides that you might not show up for your court hearing or that you are dangerous to others.
 - ✗ If you have to leave the U.S., try to speak with an immigration lawyer before leaving. If you leave, you may not be allowed to come back into the country for a certain number of years. It is important you know this before you leave, because if you come back earlier than you're allowed to, you can be arrested for having committed a serious crime.
 - ✗ If you are afraid to return to your home country, notify your deportation officer and the court immediately. You may be eligible to file a claim for asylum or other relief.



- ✘ If you have been convicted of any criminal offenses, it is extremely important to contact an immigration lawyer that is experienced in matters involving immigration consequences of criminal convictions. If you have a criminal record/conviction, get a copy of your certified transcript from the criminal court.
- ✘ If you are not given a hearing before an immigration judge, find out why and let your lawyer know immediately.

SCHOOL OPENING ALERT

The U.S. Supreme Court has ruled in *Plyler v. Doe* [457 U.S. 202 (1982)] that undocumented children and young adults have the same right to attend public primary and secondary schools as do U.S. citizens and permanent residents. Like other children, undocumented students are obliged under state law to attend school until they reach a mandated age.

As a result of the *Plyler* ruling, public schools may not:

- ◆ Deny admission to a student during initial enrollment or at any other time on the basis of undocumented status.
- ◆ Treat a student disparately to determine residency.
- ◆ Engage in any practices to "chill" the right of access to school.
- ◆ Require students or parents to disclose or document their immigration status.
- ◆ Make inquiries of students or parents that may expose their undocumented status.
- ◆ Require social security numbers from all students, as this may expose undocumented status.

Students without social security numbers should be assigned a number generated by the school. Adults without social security numbers who are applying for a free lunch and/or breakfast program on behalf of a student need only indicate on the application that they do not have a social security number.

LLAMADA URGENTE

En 1982, El Tribunal Supremo de los Estados Unidos decidió en el caso titulado *Plyler v. Doe* [457 U.S. 202] que los niños y los jóvenes indocumentados tienen el mismo derecho a las escuelas públicas de primaria y secundaria que el que tienen sus contrapartes de nacionalidad estadounidense. Al igual que los demás niños, los estudiantes indocumentados están obligados a asistir a la escuela hasta que lleguen a la edad escolar requerida por la ley.

Bajo la decisión *Plyler*, las escuelas públicas no pueden:

- ◆ negarles admisión a la escuela a estudiantes indocumentados basado en su estado de ser indocumentados, ya sea al momento de la matrícula o en cualquier otro momento.
- ◆ tratar a un estudiante en forma desigual o discriminatoria para determinar su situación legal y/o de residencia.
- ◆ tomar medidas o reglamentos que pudieran atemorizar a la comunidad indocumentada, con el resultado de que ellos no acudan a su derecho de acceso a las escuelas públicas.
- ◆ requerir que un estudiante o sus padres revelen o documenten su situación legal y/o inmigratoria.
- ◆ investigar la situación legal y/o inmigratoria de un estudiante o de sus padres, aún cuando sólo sea por razones educativas, ya que esto puede poner en evidencia dicha situación.
- ◆ exigir que un estudiante obtenga un número de seguro social como pre-requisito de matrícula a un programa escolar.


La escuela debe de asignar un número de identificación a los estudiantes que no tienen tarjeta de seguro social. Los adultos sin tarjeta de seguro social aplicando para el programa de almuerzo y/o desayuno gratis para sus hijos sólo necesitan indicar en la solicitud que no tiene un número de seguro social.



WILL USING BENEFITS HURT MY CHANCES OF GETTING A GREEN CARD OR BECOMING A U.S. CITIZEN?

GOOD NEWS! INS says:


If you DO NOT have a green card yet

 **It will NOT hurt your chances of getting a green card if YOU, your CHILDREN, or other FAMILY MEMBERS use:**

✦ **HEALTH CARE, such as:** Medicaid, Children's Health Insurance Program, WIC, prenatal care, other free or low-cost medical care

✦ **FOOD programs, such as:** Food Stamps, WIC, school meals, and other food assistance

✦ **Other programs that do not give cash, such as:** public housing, disaster relief, child care services, job training, transportation vouchers

 **You MIGHT have a problem getting your green card later ONLY IF:**


✦ **YOU use CASH WELFARE, such as:** Temporary Assistance for Needy Families (TANF), Supplemental Security Income (SSI), General Assistance (GA)

✦ **OR your family's only source of support is cash welfare received by your CHILDREN or other FAMILY MEMBERS**

✦ **OR you are in a nursing home or other LONG-TERM CARE paid for by Medicaid or other government funds**


Call one of the phone numbers listed on the back for more information.

