



Procedure for Requests from Federal, State or Local Agencies

First State Montessori Academy believes that every child has an opportunity for an excellent public education. Our students and their families must know they are safe in our schools and that their rights, dignity, and security will be respected and protected.

In Delaware and throughout the United States, all people have the right to due process and fair and equal treatment under the law regardless of immigration status or documentation. Further, there is longstanding federal case law holding that states cannot constitutionally deny students a free public education on account of their immigration status. Delaware's Constitution also recognizes educational rights to free public schools that are accessible to every child. In addition, student data is also protected by state and federal law.

Specific Policies:

All requests made by any federal, state, or local agency acting to enforce laws at the federal, state or local level to access information or school grounds shall be processed through the Head of School to ensure compliance with the law.

Schools shall not permit government agency officials to access students at school without having first contacted and processed their request and all relevant documentation through the Head of School.

Exception: Division of Family Services (DFS) or Child Protective Services (CPS) visits will be coordinated through the FSMA school counselor but the Head of School will be notified that a local agency is in the building.

Procedures:

If a federal, state or local agency is requesting access to a student, the Head of School (or their designee) must be contacted. Entrance to the building/grounds will only be granted with proper documentation or at the discretion of the Head of School (ex. if the school has requested the agency to come to FSMA, that will meet the documentation requirements).

FSMA will not allow a student to be removed from the building/grounds without consent from the parent or guardian unless proper documentation from the agency is provided.

Response to (Non-Immigration) Law Enforcement Personnel Requesting Access to Campus

Cooperation with law enforcement agencies is essential for the protection of students, for maintaining a safe environment in the school, and for safeguarding all school property. Relationships between the schools and officials of law enforcement agencies in investigative matters concerning pupils will take into consideration the respective roles of the schools and law enforcement agencies in assisting and protecting the interests of the community, and ensuring the rights of all concerned. When law enforcement wishes to speak with specific students during the school day, school officials will encourage them to return at the end of the school day to minimize whole school distractions and to allow school officials the opportunity to contact the student's parent or guardian beforehand.

Guidelines for Response to Other Officials, Including ICE Agents, Attempting to Access School

The following guidelines will apply in the unlikely event that other government officials, including U.S. Immigration and Customs Enforcement ("ICE") officials, request to be admitted into school property for the purpose of obtaining information about students or their families, to question or interview a student at school, or to remove a student from school:

- The Head of School or a designee should verify and record the identity of the agent or officer or other authority, including requesting their names, badge or ID number, telephone number and business card. The school should also request an explanation about why the officials wish to enter the premises. If a particular student or students are at issue, the Head of School should request detail about which students are being sought and for what purpose. (e.g. wish to question or interview the student at school, take them into custody, etc.). The Head of School or designee should document their questions and the agent or official's answers.
- Before the officials are invited into non-public spaces on school property (public spaces may include a front sidewalk, a secure entryway, or a front office) the Head of School or their designee should ask the official(s) if they have a judicial warrant, meaning a warrant issued by a court of law or a judge from a court of law. Immigration officials cannot enter non-public areas of a premises without consent or a valid judicial warrant signed by a federal judge, absent exigent circumstances (such as some sort of urgent national security or public safety threat).
- An administrative warrant from immigration courts and officials is not adequate to permit entry to non-public areas of the school without your consent. Immigration agents are executive administrative agency officials; they are NOT federal judicial officials. Only

a judicial warrant from a federal court judge naming a person on the premises and/or areas to be searched on school grounds is enough for entry into the premises without your invitation or consent. If the officials cannot provide a judicial warrant and do not assert that there are exigent circumstances, you should deny them entry and then immediately alert your legal counsel that you have done so.

- If the officials provide a judicial warrant from a federal judge, make a copy of that to retain for legal counsel. The Head of School or designee should then refer the officer or other authority to the school's legal counsel and decline to admit the officials until the school's legal counsel has reviewed the warrant and advised them it is appropriate to do so.
- The Head of School or designee will also immediately notify the parent or other person having lawful control of the student of the attempt to access the student at school. If the officer or other authorized person raises what the Head of School considers to be a valid objection to notifying the parents at that time, the Head of School will not notify the parents until they have consulted with legal counsel for guidance.
- If immigration officials ask school officials for student records, be aware that FERPA only permits school officials to disclose educational records without prior written consent if required by a court order or subpoena or a health or safety emergency. If immigration officials do not have a court order or subpoena, then FERPA prohibits you from disclosing these records without prior written consent from the student's parents or, if the student is over 18 years old, from the student. If the agent does have a court order or subpoena, in addition to contacting legal counsel, the school must make a reasonable effort to notify the parent or eligible student of that court order or subpoena before disclosing the records, unless the official(s) indicate that they are investigating an act of terrorism.