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*Attorney-Client Privileged Communication*

## MEMORANDUM

**To: Roman Catholic Archdiocese of Atlanta**  
**Archdiocese of Atlanta Parishes and Schools**

**From: Smith, Gambrell & Russell, LLP**

**Date: March 19, 2026**

**Re: Recent Federal Immigration Enforcement Matters**

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### **Rescission of the DHS Protected Areas Policy: What Churches and Schools Should Know & Do**

The U.S. Department of Homeland Security (DHS) has rescinded the Biden Administration's guidelines for immigration enforcement actions in or near protected areas, including churches and schools. The rescission of the 2021 policy memo means that churches and schools are no longer considered protected areas from U.S. Immigration and Customs Enforcement (ICE) enforcement actions, including arrests.

#### **Recommended Actions for Churches:**

- **Prepare in Advance:** Develop a response plan and ensure that all staff who may interact with agents on-site are informed about their roles and whom to contact.
- **Public vs. Private Areas:** Although ICE agents may enter public areas, they cannot access private areas of a church without a valid judicial warrant or consent from an authorized representative. Church staff should understand which areas ICE agents may enter without a warrant to avoid inadvertently consenting to a search. A clear written policy designating which areas are closed to the public will be helpful. If a space cannot be entered by the public without being accompanied by a church worker, those are probably private spaces. The designation of a space as public or private will not automatically keep ICE out if they have a judicial warrant covering the space or decide to enter without a warrant. The public/private space argument will most likely be made after the fact in court...if the case gets to a courtroom.
- **Verify Warrants:** If ICE agents arrive, request to see a judicial warrant (different from an administrative warrant). [8 USC 1226: Apprehension and detention of aliens](#) Administrative warrants issued by ICE do not authorize entry into non-public areas without consent. A judicial warrant must be signed by a judge and include the correct name and address.

- **Limit Access:** Without a valid judicial warrant, you are not legally obligated to allow ICE agents into private areas of the church. Politely inform agents that they cannot enter without proper authorization. Clearly designate private areas with visible signage and policies in place marking which areas are private.
- **Document the Encounter:** Record details of the interaction, including agent names, badge numbers, and the nature of their visit. You should also make copies of all documents from ICE, obtain receipts for any documents taken by ICE. This information can be vital for legal purposes.
- **Inform Legal Counsel:** Contact your legal advisor promptly to report the incident and seek guidance. Church workers should know that no one is required to talk to ICE.

*Recommended response: "We do not consent to entry into private areas without a judicial warrant. Please wait while we contact our legal counsel."*

- **If ICE Officials Come to a Church with an Arrest Warrant:** If immigration officials are seeking to arrest an individual at a church, the church should ask for a valid arrest warrant. A valid arrest warrant will show the name of the person they are seeking to arrest (spelled out correctly) and must be signed by a judge. It is important to note that ICE has in the past presented what it calls an "administrative warrant" rather than a judicial warrant signed by a judge. Administrative warrants are issued by ICE agents or other officials and are not signed by a judge. An administrative warrant does not compel a church to take any action; only a warrant from a judge can compel action. If an administrative warrant is presented, the church leadership should not honor the request. Similarly, any document that does not name the individual specifically and correctly is not binding and should not be honored. The church should consult with its legal counsel before taking any action. If it is determined that a valid warrant is presented, church leaders may want to request that the arrest not take place on church property or negotiate the location of the arrest to ensure that parishioners, including children, are not traumatized by witnessing such an event. In any such case, the church should contact local organizations providing legal assistance to immigrant communities immediately and request that a lawyer be present to support the individual in question.

### **Legal Implications for Priests and Parishes Providing Humanitarian Aid**

Providing humanitarian aid, such as food, water, shelter, or spiritual support, is a fundamental expression of religious and humanitarian principles. Providing food, clothing, medical aid, and temporary shelter is not typically considered illegal. These actions align with the principles of religious charity and humanitarian care.