If you are a REFUGEE or ASYLEE


 **You can use ANY benefits, including cash welfare, health care, food programs, and non-cash programs, without hurting your chances of getting a green card.**



If you already HAVE a green card

 You **CANNOT** lose your green card if YOU, your CHILDREN, or other FAMILY MEMBERS use:

- ✧ HEALTH CARE, FOOD programs, and other NON-CASH programs
- ✧ CASH WELFARE
- ✧ LONG-TERM CARE

 But You **MIGHT** have a problem:

- ✧ If you leave the U.S. for **more than 6 months** continuously and you have used cash welfare or long-term care.
- ✧ OR in **extremely rare cases**, if you use cash welfare or long-term care during your first 5 years in the U.S., for reasons (such as an illness or disability) that existed **before** you entered the country.

Call one of the phone numbers below for more information.

If you are applying for U.S. citizenship

 You **CANNOT** be denied U.S. citizenship for lawfully receiving benefits, including cash welfare, health care, food programs, and non-cash programs.

If you want to sponsor your relative

 Using benefits, including cash welfare, health care, food programs, and non-cash programs, should not prevent you from sponsoring your relative. But you will need to show that you or your co-sponsor earn enough income to support your relative.

FOR MORE INFORMATION, CALL:

OR CALL:

Developed by the Asian Pacific American Legal Center for the California Immigrant Welfare Collaborative, a joint project of:
Coalition for Humane Immigrant Rights of Los Angeles * National Immigration Law Center * Northern California Coalition for Immigrant Rights * Asian Pacific American Legal Center


Translations funded and coordinated by Community Voices Project for Immigrant Health of Asian Health Services & La Clínica de la Raza - Alameda County, CA; American Immigration Lawyers Association; National Asian Pacific American Legal Consortium; National Council of La Raza; National Immigration Forum; National Immigration Law Center; National Immigration Project of the National Lawyers Guild; and the United States Catholic Conference.



U.S. Immigration
and Customs
Enforcement

OCT 24 2011

MEMORANDUM FOR: Field Office Directors
Special Agents in Charge
Chief Counsel

FROM: John Morton 
Director

SUBJECT: Enforcement Actions at or Focused on Sensitive Locations

Purpose

This memorandum sets forth Immigration and Customs Enforcement (ICE) policy regarding certain enforcement actions by ICE officers and agents at or focused on sensitive locations. This policy is designed to ensure that these enforcement actions do not occur at nor are focused on sensitive locations such as schools and churches unless (a) exigent circumstances exist, (b) other law enforcement actions have led officers to a sensitive location as described in the "Exceptions to the General Rule" section of this policy memorandum, or (c) prior approval is obtained. This policy supersedes all prior agency policy on this subject.¹

Definitions

The enforcement actions covered by this policy are (1) arrests; (2) interviews; (3) searches; and (4) for purposes of immigration enforcement only, surveillance. Actions not covered by this policy include actions such as obtaining records, documents and similar materials from officials or employees, providing notice to officials or employees, serving subpoenas, engaging in Student and Exchange Visitor Program (SEVP) compliance and certification visits, or participating in official functions or community meetings.

The sensitive locations covered by this policy include, but are not limited to, the following:

¹ Memorandum from Julie L. Myers, Assistant Secretary, U.S. Immigration and Customs Enforcement, "Field Guidance on Enforcement Actions or Investigative Activities At or Near Sensitive Community Locations" 10029.1 (July 3, 2008); Memorandum from Marcy M. Forman, Director, Office of Investigations, "Enforcement Actions at Schools" (December 26, 2007); Memorandum from James A. Puleo, Immigration and Naturalization Service (INS) Acting Associate Commissioner, "Enforcement Activities at Schools, Places of Worship, or at funerals or other religious ceremonies" HQ 807-P (May 17, 1993). This policy does not supersede the requirements regarding arrests at sensitive locations put forth in the Violence Against Women Act, see Memorandum from John P. Torres, Director Office of Detention and Removal Operations and Marcy M. Forman, Director, Office of Investigations, "Interim Guidance Relating to Officer Procedure Following Enactment of VAWA 2005 (January 22, 2007).

