

## *With Immigrants, Districts Balance Safety, Legalities*

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### **Body**

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Amid stepped-up federal efforts to curb illegal immigration, some school *districts* with large numbers of *immigrant students* are crafting new *policies* intended to balance cooperation with federal officials, protection of *student* privacy, and the safety of *students* during enforcement operations.

In Albuquerque and Santa Fe, N.M., for example, school personnel are barred from putting information about a child's immigration status in school records or sharing it with outside agencies, including federal immigration authorities. Personnel are also told to deny any request from immigration officials to enter a school to search for information or seize *students*. School officials--with the help of lawyers--instead would determine whether to grant access.

Meanwhile, some small communities with an influx of *immigrants* are *weighing* how best to respond if children are left stranded at school because family members have been detained in an immigration raid.

"There are schools with a high number of undocumented workers in their communities who are having to react to these issues, whether it's children being left without parents or [U.S. Immigration and Customs Enforcement] workers trying to get information from the schools," said Cullen Casey, a lawyer for the National School Boards Association.

Making that task even more complex is the landmark 1982 U.S. Supreme Court decision in Plyler v. Doe, in which the court ruled that children are entitled to receive a free public K-12 education in this country regardless of their immigration status.

That means, said Mr. Casey, that school officials are prohibited from asking for documentation of parents' or *students*' legal status in the United States, such as asking for Social Security numbers. Instead, they are allowed to ask about a *student*'s residency in a school *district*, which can be proved with a utility bill.

But Mr. Casey also warned that schools are not a sanctuary for undocumented *students* because in a school, as anywhere else, anyone could make a phone call to immigration authorities and report information about a particular person's legal status.

Although the government has no official estimate of the number of undocumented children in schools, the Pew Hispanic Center, a nonprofit research organization in Washington, estimates that about 1.8 million children in the nation are undocumented.

### **Increased Enforcement**

What seems to be a given is that increased federal enforcement of immigration laws will continue. Illegal immigration has heated up as a political issue over the past year or so, and President Bush, U.S. Secretary of

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Homeland Security Michael Chertoff, and Julie L. Myers, the assistant secretary for Immigration and Customs Enforcement, an arm of the Homeland Security Department, have all said that enforcement is a priority.

In fiscal 2006, which ended last Sept. 30, immigration officials arrested 3,667 people in workplace enforcement actions. This year, by the end of July, federal officials had already nearly matched that number of arrests, with two months to go in fiscal 2007.

"The very vulnerabilities that people use to get into this country to take an identity to get work--all of that means vulnerability to the security of the United States," said Pat A. Reilly, a spokeswoman for Immigration and Customs Enforcement, or ICE.

Ms. Reilly said ICE agents are not interested in arresting minors but rather in going after "criminal-document users, identity-theft people, and employers and front-line supervisors whom we can prove knowingly hired illegal aliens and make it part of their business plan."

She said that schools shouldn't have to create special plans to care for children whose parents might be detained because, if a parent is arrested and says that he or she is the sole caregiver for a child or elderly person, federal officials release that person to go home and appear later in court.

But Steve Joel, the superintendent of the 8,000-student Grand Island school system in Nebraska, said that when ICE officials arrested undocumented people at a meatpacking plant in his community last December, he and his staff had to figure out what to do with 25 children who had had both parents detained.

When federal officials asked mothers who had been arrested if they had children at home, Mr. Joel said, "they would say no, because they didn't want their children arrested."

Dec. 12 turned out to be a very hectic day for Mr. Joel: He held several press conferences, and worked with school staff members to make sure that every child had a safe place to go after school. By 8 p.m., he said, a handful of children were still at school without a ride. In that case, Mr. Joel said, school officials put them in their own cars and drove them to the homes of relatives.

It's that part of the response that has Mr. Joel--and his school system's lawyer--concerned. "We have big-time liability if we put kids in our cars," Mr. Joel recalled the lawyer telling him.

The raid in Grand Island prompted Robin R. Stevens, the superintendent of the 1,600-student school system in Schuyler, Neb., 100 miles northeast of Grand Island, to start planning for a response in the event of an immigration raid. Like Grand Island, Schuyler has a meatpacking plant that employs some students' parents.

"We're trying to be proactive and come up with a plan that will be in place that we'll never have to use," Mr. Stevens said. "We will emphasize from the get-go that [during an immigration raid] the safest place for those kids to be if they are in school is to remain in school." He said the school district's crisis team and safety committee are involved in making the plan.

