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A GUIDE TO CREATING "SAFE SPACE" POLICIES FOR EARLY CHILDHOOD PROGRAMS

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This guide gives practitioners, advocates, and policymakers information and resources to design and implement "safe space" policies that safeguard early childhood programs against immigration enforcement. A "safe space" policy is a plan or set of protocols to mitigate the harm of possible immigration enforcement actions at or near early childhood programs and protect families' safety and privacy. CLASP is available to provide technical assistance as you develop your safe space policy. If you have questions or would like us to review a draft policy, please contact Priya Pandey (**ppandey@clasp.org**)

This guide was updated in 2025 to reflect changes to federal immigration policy as a result of a directive issued by Acting Department of Homeland Security Secretary Benjamine Huffman. The directive rescinds the Biden Administration's guidelines for Immigration and Customs Enforcement (ICE) and Customs and Border Protection (CBP) enforcement actions in or near "sensitive locations" or "protected areas."

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PART 1: OVERVIEW OF SAFE SPACES POLICIES

IMPACT OF IMMIGRATION POLICIES ON ACCESS TO EARLY CHILDHOOD PROGRAMS

Early childhood programs play an important role in families' lives. Across the country, child care and early education providers offer millions of young children a safe space to play, learn, and grow while their parents work or attend school. These programs also connect families to important community resources like nutrition, health, and parenting services. For families facing adversity, early childhood programs provide stability when everything else is uncertain. However families cannot reap the benefits of child care and early education if they are too afraid to enroll in or attend these programs.

CLASP's field research with immigrant parents and early care and education providers showed that many parents question whether it is safe to bring their children to early childhood programs. Families are worried about sharing their personal information; how participating in publicly funded programs could affect their ability to obtain long-term immigration status; and encountering immigration agents at or near early education sites, among other concerns.

Evidence suggests that anti-immigrant policies create a "chilling effect" in which immigrants avoid accessing benefits they are entitled to due to the fear of encountering immigration enforcement agents or other immigration-related concerns.

HISTORY OF THE "SENSITIVE LOCATIONS" AND "PROTECTED AREAS" POLICY

In 2011, the U.S. Department of Homeland Security (DHS), which oversees both Immigration and Customs Enforcement (ICE) and Customs and Border Protection (CBP), established policies that restrict immigration enforcement actions in certain "sensitive locations." These locations included places of worship, schools, health care facilities, and early childhood programs such as licensed child care, preschool, pre-kindergarten, and Head Start programs.

In October 2021, DHS announced a new "protected areas" policy that replaced the 2011 policy. To clarify the policy, It included locations that were outlined in the previous policy but also added to additional locations (such as those providing social services and places where children gather, like playgrounds) and improved consistent implementation. The new policy also had the goal of restricting immigration enforcement actions at or near "protected areas" and went further, explicitly stating that, except in limited circumstances, immigration agents could not conduct arrests, apprehensions, or other enforcement actions in or near these locations. The policy also advised against enforcement actions near a "protected area" and advised the use of judgment as to whether such an action would "restrain people from accessing the area."

On January 20, 2025, the Trump Administration ended the policy through a directive issued to the Department of Homeland security that ends the Biden 2021 protected areas policy and directs CBP officials to "**common sense**" when it comes to enforcement. While the policy is no longer in place, providers and families continue to have rights that can help protect them from some immigration enforcement actions.

EVEN WITHOUT A FORMAL POLICY, CHILD CARE PROVIDERS CAN STILL IMPLEMENT SAFEGUARDS

With or without a formal DHS policy in place, child care and early education providers can still create a formal policy to ensure that the well-being of their children, the families they serve, and their staff are thoroughly protected. A "safe spaces" policy can also reinforce basic constitutional protections and other federal privacy and civil rights laws.

Having an internal policy can help programs prepare for possible immigration enforcement actions at or near their facilities. It also demonstrates that programs care about immigrant families' well-being and are taking steps to ensure their safety, even if no such actions should occur.

WHY DOES YOUR PROGRAM NEED A SAFE SPACE POLICY?

To protect the well-being of children, parents, and staff. An unwelcome, unannounced visit from immigration agents or other law enforcement officials can be scary for children and adults. Having a plan in place and communicating that plan to staff and parents will help to ensure information about families or staff members isn't revealed unintentionally. It will also mitigate the disruption caused by an agent's visit.