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- schools (including pre-schools, primary schools, secondary schools, post-secondary schools up to and including colleges and universities, and other institutions of learning such as vocational or trade schools);
- hospitals;
- churches, synagogues, mosques or other institutions of worship, such as buildings rented for the purpose of religious services;
- the site of a funeral, wedding, or other public religious ceremony; and
- a site during the occurrence of a public demonstration, such as a march, rally or parade.

This is not an exclusive list, and ICE officers and agents shall consult with their supervisors if the location of a planned enforcement operation could reasonably be viewed as being at or near a sensitive location. Supervisors should take extra care when assessing whether a planned enforcement action could reasonably be viewed as causing significant disruption to the normal operations of the sensitive location. ICE employees should also exercise caution. For example, particular care should be exercised with any organization assisting children, pregnant women, victims of crime or abuse, or individuals with significant mental or physical disabilities.

Agency Policy

General Rule

Any planned enforcement action at or focused on a sensitive location covered by this policy must have prior approval of one of the following officials: the Assistant Director of Operations, Homeland Security Investigations (HSI); the Executive Associate Director (EAD) of HSI; the Assistant Director for Field Operations, Enforcement and Removal Operations (ERO); or the EAD of ERO. This includes planned enforcement actions at or focused on a sensitive location which is part of a joint case led by another law enforcement agency. ICE will give special consideration to requests for enforcement actions at or near sensitive locations if the only known address of a target is at or near a sensitive location (e.g., a target's only known address is next to a church or across the street from a school).

Exceptions to the General Rule

This policy is meant to ensure that ICE officers and agents exercise sound judgment when enforcing federal law at or focused on sensitive locations and make substantial efforts to avoid unnecessarily alarming local communities. The policy is not intended to categorically prohibit lawful enforcement operations when there is an immediate need for enforcement action as outlined below. ICE officers and agents may carry out an enforcement action covered by this policy without prior approval from headquarters when one of the following exigent circumstances exists:

- the enforcement action involves a national security or terrorism matter;
- there is an imminent risk of death, violence, or physical harm to any person or property;

- the enforcement action involves the immediate arrest or pursuit of a dangerous felon, terrorist suspect, or any other individual(s) that present an imminent danger to public safety; or
- there is an imminent risk of destruction of evidence material to an ongoing criminal case.

When proceeding with an enforcement action under these extraordinary circumstances, officers and agents must conduct themselves as discretely as possible, consistent with officer and public safety, and make every effort to limit the time at or focused on the sensitive location.

If, in the course of a planned or unplanned enforcement action that is not initiated at or focused on a sensitive location, ICE officers or agents are subsequently led to or near a sensitive location, barring an exigent need for an enforcement action, as provided above, such officers or agents must conduct themselves in a discrete manner, maintain surveillance if no threat to officer safety exists and immediately consult their supervisor prior to taking other enforcement action(s).

Dissemination

Each Field Office Director, Special Agent in Charge, and Chief Counsel shall ensure that the employees under his or her supervision receive a copy of this policy and adhere to its provisions.

Training

Each Field Office Director, Special Agent in Charge, and Chief Counsel shall ensure that the employees under his or her supervision are trained (both online and in-person/classroom) annually on enforcement actions at or focused on sensitive locations.

No Private Right of Action

Nothing in this memorandum is intended to and may not be relied upon to create any right or benefit, substantive or procedural, enforceable at law by any party in any administrative, civil, or criminal matter.

