



STATE OF MICHIGAN
DEPARTMENT OF EDUCATION
LANSING


GRETCHEN WHITMER
GOVERNOR

MICHAEL F. RICE, Ph.D.
STATE SUPERINTENDENT

MEMORANDUM

DATE: January 23, 2025

TO: Local and Intermediate School District Superintendents
Public School Academy Directors

FROM: Michael F. Rice, Ph.D. 
State Superintendent

SUBJECT: Michigan Department of Education *Additional* Guidance on the Responsibility to Educate All School-Age Children Regardless of Citizenship and Immigration Status

As noted in a [memo](#) last week, the Supreme Court decision *Plyler v. Doe*, 457 U.S. 202 (1982) established the right of all students, irrespective of citizenship or immigration status, to a free public education.

As many of you are aware, President Trump signed an [executive order](#) Monday to end birthright citizenship for all affected children born on or after February 19, 2025. The executive order states, in part:

"Sec. 2. Policy. (a) It is the policy of the United States that no department or agency of the United States government shall issue documents recognizing United States citizenship, or accept documents issued by State, local, or other governments or authorities purporting to recognize United States citizenship, to persons: (1) when that person's mother was unlawfully present in the United States and the person's father was not a United States citizen or lawful permanent resident at the time of said person's birth, or (2) when that person's mother's presence in the United States was lawful but temporary, and the person's father was not a United States citizen or lawful permanent resident at the time of said person's birth."

Michigan Attorney General Dana Nessel joined a [multi-state lawsuit](#) on behalf of the people of Michigan, which asserts that the executive order is a violation of the Fourteenth Amendment of the U.S. Constitution. The Fourteenth Amendment begins:

"All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside."

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The lawsuit discusses several adverse impacts of the presidential executive order. These adverse impacts could include detrimental effects on student attendance and therefore student achievement, at least in the short term.

The new administration has also [announced](#) that federal Immigration and Customs Enforcement (ICE) will be permitted to enforce immigration policy and/or question individuals in previously [protected areas](#), including places of worship, hospitals, and schools. This action could cast a shadow on students' right to a free public education under *Plyler*. In scaring students and families, this action could also reduce student attendance and, by extension, student achievement.

The president's executive order on birthright citizenship for prospective students does not question the citizenship of children who are in our schools today. Even if it did, it would not diminish the right of all students to a free public education, established in *Plyler*. Additionally, [Title VI of the Civil Rights Act of 1964](#) prohibits discrimination on the basis of race, color, or national origin in programs and activities receiving federal financial assistance. School-age children have a right to a free public education, and we as educators have a responsibility to provide that education to them.

To avoid a violation of FERPA, *Plyler*, or some other law, you should consult with your legal counsel soon to be prepared for circumstances where a member of ICE or another law enforcement official approaches you for access to students or student records. Additionally, it is recommended that districts establish an internal process for school personnel to follow that includes a district-designated staff member and consultation with legal counsel. This memo should not be read to be legal guidance but rather the strong recommendation that you seek legal guidance promptly relative to issues in this memo.

Among the many responsibilities that you and your staffs address with kindness, care, and professionalism each day is to make children feel welcome and safe in your schools. School staff, like students, should be able to focus on teaching and learning and not have to navigate thorny legal issues that could harm children's right and ability to access a free public education. It is a challenging moment, but I know that you and your teams will support your children and families to the very best of your ability.

Thank you for your consideration of this important communication.

cc: Michigan Education Alliance
Confederation of Michigan Tribal Education Departments