To communicate that immigrant families are welcome and safe. **Research demonstrates** that children in immigrant families are less likely than their peers with U.S.-born parents to enroll in early childhood programs as well as other public programs and services that support their healthy development. This is due to a variety of barriers, including fear of immigration consequences, lack of knowledge about eligibility, and complicated application and enrollment procedures. These challenges are exacerbated by today's toxic political climate. Implementing and publicly sharing your program's safe space policy communicates to mixed-status families that you take their safety and security seriously and consider their unique needs. It also shows that your program is a trusted resource.

To ensure staff are prepared for unexpected and stressful situations. Effectively implementing your safe space policy goes beyond developing a set of procedures; it also means ensuring all staff are trained on the policy and prepared to take action. Your plan should include expectations for initial and ongoing training to ensure staff members are always up to speed.

KEY COMPONENTS OF A SAFE SPACE POLICY

Your program's general security and privacy protocols lay the foundation for your safe space policy. Before getting started, revisit existing policies and protocols related to:

- Which staff members are authorized to speak with an agent of authority (e.g., a police officer, licensing representative, etc.) Storing and releasing private information about parents, children, and staff
- Communicating urgent information to staff and parents
- How authorized staff and parents are able to access the facility
- Expectations for visitors
- Establishing emergency contacts

Ensure these and other related policies comply with relevant local, state, and federal laws and consider whether additional policy changes are needed to further safeguard your location and the personal data of enrolled families. In general, these are basic policies and procedures that should be in place at all times.

Your safe space policy builds on basic security protocols, considering what would happen if an immigration agent requested access to your facility or information about a parent, child, or staff member. **If your basic security protocols are thorough and consistently implemented and enforced, you will be less likely to inadvertently release information to immigration agents or allow an unauthorized visitor on the premises.**

Your policy can be as simple or as detailed as you choose. Key components should include:

- **Clearly outlined staff roles and responsibilities.**
    - Which staff member(s) are responsible for speaking with the immigration agent?
    - Who will notify other on-site staff of the agent's presence?
    - Are there off- site staff (such as an executive director, a board member, or a lawyer) or community partners (such as an immigrant rights organization) that should be notified of the agent's visit? Who is responsible for contacting them?
- **How staff should interact with federal immigration agents.** The designated employee should ask the agent for their credentials and authorization before permitting them access to your program's property.
    - This includes a judicial warrant and permission from a supervisor. Except in exigent circumstances of national security or other threats to public safety, you do not have to allow an agent into your program without this documentation. If the agent has the proper credentials, permission to enter the building from a supervisor, and a judicial warrant (or cites exigent circumstances), a designated employee should accompany the agent while they are present on your property and thoroughly document all

events that happen while the officer is present. In any case, staff safety remains a priority. Staff members should never physically interfere with an agent.

- **How you'll minimize disruption.** As much as possible, staff should avoid the possibility of children or their parents seeing or encountering federal immigration agents.
- **How you'll notify parents.** In the event of an immigration enforcement action, it is important to alert parents of the agent's arrival and departure, especially if agents are present at or around drop-off or pick-up. Any notifications sent to parents should inform them of the steps being taken to protect their children and their private information.

WHAT IS A JUDICIAL WARRANT?

A judicial warrant is a signed order from a judge that permits immigration agents to enter your facility. **Authentic judicial warrants will say "U.S. District Court" or "State Court" at the top.**

Your policy should also indicate how you will make information available to parents and staff; how staff will be trained on the policy; and how often the policy will be revised and updated. Part 2 of this resource has additional guidance and sample language for key elements of your safe space policy. You might also consider including resources for staff members and parents, such as an overview of any relevant DHS policies.

Again, keep in mind that it's unlikely enforcement actions will focus on or occur at your center. It is far more likely that immigration agents would be close to your center instead of requesting direct access. With that in mind, your safe space policy could include procedures to follow if immigration agents are near your center or if you become aware of a home/worksite raid taking place in the surrounding community.

PART 2: HOW TO CREATE A SAFE SPACES POLICY

WHAT YOU SHOULD INCLUDE

Provide the purpose of your policy as well as a summary. Describe how the policy fits with your program's mission statement and goals.