This memorandum provides management guidance to ICE officers exercising discretionary law enforcement functions, and does not affect the statutory authority of ICE officers and agents, nor is it intended to condone violations of federal law at sensitive locations.



aft
Protecting
OUR Students

WHAT YOU NEED TO KNOW ABOUT
THE RIGHTS OF IMMIGRANTS
AND THE THREAT OF DEPORTATION

i All children have a right to a public education

Under federal law, all children, regardless of their citizenship or residency status, are entitled to a K-12 education, including college counseling services. School districts that either prohibit or discourage children from enrolling in schools because they or their parents are undocumented immigrants may be in violation of federal law.

i What the law says about deportation and schools

ICE officers and agents are to refrain from enforcement actions at least at the following locations and events:

- schools (including preschools, primary schools, secondary schools, colleges and universities, and other institutions of learning, such as vocational and trade schools);
- hospitals;
- churches, synagogues, mosques and other institutions of worship, such as buildings rented for the purpose of religious services;
- during funerals, weddings and other public religious ceremonies; and
- during public demonstrations, such as a march, rally or parade.

i What the law says about sharing student information with immigration authorities

Under the Family Educational Rights and Privacy Act (FERPA), schools are prohibited, without parental consent, from providing information from a student's file to federal immigration agents if the information would potentially expose a student's immigration status. For more on FERPA, see familypolicy.ed.gov/ferpa-parents-students.

i Schools must be safe havens, welcoming places of learning, and free from racism, discrimination, and the threat of deportation.

School districts are responsible for ensuring the safety and well-being of all their students. Educators and school support staff can work with community allies to reaffirm that their school and campus is a safe zone.

Do's and Don'ts for students and their families if ICE authorities come to their homes

- ➔ **Do not open the door.** ICE authorities cannot come in without a signed warrant. Tell them to pass the warrant under the door before you open it.
- ➔ **Remain silent.** ICE can use anything you say against you in your immigration case, so claim your right to remain silent! Say **"I plead the Fifth and choose to remain silent."**
- ➔ **Do not sign.** Don't sign anything ICE gives you without talking to an attorney.

➔ **Report the raid immediately to the United We Dream hotline: 844-363-1423**

Take pictures, video and notes: Write down badge numbers, the number of agents, and exactly what happened!

- ➔ **Fight back!** Get a trustworthy attorney, contact a local immigrant rights organization and explore all options to fight your case. If detained, you may be able to get bail—don't give up hope!

For more resources and information, contact:

- ➔ **American Federation of Teachers**
www.aft.org/immigration
- ➔ **Share My Lesson**
www.sharemylesson.com/immigration
- ➔ **Colorin Colorado**
www.colorincolorado.org/immigration
- ➔ **National Immigration Law Center**
www.nilc.org
- ➔ **United We Dream**
www.unitedwedream.org
- ➔ **First Focus**
www.firstfocus.org

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Ten Myths About Immigration

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By: Teaching Tolerance Staff

Editor's note: While originally published in 2011, this story was updated in 2017 to reflect current statistics, policies and conditions in the United States. Click [here](#) for a detailed list of sources.

Myths about immigration and immigrants are common. Here are a few of the most frequently heard misconceptions—along with information to help you and your students separate fact from fear.

When students make statements that are unfounded, one response is to simply ask, "How do you know that's true?" Whatever the answer—even if it's "That's what my parents say"—probe a little further. Ask, "Where do you think they got that information?" or "That sounds like it might be an opinion, not a fact." Guide students to find a reliable source for accurate information and help them figure out how to check the facts.

1. Most immigrants are here illegally.

With so much controversy around the issue of immigrants who are undocumented, it's easy to overlook the fact that most of the foreign-born people living in the United States followed the rules and have permission to be here. Of the more than 43 million foreign-born people who were living in the United States in 2014, around 44 percent were naturalized U.S. citizens. Those who were not naturalized were either lawful permanent residents, also known as green-card holders (27 percent of all foreign-born people), or immigrants who were unauthorized (some 11 million people, representing 25.5 percent of all foreign-born people). Although it is not known exactly what percentage of that 11 million originally entered legally with valid visas and let their visas expire (experts estimate it to be approximately 40 percent), it is known that—by far—the nation with the most visitors who do not leave at the end of their authorized stays is Canada.

