

Guidance for Principals on Non-Local Law Enforcement Actions at NYC DOE Schools, Including Immigration Enforcement Actions

This document provides guidance on the general procedures to follow if non-local law enforcement officials, including officers from the Federal Bureau of Investigation (“FBI”) or Immigration and Customs Enforcement (“ICE”) (collectively, “non-local law enforcement officers”), request access to NYC DOE school facilities, students, or student records. This guidance does not apply to actions by the New York City Police Department (“NYPD”), whose actions in schools, as set forth below, are governed by other documents and policies. **If a non-local law enforcement officer seeks access to your school, you must contact your Senior Field Counsel (“SFC”) for further instructions pursuant to the process at the end of this guidance.**

Access to schools will only be provided where absolutely required by law, and only after consultation with SFC.

Law Regarding Access to School Facilities

The New York City Police Department (“NYPD”) is charged with security of NYC public schools and is authorized to access school facilities based on a Memorandum of Understanding between the DOE and the NYPD and Chancellor’s regulations. NYPD officers and School Safety Agents are guided by longstanding NYPD policies regarding police action in schools.

Non-local law enforcement officers, including ICE officers, may only obtain access to school facilities or students in school under one of the following circumstances: with consent; with proper warrants; or under exigent circumstances.

1. Consent

DOE does not consent to non-local law enforcement accessing school facilities in any circumstances, and principals and other school personnel may not give consent.

2. Proper Warrants

Whether a warrant authorizes a non-local law enforcement officer, including an ICE officer, to take a specific action, such as conducting a search or arrest, depends on the scope of the warrant and whether it was issued by a judge or was administratively issued. The DOE, consistent with the rule of law, must honor valid judicial warrants, but it is difficult for an untrained person to determine whether a warrant has been validly issued by a judge. Thus, it is vitally important to obtain a copy of the warrant and contact the SFC before allowing any access pursuant to a warrant. If a non-local law enforcement officer, including an ICE officer, presents a warrant of any type, **provide the warrant to the SFC and await further instructions.**

3. Exigent Circumstances

In the extremely unlikely event that exigent circumstances, such as imminent risk of death or physical harm, exist or may exist, **call the SFC and have the school safety agent contact the NYPD immediately.**

Current ICE Policy Provides that Enforcement Actions at Schools Should Generally Be Avoided

Current ICE and U.S. Customs and Border Protection policy, as continued by the new federal Administration, limits arrests, interviews, searches, and surveillance at sensitive locations, which includes schools. Enforcement actions at schools in recent years appear to have been extremely rare.

Requests for Student Records

While the current ICE sensitive location policy does not cover activities such as obtaining records or documents from school officials or employees, or serving subpoenas, federal privacy laws (absent a health or safety emergency) generally prohibit the release of information from a student's records to law enforcement officers except pursuant to a court order, lawfully issued subpoena, or upon the informed written consent of the student's parent or the student if he/she is 18 years of age or older. If any law enforcement officer, including an ICE officer, seeks access to student records, provide a copy of any subpoena or court order provided by the law enforcement officer to your SFC, and do not take action until you receive instruction from the SFC.

General Process—If a Non-Local Law Enforcement Officer, Including an ICE Officer, Comes to Your School for Any Reason:

1. Meet the officer at the school safety agent desk.
2. At the school safety agent desk, request the name and badge/ID number of the officer, phone number of the officer's supervisor, purpose of the visit, and reason(s) why the officer is visiting your school during school hours.
3. Obtain any documentation from the officer (*e.g.*, subpoena; search warrant; arrest warrant).
4. Advise the officer that prior to responding to his/her request, you must notify and obtain guidance from counsel.
5. Advise the officer that he/she must wait outside the school building while you obtain guidance from counsel.
6. Notify your SFC, and provide your SFC with the details and documentation obtained from the officer. Do not take action until you obtain instructions from the SFC.
7. Contact the parent after consulting with your SFC.
8. Have the school safety agent notify the NYPD precinct or School Safety Division, as appropriate.
9. If a non-local law enforcement officer fails to comply with instructions, do not physically attempt to interfere with any enforcement action. In these situations, obtain as much information as possible from the officer and have the school safety agent notify the SFC and NYPD precinct/School Safety Division.

Applicability of Chancellor's Regulations

These guidelines supplement existing Chancellor's regulations. If a non-local law enforcement officer, including an ICE officer, conducts an arrest, follow the procedures in Section III(C) of Chancellor's Regulation A-412. If a non-local law enforcement officer, including an ICE officer, requests confidential information, the procedures and policies outlined in Chancellor's Regulation A-820 also apply.

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