

The Special Education Advisory Council (SEAC) Policy Recommendation on Protecting the Educational Rights of Students Receiving Special Education Services

Core Recommendations for Students Receiving Special Education Services

To uphold Washington State's 'paramount duty' to educate every child, this council recommends a comprehensive policy framework designed to protect the rights of students receiving special education services, who are immigrants, refugees, and undocumented students, as well as students of color, from the impacts of federal immigration enforcement that may prevent a student or category of students from safely accessing a free appropriate public education (FAPE). When making plans and responding to disruptive events, it should be stressed that the civil rights of students with disabilities are not suspended or removed during times of crisis.

Sanctuary Protections & Constitutional Rights

Grounded in *Plyler v. Doe*, the district must ensure students in pre-K-12, inclusive of transition services, access to FAPE regardless of status and prohibit inquiries into citizenship. Students with disabilities remain entitled to uninterrupted FAPE, including implementation of IEPs, related services, Child Find obligations, and procedural safeguards, regardless of immigration status or enforcement activity.

Per the Keep Washington Working Act, federal immigration enforcement is barred from non-public school areas without a judicial warrant. This protection extends to school buses and designated walk routes to prevent the "chilling effect" that deters school participation. For students accessing modes of transportation that do not fall under this protection, it is recommended that the IEP team consider all available options that preserve access to FAPE.

Child Find and FERPA Compliance

The district must fulfill its federal "Child Find" mandate under IDEA, proactively identifying students with disabilities without regard to immigration status. All student records, including disability status and special education documentation, shall remain confidential under FERPA and applicable state privacy laws and shall not be disclosed absent parental consent or a valid judicial court order.



Emergency Instructional Modalities

The District Superintendent may authorize safe and appropriate educational modalities including e-learning, in response to federal immigration enforcement activities to ensure educational continuity when students or families fear physical attendance. While e-learning should be available to all, it should not be assumed to be appropriate for every student. E-learning platforms must use enhanced privacy protocols to mask geographic data and provide hardware to maintain equity for marginalized families. Per WAC 392-172A-02060 placement options for students receiving special education services must assist the student in attaining their annual goals. Team considerations must include equitable access to technology, assistive supports, language-accessible communication, and the monitoring of student progress.

References

Plyler v. Doe, 457 U.S. 202 (1982): Guarantees K-12 education regardless of status.

Individuals with Disabilities Education Act (IDEA), 20 U.S.C. § 1400: Mandates the "Child Find" duty to locate and serve students with disabilities.

Keep Washington Working Act, RCW 43.10.310: Restricts state/local cooperation with federal immigration enforcement.

WAC 392-172A-02060: Placements

FERPA, 20 U.S.C. § 1232g: Protects the privacy of student education records.