

FROM IMMIGRATION RAIDS TO DEI AND BATHROOM ACCESS: HOW K-12 SCHOOLS SHOULD RESPOND TO THE FIRST WEEK OF TRUMP EXECUTIVE ORDERS

Insights
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The flurry of executive orders signed by President Trump during his first few days of his second administration will have a profound impact on K-12 school communities across the country. They not only touch on immigration issues and potential raids or enforcement activities on your school's campus, but also demand a revisitation of DEI policies, bathroom and locker room access rules, and gender ideology studies. What do you need to know about these executive orders and what steps should you take to ensure compliance in this new era?

Immigration Enforcement Could Soon Take Place on Your Campus

Along with a [batch of immigration-related executive orders](#) signed within hours of the new administration taking office, Department of Homeland Security (DHS) leadership [announced a controversial plan](#) to significantly broaden the scope of U.S. Immigration and Customs Enforcement (ICE) operations. The new directive authorizes the agency to target sensitive locations – including all types of schools, places of worship, and courthouses – for enforcement activity. This policy shift, introduced under Acting DHS Secretary Benamine Huffman, represents a stark departure from prior administrations.

- **ICE Operations in Sensitive Locations:** Historically, ICE has been restricted from conducting enforcement actions in schools, religious institutions, and courthouses to allow individuals access to education, spiritual support, and legal services without fear of arrest. However, under the

Related People



Sheila M. Abron

Partner

[803.740.7676](tel:803.740.7676)



Jennifer B. Carroll

Partner, Co-chair K-12
Institutions

[954.847.4716](tel:954.847.4716)

new directive, ICE agents are now authorized to make arrests at these locations – though they still need to follow usual due process principles.

- **Implications:** The expanded ICE presence in these environments is expected to have a chilling effect on immigrant communities. Fear of detention or deportation may deter individuals from seeking critical educational services, legal protections, or attending court proceedings.
- **Expect Legal Challenges:** This shift in policy is likely to face legal challenges, as advocacy groups argue it infringes on fundamental constitutional rights, including access to the courts and freedom of religion. But unless and until a court blocks the directive, you need to prepare for this new challenge.

What Should You Do?

Your school may soon face new challenges navigating ICE at campus. Administrators and staff must understand their role: protecting immigrant students' rights while not interfering with enforcement activities.

- **Review I-9s for all school employees** to prepare for potential ICE audits. Regardless of the institution, I-9 audits will increase – and an ICE warrant is needed to launch one against your school. If you are unsure how to conduct a proper I-9 audit, contact your FP counsel to get specific and definitive instructions to ensure the most efficient use of your time.
- **Develop clear policies** and procedures to minimize your chance of being subject to an ICE raid, which include scheduling regular audits of your staff and conducting regular employee training on I-9 compliance. A routine audit of your staff's I-9 forms could trigger an enforcement action against your entire school if ICE perceives you believe you aren't taking immigration compliance seriously.
- **Know how to respond to an I-9 audit ahead of time.** If you receive a Notice of Inspection from federal immigration officials, you typically need to produce I-9 forms and additional records within three days. Contact your FP counsel immediately, as they can help you gather correct documentation, make allowable corrections to minimize penalties and, if necessary, negotiate a short extension for producing records. They can also work with ICE officials to streamline the audit process and perhaps keep enforcement away from your campus.



Brian J. Coughlin

Partner

617.532.5892



Sarah Leon

Associate

954.847.4719



Radhika Mehta

Partner

206.247.7013

- **Prepare for potential DHS raids.** This is a new area for most personnel, so you should prepare them for the possibility that immigration could show up at your school unannounced to a raid. They should know what to do and who to contact if it shows up on your campus.
- Offer trainings to provide them with a clear understanding of students' rights and your school's obligations in this new area.
- Designate an employee most knowledgeable about the process to serve as a point person should ICE arrive on campus.
- Establish a relationship with an FP immigration attorney if you don't yet have one – especially if you are concerned about enforcement activity at your school. Contact your regular education attorney to connect with someone suited for your situation.
- **If subject to a DHS raid targeting personnel or students, contact Fisher Phillips' new [Rapid Response Team](mailto:DHSRaid@fisherphillips.com) at (877) 483-7777 or DHSRaid@fisherphillips.com.**
 - Your designated point person should be your main point of contact with ICE officers – make sure they are on the scene to coordinate your response.
 - ICE agents can enter public areas without permission. However, to access non-public areas, ICE agents need to have a valid warrant signed and dated by a judge.
 - You can (and should) request and examine the warrant for access to non-public areas of your school, during which ICE officers can wait in "public areas" of your campus where members of the public can access (like main offices). You should want to consider installing signage that states that visitors must check in at main office and/or that certain areas of the campus are for school personnel only. This will limit ICE officer access to those areas.
 - If the warrant is valid, your point person should allow the whatever specific area has been approved for inspection and enforcement activity, but don't interfere with the raid in any way.
 - You should monitor activities but avoid taking any action that could be construed as harboring those who don't have proper documentation.
 - Document any seized property or records.



