

Non-Regulatory Guidance on Immigration Enforcement Actions at Day Care Facilities

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In Illinois, day care services must be provided regardless of race, color, national origin, citizenship status, or immigration status. Information about a family's immigration status is not required to enroll a child for day care services.

The increased actions and presence of U.S. Immigration and Customs Enforcement (ICE), U.S. Customs and Border Protection (CPB), U.S. Department of Homeland Security (DHS) and other such agencies in Chicago and across Illinois has caused significant concern among many providers, parents, and stakeholders.

To ensure that all day care providers understand the steps to take in situations involving immigration enforcement, this non-regulatory guidance outlines important precautions to take in case:

- Immigration enforcement personnel request information from a provider; or
- A child's caregiver (parent, relative, guardian) is detained or deported while picking up or dropping off a child at the day care, or during the time the child is in care.
- Immigration enforcement personnel seek to carry out enforcement action at a day care home or facility.

Planning in advance for these potential situations can make a critical difference for a child's well-being.

Immigration Enforcement Actions at Day Care Facilities: Maintaining Client Confidentiality and Developing a Written Plan of Action

If immigration enforcement personnel contact a day care home or facility, the federal personnel should be able to provide legal documentation giving them the authority to act. Each of these documents may be issued by different authorities and require different levels of compliance from a day care home or facility. See a list of potential enforcement documentation at the end of this Guidance.

Confidentiality of Day Care Client Information

Day care providers in Illinois, including day care homes, group day care homes, and day care centers are all currently licensed by the Illinois Department of Children and Family Services (DCFS). Illinois statute and rules require a facility (e.g., day care home, group day care home, day care center) to keep information about children and their relatives confidential *unless* the parent gives specific written consent to release the records, or the disclosure is court ordered. [225 ILCS 10/15](#) and [15.1](#); DCFS Rules [406.24](#); [408.120](#) (regarding Records and Reports) and DCFS Rules [406.25](#), [407.80](#), [408.125](#) (regarding

Confidentiality of Records and Information). This includes records about the admission, progress, health, or discharge of an individual child.

Similarly, personally identifiable information (PII) and protected health information (PHI) of enrolled children and their families must be kept confidential. A definition of “Personal information” can be found in the Illinois Personal Information Protection Act at [815 ILCS 530/5](#). Moreover, preschools affiliated with school districts are subject to the confidentiality requirements described above as well as those of the [Family Educational Rights and Protections Act \(FERPA\)](#), 20 U.S.C. § 1232g.

Without a judicial subpoena or other court order signed by a federal judge or federal magistrate judge requiring the specific information, or a parent’s consent, this information should not be disclosed. If a provider is asked to provide confidential information to someone outside DCFS or someone who has parental consent, the provider should ask for the legal authority for the request and for time to consult with legal counsel. If information is required to be disclosed, the provider should be careful to ensure only the information required is disclosed, and not additional information.

Developing in Advance a Written Plan of Action for Interacting with Federal Officials

To ensure all measures are taken to protect the health, safety and well-being of any child receiving day care services all day care staff should know how to respond. DCFS recommends that providers develop a [Written Plan of Action](#) for interacting with federal officials, including but not limited to:

1. **Establish a Point-Person:** Day care facilities with multiple staff should identify a point-person who will handle and respond to any requests related to immigration enforcement.
2. **Develop Clear Instructions and a Script for Staff for How to Interact with Federal Officials:** Instructions should include that staff request the federal officials provide their legal authority to request information or take action and time to consult colleagues and an attorney. The federal officials should be able to provide legal documentation giving them the authority to act. This documentation must be signed by a federal judge or federal magistrate judge and can come in different forms.
3. **Actively Communicate with Caregivers:** The day care should develop the substance and timeline for any communication to caregivers in the event of interactions with federal officials. In the event a caregiver is detained or deported, the day care’s Written Plan of Action should include the [Emergency Family Plan](#) for the child. Providers should actively engage with parents or caregivers and ensure they are aware of each family’s Emergency Family Plan, in the event the child’s caretaker is unavailable to provide care.
4. **Immediately Train Day Care Staff:** Any policy on interacting with immigration enforcement personnel should be shared with all staff at a day care facility. Training should immediately be provided so whomever is present is prepared to respond.
5. **Ensure Written Plan of Action is Available and Accessible:** Make the Written Plan of Action available and easily accessible to staff if they need to consult it in an emergency.

