



# A Guide to Creating “Safe Space” Policies for Early Childhood Programs

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This guide provides practitioners, advocates, and policymakers with information and resources to design and implement “safe space” policies that safeguard early childhood programs against immigration enforcement. It includes three parts:

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## PART 1: Overview of “safe space” policies

Early childhood programs play an important role in families’ lives. Across the country, child care and early education provide millions of young children with a safe space to play, learn, and grow while their parents work or attend school. These programs also connect families to important community resources like nutrition, health, and parenting services. **For families facing adversity, early childhood programs provide stability when everything else is uncertain.**

But families cannot reap the benefits of high-quality child care and early education if they are too afraid to attend or enroll in these programs. CLASP’s **field research** with immigrant parents and early

care and education providers showed that many parents question if it is safe to bring their children to early childhood programs. Families are worried about sharing their personal information, how participating in publicly funded programs could affect their ability to obtain long-term immigration status, as well as the possibility of encountering immigration agents at or near early education centers.

Early childhood programs—such as licensed child care, preschool, pre-kindergarten, and Head Start programs—have been part of a “sensitive locations” policy that the U.S. Department of Homeland Security (DHS) put in place in 2011. This means that Immigration and Customs Enforcement (ICE) and Customs and Border Protection (CBP) agents are restricted from conducting enforcement actions on the program’s property, except in very limited circumstances. Yet, anecdotal reports suggest that this policy has not always been consistently followed or enforced. There is also confusion whether immigration agents are violating the policy by being too close to early childhood programs, and many questionable arrests have been conducted near, but not at, such locations.

In October 2021, the U.S. Department of Homeland Security (DHS) announced a new “**protected areas**” policy that replaces the previous 2011 policy, again with the goal of restricting immigration enforcement actions at or near “protected areas.” This means that, except in limited circumstances, immigration agents should not conduct arrests, apprehensions, or other enforcement actions in or near certain locations. The policy also advises against enforcement actions *near* a protected area and advises the use of judgement on whether such an action would “restrain people from accessing the area.”

## What is a protected area?

Under the new DHS policy issued October 27, 2021, **protected areas** include:

- Schools, such as pre-schools, pre-kindergarten programs, Head Start programs, early care and education programs, K-12 schools, colleges and universities, after-care programs, and vocational or trade schools. Other education-related activities and events are also included in the policy, including school bus stops.
- Places where children gather, such as child care programs, playgrounds, and recreation centers.
- Medical treatment and health care facilities, such as hospitals, doctors’ offices, accredited health clinics, emergent or urgent care facilities, community health centers, and vaccination and testing sites.
- Places of worship, such as churches, synagogues, mosques, and temples.
- Religious or civil ceremonies or observances, such as funerals and weddings.
- Public demonstrations, such as marches, rallies, or parades.
- Places providing social services—including disaster or emergency response and relief—such as food banks and pantries, community-based organizations, and other shelters and centers that provide assistance.



Programs should implement policies that designate their facility as a safe space from immigration enforcement. These policies can help programs prepare for possible immigration enforcement actions at or near their facilities. They also demonstrate that programs care about immigrant families’ wellbeing and are taking steps to ensure their safety, even if no such actions should occur.

### Are license-exempt or home-based child care programs protected by ICE’s and CBP’s “protected areas” policies?

DHS does not concretely define what requirements a child care program must meet to fall under the protected areas definition. Based on our best interpretation, the determining factor is whether an agent can visually identify the facility as a child care or preschool program. We can’t say for certain that any home-based program—licensed, regulated, or otherwise—would be included under the policy. Home-based programs should still have a plan in the event that enforcement actions occur in their neighborhoods.

## Key components of a “safe space” policy

Your program’s general security and privacy protocols lay the foundation for your safe space policy. Before getting started, revisit existing policies and protocols related to:

- Which staff members are authorized to speak with an agent of authority (e.g., a police officer, licensing representative, etc.);
- Storing and releasing private information about parents, children, and staff;
- Communicating urgent information to staff and parents;
- How authorized staff and parents are able to access the facility;
- Expectations for visitors; and
- Emergency contacts.