### **Schools and Border Patrol**

In Albuquerque, the "safe schools" policy addressing immigration issues resulted from a lawsuit involving Border Patrol agents, who work for U.S. Customs and Border Protection, a branch of the Homeland Security Department that is separate from ICE. Before the creation of the department, Border Patrol agents worked for what was then the Immigration and Naturalization Service, or INS.

Border Patrol agents are required to get prior approval from a supervisor before taking any enforcement action on school grounds. That requirement stems from a 1992 federal court ruling, in *Murillo v. Musegades*, in which a judge gave the El Paso, Texas, school system a temporary restraining order against INS agents who school officials claimed were intimidating students on school grounds. The Border Patrol issued a memo in 1993 stating that enforcement operations at schools by its agents had to be approved in advance by supervisors.

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But in 2004, Border Patrol agents violated that policy in Albuquerque, said David H. Urias, a staff lawyer for the San Antonio office of the Mexican American Legal Defense and Educational Fund, which later sued the agency, the school district, and the Albuquerque Police Department.

Two Albuquerque police officers who were assigned to work in public schools stopped and detained two boys--Sergio Gonzalez and Ruben Tarango--on the campus of their school, Del Norte High School, according to the lawsuit. They asked for identification, which one student did not have.

The police officers called Border Patrol agents, and an agent arrived on campus and questioned the two boys, the lawsuit stated. The suit went on to say that a Border Patrol agent then "unlawfully seized" Carlos Gonzalez, Sergio's brother, who was pulled from class.

The MALDEF lawsuit, *Gonzalez v. Albuquerque Public Schools*, claimed that the boys' rights had been violated.

All three boys, who were undocumented, agreed to return voluntarily to Mexico. But before they left the United States, MALDEF negotiated for them to stay. Currently, Sergio Gonzalez is a permanent legal resident, and Carlos Gonzalez has permission from the federal government, negotiated by MALDEF, to finish high school in the United States, according to Mr. Urias. The third youth eventually returned to Mexico.

The 89,000-student Albuquerque district settled with MALDEF last year and agreed to the new policy concerning immigrant students. Before that agreement, "I'm not sure there were clear lines of delineation on who could do what," said Eduardo B. Soto, an associate superintendent for the school system. "Now it is clear."

Last month, the Albuquerque Police Department reached its own settlement with MALDEF, agreeing to a new policy barring officers from "stopping, questioning, detaining, investigating, or arresting minor children (under 18 years old) on any immigration-related matter while on or immediately in the vicinity of public school grounds or property." The policy also says that police officers are prohibited from assisting others in detaining or questioning children on immigration-related matters.

### Other Incidents

The 12,000-student Santa Fe school system in June adopted a policy similar to Albuquerque's, after a March 22 incident in which ICE agents arrested an undocumented man in a school parking lot when he was picking up his 4th grade daughter.

Theresa M. Ulibarri, the principal of Chaparral Elementary School in Santa Fe, where the incident took place, said the new procedures would give her more confidence in handling such a situation should it arise again.

"When you are presented with state police officers, ICE officers, you think it's the government and they know the rules better than you do--that I should present them with what they are asking for," Ms. Ulibarri said.

Now, she knows that she can insist that law-enforcement officials follow certain procedures. "I would make sure that they would need to reveal their identity, and not just with a flash of the badge," she said. "I would make sure the child is safe. Not all police officers are tactful when dealing with children. I would ask to be present."

Michael A. Olivas, a law professor at the University of Houston who is a MALDEF board member and helped draft the Albuquerque policy, said he is wary, however, about the prospect of a formal policy in every school district with a lot of immigrant students.

"Common sense would tell you that your training [for school personnel] ought to alert them to what the basic issues are," he said. "You don't need to codify this. There ought to be basic do-no-harm rules."

But in Albuquerque, said Rachel LaZar, the director of El Centro de Igualdad y Derechos, an immigrant-rights and advocacy organization there, the policy is needed not only because of "past mistakes," but also because "there is an increased presence of federal immigration officials in our communities, and that's having a chilling effect on parents and children in feeling they can access education."

She added: "This is a **policy** that clarifies a protocol to staff, teachers, principals, and administrators. It sends a message to the community that their school is a safe place for all **students**."

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