While immigration agents entering your building may be unavoidable, we encourage you to take every precaution possible to mitigate harm. We recognize every program's physical space is unique. **If your program has a shared entrance or common areas with other organizations, consider additional precautions you may take to safeguard your facility, such as clearly labeling your property as "private."**

If your program is housed within a school, you may add specific information about constitutional obligations to educate all children—regardless of their immigration status or that of their parents—under the **U.S. Supreme Court ruling on *Plyler v. Doe***, which affirms their right to public education.

In June 1982, the Supreme Court issued* Plyler v. Doe*, a landmark decision holding that states cannot constitutionally deny students a free public education on account of their or their parent's immigration status.

SAMPLE TEMPLATE FOR SAFE SPACES POLICY

You should use this template as a guide and adapt it to fit the specific needs of your program:

*This policy provides protocols for staff in case of immigration enforcement actions **at [OR NEAR] [PROGRAM NAME]**. These protocols are not intended to interfere with the enforcement of federal immigration laws and are not political in nature.*

*The purpose of **[PROGRAM NAME's]** safe space policy is to keep our services accessible to all families and uphold core constitutional principles of educational equity and access.*

*References to **[PROGRAM NAME]** property as used in this policy include… **[identify areas of your center that can reasonably be considered private and belonging to the program]**.*

*We recognize that having federal immigration agents on our property would discourage parents from bringing their children to **[PRESCHOOL/PRE-K/CHILD CARE,]** as well as accessing services on behalf of their children. It is our responsibility as early care and education professionals to ensure our program is safe, reliable, and accessible to every family we serve or who seeks our services.*

OVERVIEW OF GENERAL SECURITY PROTOCOLS AND PROCEDURES TO MAINTAIN FAMILIES' PRIVACY AND CONFIDENTIALITY

WHAT YOU SHOULD INCLUDE

As a licensed or regulated early childhood program, you should already have protocols for securing your facility's premises and your families' private information. Provide an overview of your general policies and procedures here. Are the doors locked during all operating hours? Are they open during pick-up and drop-off? Do parents have a passcode or key fob to enter the center? What is your policy for staffing the front desk?

You should also state program expectations and standards regarding private information:

- Indicate staff should only collect information about children and families that is necessary for enrollment or educational purposes. This information should only be available to program staff for programmatic or educational purposes.
- State that families' information should not be disclosed to non-program officials without a court order or parents' consent. If applicable, you may add information about specific privacy rules to which your program adheres (such as the Family Educational Rights and Privacy Act).

STAFF ROLES AND RESPONSIBILITIES IN CASE OF AN ENFORCEMENT ACTION

WHAT YOU SHOULD INCLUDE

Describe key roles and responsibilities for staff members. Identify one or two designated employees to communicate with immigration agents should they request access to the property. Determine:

- Who is responsible for alerting parents and other on-site staff of agents' presence.
- Consider whether there are additional staff or partners off-site who should also be contacted. This might include an executive director, a board member, a lawyer, or a local immigrant rights organization.

PROTOCOLS AND PROCEDURES FOR INTERACTING WITH IMMIGRATION AGENTS IN THE EVENT OF AN ENFORCEMENT ACTION

WHAT YOU SHOULD INCLUDE

Provide an overview of the process if an immigration agent requests access to the program's property or is seen on private program property without permission. Ideally, you would avoid allowing the agent inside the building; instead, the designated staff member would speak with the agent outside the facility. Staff should not give the agent(s) permission to enter any part of your facility marked "PRIVATE" until you have assessed their credentials.

However, under no circumstances should staff physically interfere with an agent or take any actions that could threaten their safety or the safety of other children or adults on the premises.

Consider telling staff what they should do if children are not in the classroom (e.g., having lunch in a shared eating area, using a common restroom, or playing in an indoor or outdoor play area). You should attempt to minimize disruptions to children's routines but prioritize children's physical and emotional safety as well as limit their visibility to the agent to the extent possible.

SAFE SPACES POLICY TEMPLATE FOR INTERACTING WITH IMMIGRATION OFFICIALS

The designated staff member should tell the agent(s) that **[PROGRAM NAME]** has a procedure they are required to follow for the safety of children, staff, and parents. Ask the agent(s) for their credentials and written approval from their supervisor.

