

**Congress of the United States**  
**House of Representatives**  
**Washington, D.C. 20515**

April 3, 2017

The Honorable Jeff Sessions  
Attorney General  
Department of Justice

The Honorable Betsy DeVos  
Secretary of Education  
Department of Education

The Honorable John Kelly  
Secretary of Homeland Security  
Department of Homeland Security

Dear Attorney General Sessions and Secretaries DeVos and Kelly:

We write to express concern that recent changes in immigration enforcement policies are creating fear, anxiety and confusion in immigrant communities around the country. In this environment of trepidation, it is important that we do all we can to minimize the impact these policies have on public school attendance and student learning.

One way to address this concern is to ensure that school enrollment and attendance practices do not chill school participation based on the students' or their parent's immigration status.

In *Plyler v. Doe*,<sup>1</sup> the U.S. Supreme Court ruled that it was unconstitutional to deny any child, including an undocumented child, access to a public education. A student's or student's parent's immigration status was deemed immaterial to the student's entitlement to an elementary and secondary public education.

The Supreme Court recognized the fundamental role childhood education has played in our society. Justice Brennan, writing for the majority stated: "By denying these children a basic education, we deny them the ability to live within the structure of our civic institutions, and foreclose any realistic possibility that they will contribute in even the smallest way to the progress of our Nation."<sup>2</sup>

Since that decision, the federal government has provided States and school districts with periodic guidance to help them understand their responsibilities under *Plyler* and implement enrollment

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<sup>1</sup> 457 U.S. 202

<sup>2</sup> 457 U.S. 202, 223.

and attendance practices consistent with that decision. For example, in 2011, Secretary Arne Duncan, in conjunction with Attorney General Eric Holder, issued guidance reiterating the *Plyler* ruling.<sup>3</sup> And in 2014,

Secretary Duncan and Attorney General Holder issued updated guidance to school districts around the country to ensure their processes were consistent with the law.<sup>4</sup>

Given the significant changes in immigration enforcement policies and the misperceptions that often arise with such policy changes, we are requesting that your Departments reiterate their commitment to upholding *Plyler*, and ensure that State and school district officials understand that their legal obligations under this ruling and the Constitution have not changed. These measures are necessary to protect school children and continue to provide them the educational opportunities to contribute to the progress of our Nation.

Another way to minimize harm to school children is to guarantee that schools continue to be safe spaces for all children and their parents, regardless of their immigration status. Parents, especially those who are undocumented, must feel secure in knowing that Department of Homeland Security officers will not be conducting enforcement actions at their children's schools.

Unfortunately, President Trump's immigration enforcement policies, coupled with recent press reports of immigration enforcements actions near schools, are creating justified concerns about the safety of schools for children and their parents.

President Trump's January 25, 2017 Executive Order on interior enforcement directs Department of Homeland Security personnel to employ all lawful means to ensure faithful execution of immigration laws against *all* removable immigrants.<sup>5</sup> And the Department of Homeland Security's implementation guidance, issued by Secretary Kelly on February 20, 2017, underscores the sweeping nature of this enforcement directive.<sup>6</sup> Although this guidance purports to prioritize criminals, it states: "unless otherwise directed, Department of Homeland Security personnel may initiate enforcement actions against removable aliens encountered during the performance of their official duties."<sup>7</sup> In other words, any undocumented individual encountered by Immigration and Customs Enforcement officers encountered anywhere may be arrested, apprehended and removed

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<sup>3</sup> <https://www2.ed.gov/about/offices/list/ocr/letters/colleague-201101.html>

<sup>4</sup> <https://www.ed.gov/news/press-releases/secretary-duncan-and-attorney-general-holder-issue-guidance-school-districts-ens>

<sup>5</sup> <https://www.whitehouse.gov/the-press-office/2017/01/25/presidential-executive-order-enhancing-public-safety-interior-united>

<sup>6</sup> [https://www.dhs.gov/sites/default/files/publications/17\\_0220\\_S1\\_Enforcement-of-the-Immigration-Laws-to-Serve-the-National-Interest.pdf](https://www.dhs.gov/sites/default/files/publications/17_0220_S1_Enforcement-of-the-Immigration-Laws-to-Serve-the-National-Interest.pdf)

<sup>7</sup> See page 4 of Enforcement of the Immigration Laws to Serve the National Interest.


Questions have understandably arisen with respect to the validity of past Department of Homeland Security policies that may appear to contradict the new interior executive order and implementation memorandum. For example, clarification is needed regarding the Department's sensitive locations policy.


On July 15, 2016, the Department of Homeland Security issued a press release stating that their policy of generally avoiding enforcement actions at sensitive locations, including schools, remained in effect.<sup>8</sup> As part of this announcement, U.S. Immigration and Customs Enforcement and U.S. Customs and Border Protection made available Frequently Asked Questions supplementing existing sensitive locations guidance and clarifying the types of locations covered under these policies.<sup>9</sup> In describing what localities were encompassed under this policy, "schools was defined to include: "known and licensed daycares, pre-schools and other early learning programs; primary schools; secondary schools; post-secondary schools up to and including colleges and universities; as well as scholastic or education-related activities or events, and school bus stops that are marked and/or known to the officer, during periods when school children are present at the stop".<sup>10</sup>


To assuage increasing apprehensions, we request that the Department of Homeland Security issue a statement making clear that, in spite of other changes in enforcement policy, the sensitive locations policy remains in full effect, at schools and other localities. Fear of immigration enforcement actions cannot be allowed to create a hostile learning environment for our children.


We look forward to your prompt response to our letter and your Departments' issuance of policy statements that will promote public school attendance across the country.

Sincerely,

  
**JOHN CONYERS, JR.**  
Ranking Member  
Committee on the Judiciary

  
**ROBERT C. "BOBBY" SCOTT**  
Ranking Member  
Committee on Education and the Workforce

  
**BENNIE G. THOMPSON**  
Ranking Member  
Committee on Homeland Security

  
**ZOE LOFGREN**  
Ranking Member  
Subcommittee on Immigration and Border Security  
Committee on the Judiciary

<sup>8</sup> <https://www.dhs.gov/news/2016/07/15/fact-sheet-frequently-asked-questions-existing-guidance-enforcement-actions-or>

<sup>9</sup> <https://www.ice.gov/ero/enforcement/sensitive-loc>  
<https://www.cbp.gov/border-security/sensitive-locations-faqs>.

<sup>10</sup> See <https://www.ice.gov/ero/enforcement/sensitive-loc>