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**Attorney General Advisory: Information for Massachusetts
Colleges and Universities Regarding Immigrant Students**

Introduction

The Office of the Attorney General provides this guidance to the Commonwealth's public and private colleges and universities ("Institutions of Higher Education" or "IHEs").¹ This advisory is intended to address some of the issues that may affect immigrant students at IHEs, including those who are undocumented, or who have been granted temporary legal protection, such as grantees of the Deferred Action for Childhood Arrivals ("DACA") program or those with Temporary Protected Status ("TPS"). This advisory is not intended to address questions relating to international students studying in Massachusetts on F-1, J-1, or similar visas.

This Office has heard from many who are concerned about the impact of potential changes to federal immigration policies and enforcement priorities. Concerns raised include ways to support immigrant students on campus, the need for clear information and transparency concerning an IHE's policies affecting immigrant students, a potential increase of on-campus enforcement activities by federal immigration officers, and the ability of IHEs to protect information about students' immigration status. This advisory seeks to address these concerns and suggest aspirational methods by which IHEs can foster open and inclusive campuses. We encourage IHEs to consult with counsel to develop policies and protocols consistent with this advisory.

This advisory is not legal advice or a formal legal opinion of the Attorney General. A university, college, or student should consult with legal counsel about specific concerns.

I. Inclusion and Support for Immigrants on Campus

A. Admission and Participation in Campus Activities

Each year, approximately 100,000 undocumented students graduate from American high schools.² Many of these students were brought to the United States at a young age, have lived in this country for most of their lives, grew up speaking English, and attended primary and secondary school in the U.S. Many undocumented high school graduates wish to further their

¹ Please see previously issued guidance to [health care providers](#) and [public K-12 schools](#) for additional information on related immigration issues.

² [Factsheet: How Many Unauthorized Immigrants Graduate from U.S. High Schools Annually?](#) Migration Policy Institute.



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education, and some go on to attend an IHE. Massachusetts IHEs also welcome immigrant students who have legal protection or recognition, such as DACA, TPS, parole, or a green card. Immigrant students may experience uncertainty about their access to higher education. Many also must overcome significant barriers – economic, or otherwise – to enroll at and continue to attend IHEs.

Neither federal law nor Massachusetts law prohibits the admission or enrollment of undocumented immigrants at IHEs,³ nor are there any legal restrictions on an undocumented student's ability to fully participate in the campus community and extracurricular programs.⁴

B. Proactive Policies to Support Immigrant Students

Many IHEs wish to provide support for immigrant students so that they may take full advantage of the academic and social programs offered. IHEs can support their immigrant students in myriad ways. To be clear, none of the suggestions below are required by federal or state law. Nor are they specifically prohibited. Taking some of these steps may provide needed support to immigrant students and foster their sense of inclusion on campus.

As a starting point, IHEs should provide clear and accurate information to immigrant students about admission, enrollment, and available resources. For both prospective and current students, IHEs should consider providing information uniquely relevant to immigrant students on a dedicated webpage. An IHE could also consider providing training to staff and faculty in order to increase sensitivity to issues that affect immigrant students' ability to successfully complete their degrees and fully participate in campus life. To further that goal, IHEs could consider organizing a task force, peer mentorship program, or hotline for immigrant students. IHEs may also consider identifying and training a campus point of contact specifically for immigrant students. Ideally, such a position would be distinct from an IHE's international student support staff.

³ Questions regarding an immigrant's eligibility for financial aid, work-study, and campus employment are more complicated to answer and outside of the scope of this advisory. IHEs and students should speak to legal counsel or the appropriate campus point person for clarity on these issues.

⁴ Note, however, that undocumented students may face particular challenges upon completion of certain majors, such as nursing or teaching, which require certification prior to working in the field of study. This also applies to graduate degrees requiring a professional license in order to practice. IHEs should provide students with clear guidance about certification requirements at the time of enrollment or selection of a major.