### **Potential Legal Risks:**

- **Harboring or Concealing:** Federal law prohibits knowingly harboring, concealing, or shielding an undocumented individual from detection under 8 U.S.C. §1324(a)(1)(A)(iii).

- **Transporting Undocumented Individuals:** Transporting someone you know to be undocumented, particularly across state lines, may also be viewed as a violation of federal law, depending on the circumstances.
- **Facilitating Evasion:** Actions that could be interpreted as actively helping someone avoid apprehension—such as providing false documents, directing them to evade law enforcement, or physically obstructing officials—may lead to legal consequences.

#### **Recommended Actions for School Principals When ICE Seeks Information About a Student:**

- **Verify Warrants:** As with churches, request to see a judicial warrant before allowing ICE agents access to non-public areas or student information.
- **Protect Student Information:** Under the Family Educational Rights and Privacy Act (FERPA), schools are prohibited from disclosing student records without parental consent or a subpoena. While schools within the Archdiocese of Atlanta system are not subject to the requirements of FERPA, our schools do seek to follow those rules and protocols. Thus, it is advised that any request for student information complies with FERPA regulations. Even if presented with a subpoena, the school should consult with an attorney to determine the validity of the subpoena before disclosing any information. Moreover, schools do not need to and should not inquire about or keep records on the immigration status of students and/or their family members.
- **Do Not Maintain Immigration Status Records:** Schools should not collect, request, or retain information regarding a student's or their family members' immigration status, as there is no legal requirement to verify or document such information for enrollment or attendance purposes. Maintaining these records may create unnecessary legal risk, particularly if the information is later requested by government authorities.

If immigration-related information is inadvertently obtained, it should not be formally recorded in student files or databases, and access to such information should be strictly limited. Schools should also ensure that enrollment forms, internal systems, and staff practices do not solicit immigration-related information. Any request from government officials for such information should be reviewed by legal counsel before responding.

#### **Exception – SEVP-Certified Schools:**

Only schools certified under the Student and Exchange Visitor Program (SEVP) are required to maintain immigration records for international students. This includes documents such as Form I-20, copies of passports and visas, enrollment status, and updates in SEVIS. Designated School Officials (DSOs) are responsible for ensuring compliance. In these cases, maintaining immigration status records is legally required.

- **Develop an Action Plan:** Establish a clear protocol for staff to follow if ICE agents arrive, including steps for verifying warrants, notifying legal counsel, and protecting student information.
- **Follow Established Protocols:** Adhere to your school's policy of contacting the parent or guardian first. If they are unavailable, reach out to the emergency contact designated by the parent.

- **If ICE officials come to a school and have an arrest warrant:** If immigration officials are seeking to arrest a student, the school should ask for a valid arrest warrant.

A valid arrest warrant will show the name of the person that they are seeking to arrest (spelled out correctly) and must be signed by a judge. It is important to note that ICE has in the past presented what it calls an “administrative warrant” rather than a judicial warrant, which is signed by a judge. Administrative warrants are issued by ICE agents or other officials and are not signed by a judge. An administrative warrant may not provide a legal basis for someone’s arrest. An administrative warrant does not compel a school district to take any action, only a warrant from a judge can compel action. If an administrative warrant is presented, the school should not honor the request. Similarly, any document that does not name the child specifically and correctly is not binding and should not be honored. You should consult with the school’s counsel before taking any action. If a determination is made that a valid warrant is presented, the principal may want to request that the arrest does not take place on school property and/or negotiate the place of arrest so that other children are protected from viewing such an arrest.

- In any such case, the principal should contact any local organizations providing legal assistance to immigrant communities immediately and request that a lawyer be present for the child.

***IN CASE OF EMERGENCY, PLEASE CONTACT ONE OF THE FOLLOWING ATTORNEYS WITH THE FIRM OF SMITH, GAMBRELL & RUSSELL, LLP***

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