Ensure these and other related policies comply with relevant local, state, and federal laws and consider whether additional policy changes are needed to further safeguard your location and families’ personal data. In general, these are basic policies and procedures that should be in place at all times.

Your safe space policy builds on basic security protocols, considering what would happen if an immigration agent requested access to your facility or information about a parent, child, or staff member. **If your basic security protocols are thorough and consistently implemented and enforced, you will be less likely to inadvertently release information to immigration agents or allow an unauthorized visitor on the premises of your program.**

Your policy can be as simple or as detailed as you choose. Key components should include:

- **Staff roles and responsibilities.** Which staff member(s) are responsible for speaking with the

immigration agent? Who will notify other on-site staff of the agent’s presence? Are there off-site staff (such as an executive director, board member, or lawyer) or community partners (such as an immigrant rights organization) that should be notified of the agent’s visit? Who is responsible for contacting them?

- **How staff should interact with federal immigration agents.** The designated employee should ask the agent for their credentials and authorization permitting them access to your program’s property. This includes a judicial warrant and permission from a supervisor. Except in “exigent circumstances” of national security or other threats to public safety, you do not have to allow an agent into your program without this documentation. If the agent has the proper credentials, permission to enter the building from a supervisor, and a judicial warrant (or cites exigent circumstances), a designated employee should accompany the agent while they are present on your property and thoroughly document all events that happened while the officer is present. In any case, staff safety remains a priority. Staff members should never physically interfere with an agent.
- **How you’ll minimize disruption.** As much as possible, staff should avoid the possibility of children or their parents seeing or encountering federal immigration agents.
- **How you’ll notify parents.** In the event of an immigration enforcement action, it is important to alert parents of the agent’s arrival and departure—especially if agents are present at or around drop-off or pick-up. Any notifications sent to parents should inform them of the steps being taken to protect their children and their private information.

### ***What is a judicial warrant?***

A judicial warrant is a signed order from a judge that permits immigration agents to enter your facility. Authentic judicial warrants will say “U.S. District Court” or “State Court” at the top.

Your policy should also indicate how you will make information available to parents and staff, how staff will be trained on the policy, and how often it will be revised and updated. Part 2 includes additional guidance and sample language for key elements of your safe space policy.

You might also consider including resources for staff members and parents, such as an overview of the Department of Homeland Security’s (DHS) protected areas policy. CLASP has a one-page fact sheet in **English** and **Spanish**. (See Part 2.)

Again, keep in mind that it’s unlikely enforcement actions will focus on or occur at your center. Many high-profile instances of questionable arrests have been near, but not at, protected areas, such as in a parking lot. It is far more likely that immigration agents would be close to your center, versus requesting direct access. With that in mind, your safe space policy could include procedures to follow if immigration agents are near your center or you become aware of a home/worksites raid taking place in the surrounding community.

## Why does your program need a “safe space” policy?

**To protect the wellbeing of children, parents, and staff.** An unwelcome, unannounced visit from immigration agents or other law enforcement officials can be scary for children and adults. Having a plan in place—and communicating that plan to staff and parents—will help to ensure information about families or staff members isn’t revealed unintentionally. It will also mitigate the disruption caused by an agent’s visit.

**To communicate that immigrant families are welcome and safe.** Research demonstrates that children in immigrant families are less likely than their peers with U.S.-born parents to enroll in early childhood programs as well as other public programs and services that support their healthy development.

This is due to a variety of barriers, including fear of immigration consequences, lack of knowledge about eligibility, and complicated application and enrollment procedures. These challenges are exacerbated by today’s toxic political climate. Implementing and publicly sharing your program’s safe space policy communicates to mixed-status families that you take their safety and security seriously and are considering their unique needs. It also shows that your program is a trusted resource.

**To ensure staff are prepared in unexpected and stressful situations.** Effectively implementing your safe space policy goes beyond developing a set of procedures; it also means ensuring all staff are trained on the policy and prepared to take action. Your plan should include expectations for initial and ongoing training to ensure staff members are always up to speed.