1 **If the agent does not have the proper credentials,** permission to enter the building, and a signed judicial warrant, the designated staff member should refuse consent to enter the property and politely request that the agent leave because the officer's presence is a disruption to normal operations.

"Thank you for your cooperation. As I said, [PROGRAM NAME] is private property. Since you don't have written permission and a judicial warrant to enter our building, I'm going to have to ask you to leave in order to avoid disrupting the normal operations of our center."

2 **If the agent does provide proper credentials** and has both permission to enter the building and a signed judicial warrant, the designated staff member should allow entrance only to areas specified in the warrant and accompany the agent(s) while they are present on program property. If the agent appears to be conducting any activity that falls outside the scope of the warrant, staff should inform the agent that they do not consent to the additional activity taking place.

In any case, staff should remain calm and take notes or otherwise document all events. Staff should never physically interfere with an agent or take any actions that could threaten their safety under any circumstances.

DOING PRACTICE RUNS WITH STAFF

As you work with your team to develop a safe spaces policy for your facility, we recommend doing some scenario planning and role-playing to prepare. In the event that ICE agents show up at or near your facility, it is helpful to have practiced the scenario beforehand and to feel confident in your script and knowledge of your policy.

KEEP IN MIND...

It's okay to ask the agent(s) to wait while you make a phone call, evaluate their credentials, and make copies for your records. However, a staff member should remain with the agent(s) at all times.

It's also a good idea to have a sample script or talking points for staff members who may interact with immigration agents. In the moment, it could be hard to turn away an authority figure.

PART 3: KEY RESOURCES FOR PROVIDERS AND PARENTS

Educational access for immigrant children and families. These resources provide additional information on protections for immigrant students and families, and immigrant eligibility for federal early childhood programs.

- Hannah Matthews, "Immigrant Eligibility for Federal Child Care and Early Education **Programs**," CLASP, April 2017
- "**Practice Advisory: The Legal Authority for "Sanctuary" School Policies,**" National Immigration Law Center, last update August 2018,.
- Know Your Rights for Immigrant Students, **English** and **Spanish**, American Federation of Teachers (AFT),
- Protecting our Students Toolkit, **English** and **Spanish**, AFT
- 15 Things Educators Can Do to Support Immigrant Youth & Families, **English** and **Spanish**, AFT

Supporting immigrant parents in preparing for the possibility of immigration enforcement. These resources address developing family preparedness plans and talking to children about immigration enforcement.

- **Family Preparedness Plan**, Immigrant Legal Resource Center, November 20, 2024, .
- **Immigrant Safety Plan for Youth and Children,** January 15, 2021. This document from Legal Counsel for Youth and Children is a collective community resource to help parents plan for the care of their child(ren) (with or without status) in the event that a parent is unable to care for their child, particularly if the parent is detained or deported.

- **Family Preparedness Plan (and facilitator's guide; plan also available in Spanish)**, Boston Medical Center, 2017. This document is intended to be completed by parents with the support of a facilitator. The plan should not be disseminated to parents to complete on their own.
- **Make a Plan: Essential Steps for Migrant Parents for Preventing Family Separation**, Women's Refugee Commission, December 18, 2024.
- **Immigration, Know Your Rights** is a Spanish-language video from Abriendo Puertas/Opening Doors that supports immigrant parents in having difficult conversations with children about immigration.

Know your rights when interacting with federal immigration agents. These are resources for immigrants as well as service providers working with immigrant families.

- **A Guide for Employers: What to Do if Immigration Comes to Your Workplace,** National Immigration Law Center, November 26, 2024
- **Know Your Rights: A Guide to Your Rights When Interacting with Law Enforcement** (available in multiple languages), Catholic Legal Immigration Network, Inc., last updated January 27, 2017.
- **What to Do if Immigration Comes to Your Workplace**, National Employment Law Project and National Immigration Law Center, 2017.
- **When Immigration Officials Arrive at Your Workplace: A Know Your Rights Toolkit for Public Sector Workers,** Immigrant Legal Resource Center and SEIU California, 2017.

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- You can search for an immigration lawyer using the American Immigration Lawyers Association's online directory at **AILA's Immigration Lawyer Search.**
- Organizations that provide low-cost immigration assistance can be found at **National Immigration Legal Services Directory - Immigration Advocates Network**.