

Immigration Policy and Enforcement in 2025:

What Superintendents Should Understand

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Agenda

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The landmark decision in *Plyler v. Doe* and student privacy protections under FERPA

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Best practices for interacting with immigration agents

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The current state of DACA

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Compliance essentials for J-1 and H-1B visa programs





Plyler v. Doe

1982 Supreme Court decision establishing that all children, regardless of immigration status, have the right to a public education. This case arose when Texas enacted a law allowing school districts to deny enrollment to undocumented children. The Court ruled that this law violated the Equal Protection Clause of the Fourteenth Amendment, emphasizing that:

- Public education is a critical government function: Education is vital to preparing children for a productive role in society.
- Immigration status is not a sufficient basis for discrimination: Denying public education to undocumented children does not serve a substantial state interest.
- Punishing children for parents' actions: The Court found it unjust to penalize children for their parents' immigration status, over which they have no control.





Current Legal Standing

The *Plyler* decision remains a cornerstone of educational access, ensuring that schools cannot deny enrollment based on a child's immigration status. Public schools are required to provide equal access to all students, regardless of their background.



Family Educational Rights and Privacy Act (FERPA) was enacted in 1974, and protects the privacy of student education.

Exceptions:

- Directory Information
- School Officials with Legitimate Educational Interest
- Transferring Schools
- Health and Safety Emergencies
- Judicial Orders and Lawfully Issued Subpoenas
- Federal, State, and Local Authorities
- Financial Aid
- Studies Conducted on Behalf of the School
- State and Local Juvenile Justice Authorities
- De-identified Records



Working with Immigration Agents and Legal Obligations

Practical Implications for Schools and Communities

- If ICE presents an administrative warrant, they cannot enter a home, school, or private space without explicit permission.
- A judicial warrant, however, does allow entry, and schools or individuals must comply.
- Schools are not required to disclose student information to immigration agents unless presented with a lawful court order or subpoena.
- FERPA's protections extend to requests from ICE or other federal agencies



+ + DACA and Employment Implications

Establishment: DACA was introduced by President Obama in June 2012 via executive action. It aimed to provide temporary relief from deportation and work authorization for eligible individuals, often referred to as “Dreamers.” This relief is granted in renewable two-year increments.

Eligibility: Applicants must meet specific requirements, including arriving in the U.S. before age 16, residing continuously in the country since 2007, and meeting educational or military service criteria.

2024 Fifth Circuit Case: Oral arguments on DACA’s legality were heard in October 2024. The decision is currently pending and could send the case back to the Supreme Court.





J-1 and H-1B Visa Programs

J-1 Visa: Cultural exchange visa that allows schools to host teachers temporarily, limited to specific durations.

H-1B Visa: This visa supports hiring foreign educators in specialized roles requiring advanced knowledge. H-1B educators are typically employed for up to six years.



Staying on the Right Side of Regulations

Compliance with federal laws is non-negotiable when employing international educators.

Key areas to monitor include:

1. **Public Access Files (H-1B):** Maintain documentation of wage determinations, job descriptions, and recruitment efforts in an easily accessible format.
2. **Wage Compliance:** Ensure wages meet or exceed the prevailing wage determined by the Department of Labor (DOL).
3. **Record-Keeping:** Accurate records are crucial. Maintain visa documentation, track expiration dates, and log compliance activities.
4. **Timely Renewals:** Missed deadlines for renewals or extensions can result in disrupted employment and compliance violations. Monitor visa timelines closely.



With the new administration, employers can likely anticipate increased enforcement measures in other administrative agencies that oversee employment of foreign workers:

I-9 Audits: Verifying work authorization documentation.

FDNS Site Visits: Audits to ensure compliance with visa requirements.

State Department Inquiries: Verifying information provided during visa applications.

Wage and Hour Audits: Ensuring fair wages for visa holders.





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