Angelica M. Ochoa

Partner

[303.218.3669](tel:303.218.3669)



Jenna B. Rubin

Partner

[404.260.3410](tel:404.260.3410)



Kristin L. Smith

Partner, Co-chair K-12
Institutions

[713.292.5621](tel:713.292.5621)

Service Focus

[DEI and EEO Compliance](#)

- Manage any public relations fallout that may result.
- **Purchase a Rapid Response Tool Kit.** FP's Rapid Response has developed a Tool Kit specifically designed for the education setting, complete with a detailed "what to do in the event of a raid" memo and flyer, a know-your-rights card in multiple languages for students and school personnel, and points of contact for work and contact in case of emergencies. Contact your FP attorney for more information.

"Gender Ideology" Teachings Under Scrutiny

Meanwhile, a separate ["Gender Ideology" Executive Order](#) mandates that the federal government recognize only two biological sexes: male and female, as determined at conception. Along with a list of other mandates, the order states that "federal funds shall not be used to promote gender ideology."

What it means to promote "gender ideology" has yet to be seen or defined but one thing is clear – the order will have an impact on more than just federal agencies. K-12 schools that receive federal financial assistance are now expected to comply with the terms of the order or risk losing funding.

What Should You Do?

- Schools that rely on federal funding will want to re-evaluate their handbooks and policies to consider whether changes are necessary. For example, all federal agencies are directed to replace the term "gender" with "sex" in official documents. Schools should consider similar action to preserve their funding source.
- Coordinate with your FP counsel to determine whether your current educational curriculum, protocols, or procedures could pose a risk.

Revisit Bathroom and Locker Room Access Policies

That same order also requires federal agencies to reverse any policies that allowed gender-identity based access to single-sex spaces. For any K-12 schools accepting federal financial assistance, this will encompass bathrooms and locker rooms. Under the order, students and employees should only be allowed to use the bathroom or locker room that corresponds with their biological sex.

Employers' Rapid Response Team for DHS Raids

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Though the executive order proclaims that “sex” is not a synonym for and does not include “gender identity,” this proclamation runs counter to [the Supreme Court’s *Bostock* ruling](#), which clearly holds otherwise (at least for now). But that Supreme Court decision specifically avoided the bathroom issue, saying it did “not purport to address bathrooms, locker rooms, or anything else of the kind.” Which means we’ll be seeing lots of litigation over this issue – and leaving schools in limbo in the meantime.

What Should You Do?

- Schools accepting federal financial assistance may be betwixt a rock and a hard place on this issue, as following the executive order to the letter could place your school at risk for a gender discrimination claim.
- Issues of restroom and locker room access have previously been hot-button issues, and this is likely to be an area of increased focus moving forward. Make sure you inform your school community about whatever decision you make and your rationale behind it, so the lines of communication are open.
- Review bathroom and locker room policies with your FP counsel to determine if you need to make adjustments.

DEI Activities Under Fire

As if there was not enough uncertainty caused by the Gender Ideology order alone, President Trump [also issued a far-reaching executive order targeting diversity, equity, and inclusion \(DEI\) initiatives](#). This new DEI order affects *all* K-12 schools, not just those receiving federal financial assistance.

The order directs federal agencies to “combat illegal private-sector DEI preferences, mandates, policies, programs, and activities.” While the order does not clarify what constitutes “illegal DEI” programs, the order does define prohibited conduct as:

- illegal discrimination and preferences; and
- workforce balancing based on race, color, sex, sexual preference, religion, or national origin.

Notably, existing federal law already prohibits these same actions, so any legal DEI programs that your school is

already operating should continue to remain above board – though they may be subject to more scrutiny.

The order also contains a directive to the Secretary of Education to issue guidance to all “state and local educational agencies that receive Federal funds” on steps required to comply with the [2023 Students for Fair Admissions case](#). Though this provision only targets agencies, we suspect the guidance eventually issued by the Department of Education will include individual schools that receive federal financial assistance as well.

What Should You Do?

- You will want to prepare and carefully review any forms of initiatives, scholarships, preference policies, or programs currently in place to see what, if anything, needs to be changed.
- For more information on steps to take, check out the guidance issued after a [federal appeals decision redefined boundaries for Title IX programs](#).

Conclusion

If you have any questions about these developments or how they may affect your school, please contact your Fisher Phillips attorney, the authors of this Insight, or any attorney on our [Education Team](#) or [Immigration Team](#). Visit our [New Administration Resource Center for Employers](#) to review all our thought leadership and practical resources, and make sure you are subscribed to [Fisher Phillips' Insight System](#) to get the most up-to-date information.