6. **Review Confidentiality Protections:** Day care providers collect sensitive data from clients and must be aware of the important confidentiality protections that exist for this information. Without a judicial subpoena or other court order, or a parent’s consent, this information should not be disclosed. DCFS Rules [406](#) (day care homes), [407](#) (day care centers) and [408](#) (group day care homes) address confidentiality of records and information.

A Child’s Caregiver is Detained or Deported During the Time the Child is in the Day Care: Communicating and Planning with Caregivers in Advance for this Possibility

To prepare for the possibility of a child’s caregiver being detained or deported while the child is being dropped off, picked up, or present at the day care, providers should actively engage with the parents or caregivers of any child in their care *in advance* to ensure that the provider is aware of the [Emergency Family Plan](#) for each child. If the family does not have an Emergency Family Plan, recommend that they consider developing one. Providers should encourage parents to keep emergency contacts updated and accurate and ensure they know who is authorized to pick up and care for a child if the parent or caregiver is detained.

This kind of plan can be formal (e.g. written documentation or legal designation) or informal (e.g., listed emergency contact). For example:

- [Short Term Guardianship](#)
- Standby Guardian
- Informal Care Arrangement, including but not limited to identifying alternative caretakers in their emergency family plan.

Families should consult with an attorney to understand [guardianship options](#) and how they can plan for their child’s care in the event the child’s parent or caretaker is detained and unable to provide care.

Additional Resources

The Illinois Immigration Information Hub ([IllinoisImmigrationInfo.org](#)) is a comprehensive website designed in partnership between leading immigrant serving organizations, local government, and state government to empower immigrants with reliable immigration-related information and guidance. Among other resources, the site offers:

- ☐ The Illinois Immigration Information Hub [Know Your Rights Toolkit](#)
- ☐ [A comprehensive overview](#) of free and low-cost immigration legal services
- ☐ [A family emergency plan template](#), with step-by-step guidance
- ☐ [Organizational preparedness resources](#) for businesses and employers

A packet that walks families through planning considerations from The Resurrection Project in [English](#) and [Spanish](#).

Immigration Enforcement Documents

Below is a list of documents that immigration enforcement personnel typically use to carry out different types of enforcement actions:

- **Federal Court Warrant:** Federal Court warrants are issued by a district judge or magistrate judge of a U.S. District Court. There are two types of federal court warrants: a [search-and-seizure warrant \(Form AO 93\)](#) and an [arrest warrant \(Form AO 442\)](#).
- **Federal Judicial Subpoena:** Federal judicial subpoenas are issued by a district judge or magistrate judge of a U.S. District Court and order the production of documents or other evidence. Federal judicial subpoenas typically provide a date by which the recipient needs to respond, and immediate compliance is not usually required.
- **ICE Administrative Warrants (also called “civil immigration warrants”):** These documents authorize federal immigration officers to arrest or detain an individual as identified within the documentation. ICE civil immigration warrants are not issued by a court. An ICE civil immigration warrant does not grant an immigration enforcement officer any legal authority to compel day care staff to produce documents or assist with efforts to locate or detain an individual. An ICE civil immigration warrant is not the same as a federal criminal warrant. Civil immigration warrants can be presented on a number of different forms, including:
 - [Form I-200: Warrant for the Arrest of Alien](#)
 - Form I-203: Order to Detain or Release Alien
 - [Form I-205: Warrant of Removal/Deportation](#)
 - Form I-286: Notice of Custody Determination
 - All warrants, hits, or requests contained in the "Immigration Violator File" of the FBI's National Crime Information Center database.
- **Notice to Appear (NTA) (Form I-862):** An NTA is a charging document issued by ICE, CBP, or U.S. Citizenship and Immigration Services. An NTA notifies an individual that they are expected to appear before an immigration judge on a certain date. An NTA does not authorize an individual's arrest by immigration enforcement authorities nor local law enforcement authorities.
- **Administrative Subpoena (Form I-138):** An administrative subpoena is a document issued by an immigration enforcement officer, not a court or judicial officer, that requests production of documents or other evidence.