

UNDERSTANDING THE SANCTUARY SCHOOL & SAFE ZONE MOVEMENT

A QUICK GUIDE FOR EDUCATORS



EDUCATORS FOR FAIR CONSIDERATION

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Educators for Fair Consideration (E4FC)

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BACKGROUND & KEY COMPONENTS

What is the Sanctuary School and Safe Zone movement?

- » A movement made up of schools, school districts and higher education institutions that call for protections to be put into place that will ensure a safe environment for ALL students, reaffirm the constitutional right of access to education and protect the rights of undocumented immigrants and other vulnerable populations.
- » The Sanctuary School and Safe Zone Movement argues that schools and educational institutions do not have the legal authority or resources to engage in federal immigration enforcement and thus should not cooperate with federal agencies in their efforts to identify, detain or deport undocumented immigrant students.

What is the difference between sanctuary and safe school protections/language?

Is it important for schools to use the word “sanctuary”?

- » The substance and content of a resolution, and a school’s commitment to implementing its directives, are more important than the use of any specific words or phrases.
- » Resolutions that have been adopted, and those currently under consideration, vary widely in their language, content and scope.
- » Using the word “sanctuary” adds value to a growing national movement.
- » Federal agencies or state governments have warned that schools who go on record as “sanctuary schools” may face penalties. However, the legal analysis is that it would be difficult or illegal for the federal government to do so.

What is the historic basis of this movement?

- » In the 1980s, the Sanctuary Movement led efforts to provide a safe haven in the United States to Central American immigrants fleeing civil conflict.
- » U.S. support for civil wars in Central America created policies that made it almost impossible for victims of these conflicts to obtain asylum in the United States.
- » In response, a network of churches, community based organizations and cities/towns sought to provide protection from federal immigration enforcement activities within their physical location or jurisdiction.

What are key components of sanctuary and safe zone movement school protections, according to national experts¹?

- » Limiting the sharing of student information with federal immigration authorities
- » Restricting immigration agents’ access to campuses
- » Prohibiting campus security from collaborating with federal immigration authorities for the purposes of enforcement
- » Providing resources and information for immigrant students and their families

Who is involved in the sanctuary school and safe zone movement?

- » Students, staff, faculty and administrators from hundreds of colleges, universities, AND K-12 schools across the nation
- » Community-based organizations, including those focused on educational access, civil liberties and immigrants’ rights
- » School board members and university trustees
- » Political and elected officials at the city, county, and state level

¹ ACLU of California, Advancement Project, Asian Americans Advancing Justice-California (AAAJ-CA), Asian Americans Advancing Justice-Los Angeles (AAAJ-LA), National Immigration Law Center (NILC), and Services, Immigrant Rights, and Education Network (SIREN)

WHY SANCTUARY SCHOOLS AND SAFE ZONES ARE VITAL?

Why is it important to be part of the sanctuary school and safe zone movement?

- » The movement promotes local organizing that builds on and supports a national movement of sanctuary in schools, workplaces, faith-based institutions, and other spaces.
- » The movement reaffirms the constitutional right of access to education and other individual legal rights.
- » The movement promotes district administrative policies to ensure that students are protected across all schools or campuses.

Why are sanctuary school and safe zone protections needed?

- » It is important that students feel safe in school, so that they can focus, learn, and can be productive and grow. A safe zone resolution makes sure kids can learn, grow, thrive, and be supported in completing their education.
- » In the current political environment, there is widespread fear in schools and communities that the federal government could request colleges, universities and K-12 institutions to share the immigration status or country of origin of their students, which could be used to target these students or their family members.
- » This fear of immigration enforcement in schools has a ripple effect. If one student feels unsafe or threatened, others will feel unsafe and threatened, too. Singling out specific student populations affects the entire school climate and has been shown to reduce attendance for all student groups.
- » For teachers to fulfill their mission of educating all kids, the classroom can't be a hostile environment. It has to be a nurturing and safe space.
- » It is important for the schools in the district to invest in their students as human beings, to commit to protecting them as much as the schools can under the law, and to believe in them. Forcing schools to turn over legally protected information or to detain students for federal immigration agencies conflicts with individual and states' rights contained in the Constitution and federal law, and could expose schools to legal liability.