2. It's easy to enter the country legally. My ancestors did; why can't immigrants today?

If you hear students making this statement, ask them when their ancestors immigrated and if they know what the entry requirements were at the time. For about the first 100 years, the United States had an "open immigration system" that allowed any able-bodied immigrant in," according to immigration historian David Reimers. Back then, the biggest obstacle that would-be immigrants faced was getting here. Some even sold themselves into indentured servitude to do so. Today, however, many rules specify who may enter and remain in the country legally. There is also a rigorous process for obtaining documentation to enter the United States as a resident, including applying for immigrant visas and permanent resident/green-card status. Many students' immigrant ancestors who arrived between 1790 and 1924 would not have been allowed in under the current policy. Generally, permission to enter and stay in the country as a documented immigrant is limited to people who are highly trained in a skill that is in short supply here and have been offered a job by a U.S. employer, are escaping political persecution, are joining close family already here or are winners of the green-card lottery.

3. Today's immigrants don't want to learn English.

While most first-generation immigrants may speak their first language at home, 35 percent of those age 5 or older speak English "very well" and 21 percent speak it "well," according to the U.S. Census Bureau. Nearly 730,000 people became naturalized citizens during the 2015 fiscal year. They had to overcome such obstacles as traveling to the United States, finding a job, tackling language barriers, paying naturalization and lawyers' fees and dealing with an ever-changing immigration bureaucracy. Immigrants must speak, read, write and understand the English language, not only for the naturalization application process, but also so they can pass a 100-question civics test that has both oral and written components.

It's also worth discussing with students that the current demand for English instruction is greater than the services available in many parts of the country. Also explore with them false assumptions about "today's" immigrants versus those who arrived in prior generations. For example, ask students to find out how long it took their ancestors to stop using their first language. "Earlier immigrant groups held on to their cultures fiercely," notes Reimers. "When the United States entered the First World War [in 1917], there were over 700 German-language newspapers. Yet German immigration had peaked in the 1870s."

4. Immigrants take good jobs from U.S. citizens.

Ask students what kinds of jobs they think immigrants are taking. According to the American Immigration Council, a nonpartisan group, research indicates there is little connection between immigrant labor and unemployment rates of native-born workers. Two trends—better education and an aging population—have resulted in a decrease in the number of workers born in the United States who are willing or available to take low-paying jobs. Across all industries and occupations, though, immigrants who are naturalized citizens and non-citizens are outnumbered by workers born in the United States (see Table 1.7).

Another version of this myth is that it is undocumented immigrants who are taking jobs. However, the U.S. civilian workforce included 8 million unauthorized immigrants in 2014, which accounts for only 5 percent of the entire workforce. Compared with their small share of the civilian workforce overall, immigrants without authorization are only overrepresented in service, farming and construction occupations (see Table 1). This may be due to the fact that, to fill the void of low-skilled U.S. workers, employers often hire undocumented immigrant workers. One of the consequences of this practice is that it is easier for unscrupulous employers to exploit this labor source, paying immigrants less, refusing to provide benefits and ignoring worker-safety laws. On an economic level, U.S. citizens benefit from relatively low prices on food and other goods produced by undocumented immigrant labor.

5. "The worst" people from other countries are coming to the United States and bringing crime and violence.

Immigrants come to this country for a few primary reasons: to work, to be reunited with family members or to escape a dangerous situation. Most are couples, families with children, and workers who are integral to the U.S. economy. Statistics show that immigrants are less likely to commit serious crimes or be behind bars than native-born people are, and high rates of immigration are associated with lower rates of violent crime and property crime. For instance, "sanctuary counties" average 35.5 fewer crimes per 10,000 people compared to non-sanctuary counties. This holds true for immigrants who are documented and undocumented, regardless of their country of origin or level of education. In other words, the overwhelming majority of immigrants are not "criminals."

According to the American Immigration Council: "Between 1990 and 2013 the foreign-born share of the U.S. population grew from 7.9 percent to 13.1 percent and the number of unauthorized immigrants more than tripled. ... During the same period, FBI data indicate that the violent crime rate and property crime rate declined 48 percent ... [and] 41 percent [respectively]." The truth is, foreign-born people in the United States—whether they are naturalized citizens, permanent residents or immigrants who are undocumented—are incarcerated at a much lower rate than native-born Americans.