## CLASP is here to help

CLASP is available to provide technical assistance as you develop your safe space policy. If you have questions or would like us to review a draft policy, please contact Alejandra Londono Gomez ([alondono-gomez@clasp.org](mailto:alondono-gomez@clasp.org)).

We are also collecting information about immigration enforcement actions taking place at or near early education centers. If you believe the protected areas policy has been violated, please contact Alejandra Londono Gomez.



## PART 2: Template “safe space” policy

### *What you should include*

Provide the purpose of your policy as well as a summary. Describe how the policy fits with your program’s mission statement and goals. Clearly state that your program is considered a protected area where enforcement actions should generally not take place. This typically includes your classrooms, hallways, other indoor learning spaces, and playgrounds. That likely doesn’t include parking lots, unless the parking lot is clearly labeled as private and belonging to your program.

We encourage you to take every precaution possible to avoid allowing immigration agents to enter any part of your facility. However, we recognize every program’s physical space is unique. If your program has a shared entrance or common areas with other organizations, consider additional precautions you may take to safeguard your facility, such as clearly labeling your property as “private.”

If your program is housed within a school, you may add specific information about constitutional obligations to educate all children—regardless of their immigration status or that of their parents—under the U.S. Supreme Court ruling on *Plyler v. Doe*, which affirms their right to a public education.

## Sample Template

You should use this template as a guide and adapt it to fit the unique needs of your program.

### *Sample text*

This policy provides protocols for staff in case of immigration enforcement actions at [OR NEAR] [PROGRAM NAME]. These protocols are neither intended to interfere with the enforcement of federal immigration laws nor political in nature. The purpose of [PROGRAM NAME’s] safe space policy is to keep our services accessible to all families and uphold core constitutional principles of educational equity and access.

[PROGRAM NAME] is a “protected area” where immigration enforcement actions should not generally take place. References to [PROGRAM NAME] property as used in this policy includes... [identify areas of your center that can reasonably be considered private and belonging to the program].

We recognize that having federal immigration agents on our property would discourage parents from bringing their children to [PRESCHOOL/PRE-K/CHILD CARE,] as well as accessing services on behalf of their children. It’s our responsibility as early care and education professionals to ensure our program is safe, reliable, and accessible to every family we serve or who seeks our services.



## Overview of general security protocols and procedures to maintain families’ privacy and confidentiality

### *What you should include*

As a licensed or regulated early childhood program, you should already have protocols for securing your facility’s premises and your families’ private information. Provide an overview of your general policies and procedures here. Are the doors locked during all operating hours? Are they open during pick-up and drop-off? Do parents have a passcode or key fob to enter the center? What is your policy for staffing the front desk?

You should also state program expectations and standards regarding private information. Indicate staff should only collect information about children and families that’s necessary for enrollment or educational purposes. This information should only be available to program staff for programmatic purposes. You should state that families’ information should not be disclosed to non-program officials without a court order or parents’ consent. If applicable, you may add information about specific privacy rules to which your program adheres (such as the Family Educational Rights and Privacy Act, or FERPA).

## Staff roles and responsibilities in case of an enforcement action

### *What you should include*

Describe key roles and responsibilities for staff members. Identify 1-2 designated employees to communicate with immigration agents should they request access to the property. Determine who is responsible for alerting parents and other on-site staff of agents’ presence. Consider whether there are additional staff or partners off-site who should also be contacted. This might include an executive director, board member, lawyer, or local immigrant rights organization.

## Protocols and procedures for interacting with immigration agents in the event of an enforcement action

### *What you should include*

Provide an overview of the process if an immigration agent requests access to program property or is seen on private program property without permission. Ideally, you would avoid allowing the agent inside the building; instead, the designated staff member would speak with the agent outside the facility. Staff should **not** give the agent(s) permission to enter any part of your facility marked “PRIVATE” until you have assessed their credentials. However, under no circumstances should staff

physically interfere with an agent or take any actions that could threaten their safety or the safety of other children or adults on the premises.

