

## 16. U.S. Citizenship and Immigration Services Worker Asks a School District for Information About a Student's Immigration Status



A 14-year-old ninth-grader moved with her family to the United States when she was 6. The student's parents have recently come under suspicion for housing undocumented relatives. A U.S. Citizenship and Immigration Services (USCIS) worker contacts the school district's superintendent to find out whether the student's family has provided the district with documentation of the student's immigration status. The superintendent forwards the request to the principal of the student's school. The principal is aware that the student's family does not have proper documentation, but feels uncomfortable sharing the information.

### Who has the information?

The school principal.

### Who wants the information?

The superintendent (and the USCIS).

### What information does the requester want?

Information about a student's immigration status.

### What does the requester want to do with the information?

The superintendent wants to share the information with the USCIS worker. The USCIS wants the information for an investigation related to housing undocumented individuals.

### Which laws are relevant in this situation?

FERPA governs disclosure of student education information.

## What do the laws permit, and what do they prohibit?

School staff's personal observations or knowledge about students that are not contained in students' education records are not governed by FERPA and can be disclosed without parental consent.

Immigrant children do not need proof of citizenship or immigration status in order to register for school. Schools are required to provide undocumented immigrant students with equal access to the same benefits and services that other students have access to. Under federal law, it is unlawful for a public school official to require proof of U.S. citizenship for school enrollment.

There are some limited exceptions under which federal immigration laws require or permit a school district to provide specific information about a student to another federal, state, or local government entity. One such circumstance is when the issuance of a non-immigrant visa to a student—and the maintenance of that student's non-immigrant status—is conditioned on the student's attendance at a specific school. In that case, the school district would have information about the student that the student would have presented to the school to obtain the relevant visa, so the school would not have a reason to request information about the student's immigration status.

## How can school personnel proceed legally in this situation?

Because what the principal knows about the immigration status of the student's family is based on his personal knowledge and is not part of the student's education record, it is not governed by FERPA. The law neither requires the principal to keep the information confidential nor to disclose it. He may exercise his discretion regarding whether to share the information with the school superintendent and, ultimately, the USCIS.