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Because of financial challenges as well as a lack of access to federal loans, many immigrant students struggle to remain enrolled over a sustained period of time. IHEs can also support immigrant students by informing them of services on campus that are available to all students, often at a low cost or for free. Depending on the IHE, such services may include tutoring sessions, writing workshops, mental health counseling, resume writing workshops, textbook lending libraries, food pantries, student clubs, and legal advice.

II. Federal Immigration Activities at IHEs

A. Immigration Detention or Deportation Activities on Campus

i. *Protected Areas*

On January 20, 2025, the Acting Department of Homeland Security Secretary issued a directive rescinding prior U.S. Immigration and Customs Enforcement (“ICE”) guidelines regarding enforcement activities in or near “sensitive” or “protected” areas. Previously, ICE agents were generally prohibited from engaging in surveillance, interviews, searches, and arrests at or near IHEs. The language of the updated directive does not include concrete rules or procedures for ICE agents to follow, and instead instructs agents to use “common sense” when determining where to engage in immigration enforcement.⁵

Immigration officers may also be present on campus for reasons unrelated to such enforcement. For example, over 66,000 international students study in Massachusetts each year on F-1, J-1, or other similar visas. IHEs are required to report certain information about international students to immigration officers, including ICE officers, who may visit campus to meet with such students and IHE staff. As part of administering international student visas, immigration officers may engage in routine regulatory enforcement site visits to campuses. Therefore, IHEs should consider proactively informing their communities that immigration officers may be present on campus for reasons unrelated to detention or deportation and develop a consistent protocol to use when immigration officers are present on campus.⁶

⁵ See [Statement from a DHS Spokesperson on Directives Expanding Law Enforcement and Ending the Abuse of Humanitarian Parole](#).

⁶ When immigration officers are present on campus to detain or deport immigrants, IHEs should consult with legal counsel before communicating to the community regarding the detention or deportation operation.



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ii. *Proactive Steps Regarding Immigration Detention or Deportation*

In light of updated ICE policy that rescinds protections for “protected areas,” IHEs may take proactive steps to prepare for immigration detention activities on campus. IHEs may develop protocols to be used in the event immigration officers request access to a space on campus or seek to interview or take custody of a member of a campus community. As an example, IHEs could instruct relevant members of their communities to follow a protocol⁷ similar to the one below in the event an immigration officer requests access to an immigrant student. In such a situation, so long as reasonable in the circumstance, IHEs may direct their members to take the following or similar steps *before* providing an immigration officer with the requested access:

- First, ask the immigration officer for his or her name, identification number, and the name of the agency with which he or she is affiliated;
- Second, ask the immigration officer for a copy of any judicial warrant or court order he or she has. Without a court order or warrant signed by a judge, immigration officers cannot compel an IHE or their officer to comply with their requests;
- Third, inform the immigration officer that you are not attempting to obstruct his or her actions, but you are not authorized to respond to the request and need to contact the appropriate campus person before you can provide access; and
- Fourth, ask the immigration officer to wait outside while you contact your IHE’s legal counsel or other appropriate point person.

To maximize the utility of such protocols, IHEs could disseminate them widely to the campus community, including by publishing them on their websites and by distributing them directly to students, faculty, and staff.

iii. *Distinction Between Public and Private Spaces*

IHEs should be mindful of which parts of campus are public spaces, and which are private. Consistent with requirements of constitutional law, IHEs generally may not prohibit immigration officers from accessing the public portions of their campuses. However, IHEs are generally not required to give consent, provide documents, or help federal immigration officers access nonpublic areas of campus unless an immigration officer has a warrant or order signed by

⁷ This protocol is based primarily on principles adopted by the University of California system. Should an IHE choose to develop protocols, legal counsel should ensure that such protocols comply with applicable laws. Among other things, federal law prohibits individuals from hiding evidence or individuals who are the subject of law enforcement activity or interfering with an arrest. *See, e.g.*, 8 U.S.C. § 1324.