6. Undocumented immigrants don't pay taxes and burden the national economy.

Ask students to name some ways U.S. residents pay taxes. They might come up with income tax or sales tax. Immigrants who are undocumented pay taxes every time they buy taxable goods such as gas, clothes or new appliances (depending on where they reside). They also contribute to property taxes—a main source of school funding—when they buy or rent a house or apartment. A 2017 report from the Institute on Taxation and Economic Policy highlights that undocumented immigrants pay an estimated \$11.74 billion in state and local taxes a year. The U.S. Social Security Administration estimated that in 2010 undocumented immigrants—and their employers—paid \$13 billion in payroll taxes alone for benefits they will never get. They can receive schooling and emergency medical care but not welfare or food stamps. Under the 1996 welfare law, most government programs require proof of documentation, and even immigrants with documents cannot receive these benefits until they have been in the United States for more than five years.

7. The United States is being overrun by immigrants like never before.

From 1890 to 1910, the foreign-born population of the United States fluctuated between 13.6 and nearly 15 percent; the peak year for admission of new immigrants was 1907, when approximately 1.3 million people entered the country legally. In 2010, about 13 percent of the population was foreign-born (see Table 1). Since the start of the recession in 2008, the number of immigrants without documentation coming into the country has fallen each year and, in more recent years, the number has stabilized. Many people claim that immigrants have "anchor babies"—an offensive term for giving birth to children in the United States so that the whole family can stay in the country (and a narrative that contributes to the myth that the immigrant population is exploding).

According to the 14th Amendment of the U.S. Constitution, a child born on U.S. soil is automatically a U.S. citizen. However, immigration judges will not keep immigrant parents in the United States just because their children are U.S. citizens. In 2013, the federal government deported 72,410 foreign-born parents whose children had been born in the United States. U.S. citizens must be at least 21 before they can petition for a foreign-born parent to receive legal-resident status. Even then, the process is long and difficult. In reality, there is no such thing as an "anchor baby." The vast majority of the 4 million immigrant adults without documentation who live with their children who were born in the United States have no protection from deportation.

8. We can stop undocumented immigrants coming to the United States by building a wall along the border with Mexico.

Ask students, "How do you think immigrants come to the United States?" Immigrants who enter the United States across the United States-Mexico border without authorization could be from any number of geographical areas. The majority of unauthorized immigrants in the United States are from Mexico, but their estimated number—5.8 million in 2014—has declined by approximately 500,000 people since 2009. In 2014, 5.8 million Mexican immigrants were living in the United States without authorization, down from 6.9 million in 2007. Additionally, the number of immigrants from nations other than Mexico who are living in the United States without authorization grew to an estimated 5.3 million in 2014. Populations of immigrants who are undocumented increased from Asia, Central America and sub-Saharan Africa. So, a wall along the border with Mexico would not "stop" undocumented immigrants from coming to the United States. Building a wall or fence along the entire Mexico border is unlikely to prevent unauthorized entry. Details aside, history has shown that people have always found ways to cross walls and borders by air and sea as well as over land.

9. Banning immigrants and refugees from majority-Muslim countries will protect the United States from terrorists.

A recent executive order, issued by President Donald Trump in March 2017, blocked the entry of citizens from six Muslim-majority countries for 90 days, ostensibly to protect Americans from terrorism. The title of this executive order, "Protecting the Nation From Foreign Terrorist Entry Into the United States," seems to equate the people most affected by the ban—Muslims—with the term foreign terrorists, implying that barring Muslims from entry would protect the United States from harm. However, between 1975 and 2015, no fatalities have been committed in the United States by foreign-born extremists from the countries covered by the executive order. According to Alex Nowrasteh, an immigration expert at the Cato Institute, "[Between 1975 and 2015], the annual chance of being murdered by somebody other than a foreign-born terrorist was 252.9 times greater than the chance of dying in a terrorist attack committed by a foreign-born terrorist."

10. Refugees are not screened before entering the United States.

Ask students what the screening process is for refugees. Refugees undergo more rigorous screenings than any other individuals the government allows in the United States. It remains an extremely lengthy and rigorous process, which includes multiple background checks; fingerprint tests; interviews; health screenings; and applications with multiple intelligence, law enforcement and security agencies. The average length of time it takes for the United Nations and the United States government to approve refugee status is 18 to 24 months.