



STATE OF MICHIGAN  
DEPARTMENT OF EDUCATION  
LANSING


GRETCHEN WHITMER  
GOVERNOR

MICHAEL F. RICE, Ph.D.  
STATE SUPERINTENDENT

**MEMORANDUM**

**DATE:** January 16, 2025

**TO:** Local and Intermediate School District Superintendents  
Public School Academy Directors

**FROM:** Michael F. Rice, Ph.D.  
State Superintendent 

**SUBJECT:** Michigan Department of Education Guidance on the Responsibility to Educate Children Regardless of Citizenship and Immigration Status

All children, regardless of citizenship and immigration status, have the right to equal access to a free public education. The United States Supreme Court ruling in [Plyler v. Doe \(457 U.S. 202 \(1982\)\)](#), a 2014 U.S. Department of Education/U.S. Department of Justice's [Dear Colleague letter](#), U.S. Department of Education June 2023 [guidance](#), and most recently [a January 8, 2025 Dear Colleague letter](#) from U.S. Secretary of Education Miguel Cardona confirm the right to equal access for all children to a free public education regardless of immigration status.

Furthermore, [Michigan's Elliott-Larsen Civil Rights Act](#) (ELCRA) expressly prohibits discrimination based on race or national origin and guarantees the full and equal enjoyment of public services and accommodations. Public education is a public service, and school-age children—all school-age children—have the right to this service. Likewise, Title VI of the Civil Rights Act of 1964 notes that "[n]o person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance."

Additionally, the Family Educational Rights and Privacy Act (FERPA) addresses access to student records. A district should consult with counsel on the requirements to access student records, such as a valid court order or subpoena in compliance with FERPA or other laws or regulations ([8 USC 1225\(d\)\(4\)](#); [34 CFR 99.31\(a\)\(9\)\(i\)](#)), by a requesting agency, including an immigration enforcement agency. Districts should also consult with counsel on exceptions to FERPA's protections that apply in limited situations. For example, the Department of Homeland Security (DHS) and its Immigration and Customs Enforcement (ICE) bureau are permitted to have access to student records to monitor the stay of international students in limited study abroad

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programs ([8 CFR 214.3\(g\)](#)). Consistent with FERPA, schools should ensure that any individual requesting student or parent information has proper legal authority. A district's lawyer can verify if a request is consistent with FERPA and whether staff should request that officers wait off the school premises while legal authority is verified.

According to an [October 27, 2021 DHS memo](#), "[t]o the fullest extent possible, we [ICE] should not take an enforcement action in or near a location that would restrain people's access to essential services or engagement in essential activities. Such a location is referred to as a 'protected area.'" Importantly, schools are classified protected areas, meaning that absent exigent circumstances, ICE should refrain from taking enforcement actions in or near schools without appropriate prior approval.

In recent discussions with department staff, parents and others have shared concerns regarding the ability of children to exercise the right to attend public school, irrespective of citizenship, immigration status, race or national origin. The issue of possible ICE enforcement, in or on the perimeter of schools, which would be contrary to current DHS guidance in the preceding paragraph, has been raised. A reasonable argument could be made that such enforcement in or on the perimeter of schools, were it to materialize in Michigan, would disrupt the education of some of our students, would make it less likely that these children would attend school consistently, and would therefore undermine their *Plyler* rights to a free public education.

All students have a right to a free public education regardless of their citizenship, immigration status, race or national origin. As educators, we have a responsibility to protect that right. The resources throughout this document and advice of your legal counsel are important when making decisions and educating your staff related to the educational rights of the children in your community and staff responsibilities. This memo is for informational purposes and should not be considered legal advice. I suggest that you promptly consult your district legal counsel, who should guide you on any specifics that you, your students, or your staff may encounter.

The Michigan Department of Civil Rights (MDCR) is a law enforcement agency that has jurisdiction over Michigan's civil rights laws, most pertinently for this memo the Elliott-Larsen Civil Rights Act (ELCRA). Article 4 of ELCRA provides civil rights protections in education based on religion, race, color, national origin, sex, sexual orientation, or gender identity or expression.

Therefore, MDCR may investigate complaints in education based on allegations of unlawful discrimination when individuals are not provided, "the full use or benefit of an educational institution, its services, activities or programs." Furthermore, if an individual is excluded or unlawfully discriminated against and is treated differently or denied educational opportunities because of a policy or limitation due to their national origin or other protected basis listed above, MDCR may investigate the allegations.

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Thank you for your continued work and partnership to support the educational and social emotional needs of Michigan's children.

cc: Michigan Education Alliance  
Confederation of Michigan Tribal Education Departments