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a judge that allows them to do so. Different types of warrants carry different authority and legal consequences. Judicial warrants are signed by a judge or court officer, while administrative warrants may be signed by an immigration officer. Generally, administrative warrants provide the authority for an immigration officer to take certain immigration actions, but they do not authorize immigration officers to enter private areas of an IHE without consent. Judicial warrants, on the other hand, can require that an immigration official is allowed access. An IHE's legal counsel is best suited to determine the type of warrant and its scope.

Even on public campuses, private spaces may include lecture halls while classes are in session, faculty and staff offices, dormitories, research laboratories, kitchens, locker rooms, and maintenance areas. Legal counsel for each IHE should determine which spaces are public and which are private and may inform the campus community of the distinction and its importance.

B. Requests for Information

i. *Protections Granted by Federal Privacy Law*

There is some concern that immigration officers may seek information about a student's immigration or citizenship status from an IHE. In general, federal law prohibits state and local governmental entities and actors from creating policies that restrict sharing information about individuals' immigration status with federal immigration officials. See 8 U.S.C. § 1373 ("Section 1373"). However, courts have not addressed whether, and under what set of facts, public or private higher education institutions are "state or local entities" within the meaning of the statute. Furthermore, even if Section 1373 applies to some higher education institutions, the obligation it imposes does not appear to override the privacy protections provided by the Family Educational Rights and Privacy Act of 1974 ("FERPA"), 20 U.S.C. § 1232g.⁸

For both public and private IHEs, FERPA provides some protection from disclosure absent legal process, such as a subpoena or warrant. FERPA applies to IHEs that receive federal funds through the U.S. Department of Education, including Title IV financial aid. FERPA protects personally identifiable information contained in a student's education records, including disciplinary records. 34 C.F.R. § 99.3. Personally identifiable information includes, but is not limited to, a student's name, the name of the student's parent or other family members, the address of the student or the student's family, personal identifiers such as the student's social security number, student number, or biometric record, indirect identifiers such as the student's date of birth, place of birth, and mother's maiden name. It also includes any other information

⁸ Aleksandar Dukic, et al; [*Key Legal Considerations Relating to "Sanctuary Campus" Policies and Practices*](#), 44.1 *Journal of College and University Law* 1, 23 (2018).



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that is linked to a student and would allow a reasonable person within the community to identify the student with reasonable certainty. 34 C.F.R. § 99.3.

When an IHE is subject to a judicial order or lawfully issued subpoena, it can be required to disclose personally identifiable information without student consent. *Id.* § 99.31(a)(9). While IHEs should generally provide the affected student notice and a reasonable opportunity to seek a protective order, there are particular circumstances in which IHEs may be ordered not to disclose the request to a student. 20 U.S.C. §§ 1232g(b)(1)(J) and (j). To best protect students' information and to ensure students are informed when immigration officers seek information about them, IHEs may require staff to contact legal counsel upon receipt of any request for information from a law enforcement officer, including a request contained in an order, subpoena, or other document the officer may present. In those instances when legal counsel makes a determination to release the requested information, IHEs may keep logs of any information released and ensure that only a designated point person releases the information.⁹

ii. *Proactive Steps to Protect Students' Immigration Information*

While FERPA provides some protections for students' personally identifiable information, IHEs may adopt proactive measures as additional layers of security. For example, IHEs may review the information they collect from students to ensure they do not unnecessarily obtain

