



Innovation Policy: Protecting the Rights of Immigrant Students

Innovation Charter High School has a longstanding commitment to safeguarding the rights of all students regardless of immigration status, national origin, language, race, religion, or ethnicity. We believe that our immigrant students should have equal access to education and other public services. This policy reaffirms that Innovation is a safe haven where all students are welcomed, regardless of immigration status, national origin, language, race, religion, ethnicity, disability, gender, or sexual orientation, and provided with a sound public education, especially in light of increased federal immigration actions in our communities.

This policy is intended to be consistent with, and to support, the NYC Department of Education and NYSED (NY State Education Department) immigration policies to protect students rights.

To summarize the main points that are set forth below:

- 1. Enrollment:** Innovation enrolls students without regard to national origin and does not collect Social Security numbers or other information that would reveal immigration status, at the time of enrollment.
- 2. Confidentiality of Student Records:** The Family Education Rights & Privacy Act (FERPA), generally prevents the disclosure of Personally Identifiable Information (PII) without parental consent.
- 3. Removal of Students by Law Enforcement:** Law enforcement officers, including ICE officers, may not remove a student from school property or interrogate a student without the parents' consent, except to address an imminent safety situation or when required by law pursuant to a judicial warrant or order.
- 4. The Importance of Keeping Family Contacts Up-to-Date:** It is essential that families provide Innovation with up to date contact and secondary contact information, in case the primary contact becomes unavailable.

I. Enrollment at Innovation

Under New York law, all children ages 5 to 21 who have not received a high school diploma are entitled to a free public education in the district where they live. School districts cannot refuse admission based on national origin, immigration status, race, or language proficiency. The U.S. Supreme Court has also long held that students may not be denied a free public education

based on their immigration status or that of their parents or guardians. School policies that prevent equal access to education may expose districts to legal liability and harm school communities.

II. Confidentiality of Student Records

The Family Education and Privacy Rights Act of 1974 (FERPA) generally prevents the disclosure of personally identifiable information (PII) without parental consent. Schools can only release PII if it is directory information (e.g., student's name, address, and telephone number) or if it is being provided in response to a "judicial order or lawfully issued subpoena."

Immigration status, citizenship, and national origin information or documentation are not considered directory information. Innovation High School does not collect this information unless required to do so. If such information is necessary for specific program participation or reporting requirements, it should be collected after the enrollment process and anonymized wherever possible.

Subject to the exception for a judicial order or lawfully issued subpoena, schools are not required to provide student information to federal or local law enforcement officials. If a law enforcement official requests student information, Innovation staff should not disclose the information and should instead request the subpoena or other documentation upon which the request is based. Staff members should then contact Innovation's executive director before releasing any information.

III. Removal of Students by Law Enforcement

Law enforcement officers may not remove a student from school property or interrogate a student without the consent of the student's parent or person in parental relation, except in limited circumstances.

When presented with a request from a federal or local law enforcement official to detain or interrogate a student, Innovation staff follow the the following guidance:

1. **Do not allow officers inside school property to access a student**, except to address an imminent safety situation or where required by law due to a judicial warrant or order.
2. **Remember that there are a variety of forms of documentation that an officer may present, not all of which are legally sufficient** to justify turning over records or granting access to a student. You should request documentation from the officer, which may include:
 - a. **Judicial warrant or order:** Signed by a United States District Judge or federal Magistrate Judge, demonstrating probable cause to believe an individual has committed a crime or offense.
 - b. **Administrative warrant:** Issued by federal immigration authorities, directing federal officials to arrest a noncitizen for removal or removal proceedings. This is not a judicial warrant and does not provide probable cause to believe an individual has committed a crime or offense.

- c. **Immigration “detainer”**: A request, typically issued by federal immigration authorities to local law enforcement agencies, to keep an individual in custody for up to 48 hours beyond when the individual is scheduled for release. This provides federal authorities with additional time to determine whether to take custody of the individual to pursue civil immigration enforcement proceedings.
3. **Before taking any other action, provide the Executive Director with the documentation.** The Executive Director will assess the documentation in the context of the law enforcement request; await guidance before proceeding.
4. **Immediately notify the student’s parent or guardian** unless specifically prohibited by a lawful order.

IV. Communication & Recordkeeping

Contact information: Students may have parents or other family members who have been detained or deported so it is doubly important that families provide Innovation with up-to-date emergency contact information, including secondary contacts, and that Innovation keeps its records current.

List of Resources:

1. NYC DOE: [Immigration Guidance for Principals](#)
2. Education Week: [Enrolling & Protecting Immigrant Students](#)
3. Immigration Legal Resource Center: [Red Cards](#) (“The ILRC’s Red Cards help people assert their rights and defend themselves in many situations, such as when ICE agents go to a home.”)