Consider telling staff what they should do if children are not in the classroom (e.g., having lunch in a shared eating area, using a common restroom, or playing in an indoor or outdoor play area). You should attempt to minimize disruptions to children’s routines but prioritize children’s physical and emotional safety as well as limit their visibility to the agent to the extent possible.

### **Sample text**

The designated staff member should tell the agent(s) that **[PROGRAM NAME]** has a procedure they are required to follow for the safety of children, staff, and parents. The staff member should remind them that **[PROGRAM NAME]** is a protected area and that proper permission is necessary to conduct enforcement actions on the premises. Ask the agent(s) for their credentials; written approval from their

**If the agent does not have the proper credentials, permission to enter the building, and a signed judicial warrant,** the designated staff member should refuse consent to enter the property and politely request that the agent leave because the officer’s presence is a disruption to normal operations.

**If the agent does provide proper credentials, permission to enter the building, and a signed judicial warrant,** the designated staff member should allow entrance only to areas specified in the warrant and accompany the agent(s) while they are present on program property. If the agent appears to be conducting any activity that falls outside the scope of the warrant, staff should inform the agent that they do not consent to the additional activity taking place.

In any case, staff should remain calm and take notes or otherwise document all events. Staff should never physically interfere with an agent or take any actions that could threaten their safety under any circumstances.

### **Keep in mind as you’re writing...**

It’s okay to ask the agent(s) to wait while you make a phone call, evaluate their credentials, and make copies for your records. However, a staff member should remain with the agent(s) at all times.

It’s also a good idea to have a sample script or talking points for staff members who may interface with immigration agents. In the moment, it could be hard to turn away an authority figure. Here’s a suggestion:

*“Thank you for your cooperation. As I said, **[PROGRAM NAME]** is a protected area. Since you don’t have written permission and a judicial warrant to enter our building, I’m going to have to ask you to leave in order to avoid disrupting the normal operations of our center.”*





## PART 3: Key resources for providers and parents

**Educational access for immigrant children and families.** These resources provide additional information on the U.S. Department of Homeland Security’s “protected areas” policy, *Plyler v. Doe*, protections for immigrant students and families, and immigrant eligibility for federal early childhood programs.

- U.S. Immigration and Customs Enforcement, *FAQs: Protected Areas and Courthouse Arrests*, ICE.
- Hannah Matthews, *Immigrant Eligibility for Federal Child Care and Early Education Programs*, CLASP, 2018.
- CLASP, *Protected Areas Fact Sheet* (in English and Spanish), 2021
- NILC, *Practice Advisory: The Legal Authority for “Sanctuary” School Policies*, 2018.
- NILC, *The Department of Homeland Security’s “Protected Areas” Memorandum*, 2021.

**Supporting immigrant parents in preparing for the possibility of immigration enforcement.** These resources address developing family preparedness plans and talking to children about immigration enforcement.

- Immigrant Legal Resource Center (ILRC), *Family Preparedness Plan* (available in English, Spanish, and Chinese), 2017.

- Boston Medical Center, *Family Preparedness Plan* (and facilitator’s guide; plan also available in **Spanish**), 2017. Note that this document is intended to be completed by parents with the support of a facilitator. The plan should not be disseminated to parents to complete on their own.
- Abriendo Puertas/Opening Doors, *Spanish-language video supporting immigrant parents in having difficult conversations with children about immigration*.

**“Know Your Rights” when interacting with federal immigration agents.** These are resources for immigrants as well as service providers working with immigrant families.

- Catholic Legal Immigration Network, Inc., *Know Your Rights: A Guide to Your Rights When Interacting with Law Enforcement* (available in multiple languages), 2017.
- National Employment Law Project and NILC, *What to Do if Immigration Comes to Your Workplace*, 2017.
- ILRC and SEIU California, *When Immigration Officials Arrive at Your Workplace: A Know Your Rights Toolkit for Public Sector Workers*, 2017.

**Find an immigration attorney or immigrant rights organization near you.**

- You can search for an immigration lawyer using the American Immigration Lawyers Association’s online directory at [AILA’s Immigration Lawyer Search](#).
- Nonprofit organizations that provide low-cost help can be found at [ImmigrationLawHelp.org](#)

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