⁹ For public IHEs there are additional state law restrictions that protect student information under the Fair Information Practices Act ("FIPA"), G.L. c. 66A. Under FIPA, a data holder, which includes public IHEs, must "not allow any...individual not employed by the holder to have access to personal data unless such access is authorized by statute or regulations which are consistent with the purposes of this chapter..." G.L. c. 66A, § 2(c). Personal data is defined as "any information concerning an individual which, because of name, identifying number, mark or description can be readily associated with a particular individual; provided, however that such information is not contained in a public record, as defined in clause Twenty-sixth of section seven of chapter four..." G.L. c. 66A, § 1. G.L. c. 4, § 7, cl. Twenty-sixth exempts from the definition of a "public record" "materials or data relating to a specifically named individual, the disclosure of which may constitute an unwarranted invasion of personal privacy[.]" Under FIPA, public IHEs must "maintain procedures to ensure that no personal data are made available in response to a demand for data made by means of compulsory legal process, unless the data subject has been notified of such demand in reasonable time that he may seek to have the process quashed." G.L. c. 66A, § 2(k). As such, information about students' immigration status possessed by public IHEs would also be protected under FIPA, and public IHEs would be subject to all FIPA requirements before sharing any student data, including informing students of any request.



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information about a student's (or family members') immigration or citizenship status without a compelling reason.¹⁰

Under FERPA, an IHE may disclose information it has designated "directory information," such as a student's name, address, phone number, grade level, and dates of attendance as long as the IHE has notified students that it may disclose this information and has provided an opportunity to opt out of disclosure. *Id.* §§ 99.3, 99.31(a)(11). Directory information does not include citizenship or immigration status.¹¹ IHEs may limit the types of information they designate as "directory" by excluding information that may be related to citizenship or immigration, such as birthplace or language spoken at home, and may also exclude other types of information such as student addresses. In addition, IHEs may provide students with a regular opportunity to opt out of the disclosure of students' directory information and may provide this notice in easily accessible formats such as in an academic catalog or on the school's website.

Furthermore, IHEs may provide periodic training to all faculty and staff on privacy and confidentiality policies. Such training may include specific steps to follow if an immigration officer requests information about a student, including that all such requests should be directed to the IHE's legal counsel. IHEs may similarly choose to review any existing contracts with immigration agencies regarding information sharing to ensure that immigration status information is shared only when required by a valid subpoena or court order.

C. The Role of Campus Police

IHEs must ensure that their campus police policies and practices are consistent with the Supreme Judicial Court decision in *Lunn v. Commonwealth*, which held that law enforcement officers may not hold an individual "solely on the basis of a Federal civil immigration detainer."¹² IHEs also may consider publicly explaining the authority of campus police and what role, if any, campus police will have in immigration enforcement.¹³ Immigrant students may be

¹⁰ To the extent IHEs already possess information about students' immigration status, they should not destroy or delete any relevant documents before consulting with legal counsel to ensure they are in compliance with applicable laws. *See, e.g.*, 18 U.S.C. § 1519.

¹¹ This advisory is not intended to address questions relating to international students studying in Massachusetts on F-1, J-1, or similar visas. The disclosure requirements for such students may be different.

¹² *Lunn v. Commonwealth*, 477 Mass. 517 (2017).

¹³ Generally speaking, the fact that an individual is present in the United States without legal status is a civil, not a criminal, matter. *See Arizona v. United States*, 567 U.S. 387, 407 (2012).



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more willing to come forward with information about crimes or other concerns on campus when they do not view campus police as a threat.

Toward that goal, campus police may also adopt policies and issue statements to demonstrate their commitment to protecting the safety of all students, regardless of immigration status. For example, campus police may affirm that they will not inquire about immigration status except where required by law and that they will not investigate or detain individuals solely on the basis of immigration status. Such policies and affirmations may increase trust among immigrant students and campus police and improve the efficacy of campus law enforcement.

Resources

IHEs and immigrant students may find the following resources helpful.

- [Mass.gov, Finding Legal Help](#)
- [Student Immigrant Movement](#)
- [United We Dream](#)
- [Educational Resources for Immigrants, Refugees, Asylees and other New Americans | U.S. Department of Education](#)
- [Massachusetts Immigrant and Refugee Advocacy Coalition](#)
- [University of California, Principles in Support of Undocumented Members](#)
- [National Immigration Law Center](#)
- [Greater Boston Legal Services](#)
- [President's Alliance on Higher Education and Immigration](#)