Who will benefit from a sanctuary or safe zone resolution?

- » All students benefit from sanctuary resolutions because they affirm a safe and welcoming environment for all students, free of discrimination.
- » A sanctuary or safe zone resolution is especially important for immigrants who are most vulnerable to enforcement actions, based on the current political climate including undocumented students, DACA students, families with mixed family status households, Muslims and other immigrant groups vary based on geographic location.

LEGAL CONCERNS AND SCOPE

What is the legal basis to argue for sanctuary school and safe zone protection?

- » Efforts to protect students and student data through the Sanctuary and Safe Schools Movement are built upon legal protections that are already in place, including FERPA and the U.S. Constitution.
- » In *Plyler v. Doe*, the Supreme Court recognized a constitutional right of access to K-12 education for all students, regardless of their immigration status. Actions taken by the school, locality, or state to chill this access to schools, including engaging in activities that increase absenteeism of students, may violate *Plyler*.
- » FERPA (Family Educational Rights and Privacy Act) requires schools to obtain written permission from parents or eligible students before releasing any information from a student's education record, and gives rise to liability if schools impermissibly release students' information.
- » The Fourteenth Amendment of the U.S. Constitution prohibits any state from denying "to any person within its jurisdiction the equal protection of the laws." Furthermore, the Fourteenth Amendment's Due Process and Equal Protection Clauses shield all individuals from unfair and unjust treatment, regardless of race, sex, religion, or age.
- » The Fourth Amendment of the U.S. Constitution gives all people the right to be free of unlawful searches, seizures, and warrantless arrests from law enforcement agents, and the U.S. Supreme Court has interpreted this right to apply as well to activities by immigration enforcement agents.
- » The Tenth Amendment of the U.S. Constitution states that the powers not delegated to the United States by the Constitution are reserved to the States or to the people. Thus, the federal government cannot force states and localities to enforce federal immigration law.
- » U.S. Immigrations & Customs Enforcement's longstanding policy is to strongly discourage immigration enforcement actions – arrests, interviews, searches, and surveillance – from taking place in "sensitive locations," including hospitals, churches, and schools.

What are the potential limitations or negative consequences of sanctuary policies?

- » Resolutions that prevent any disclosure of students' immigration status could prevent school officials from identifying or offering services to undocumented students. [However, schools can craft creative policies to ensure that services are still provided to undocumented students without singling them out or recording their immigration status in written records.]
- » Differences in legal interpretations of sanctuary policies could lead to confusion regarding protections available to undocumented students and families. [Therefore, it is important for each school to provide clear, unambiguous guidance to families to avoid causing confusion about protections available to undocumented students and families.]
- » Adoption of a sanctuary policy at a K-12 school or college campus would not guarantee blanket protections from DHS or ICE enforcement activities. [However, schools could ensure that they will do everything in its power to protect students and ensure that ICE agents aren't entering school grounds without a valid judicial warrant, etc.]

- » Schools cannot completely bar ICE activities from their property. [However, educational institutions can set limitations on when and how ICE enters the school or campus.]
- » The new Executive Branch has threatened that schools who declare themselves to be sanctuary campuses could lose federal funds. [However, the legal analysis is that it would be difficult or illegal to cut off federal funding.]
- » What is the difference between what a school can provide versus a school district, city, church, or state?
- » Individual school or college resolutions are approved by the principal or president and only protect the students and others identified in the resolution at that school or institution.
- » A school district resolution must be approved by the school board or other governing body and protects students at many schools, so its effects are more far-reaching.
- » Church resolutions are approved by their clergy or lay leaders and are designed to protect members of their congregation and surrounding community members.
- » City or state resolutions are approved by a Board of Supervisors, City Council or State Legislature and protect all the residents of the city, town or state.

GETTING STARTED AT YOUR SCHOOL

How can your school get started?

- » Begin the conversation or partner with others who are already working on this issue.
- » Identify who else needs to be involved (e.g., administrators, officers, student groups.)
- » Review relevant resources to better understand the current movement.
- » Review model resolution language produced by the [National Immigration Law Center](#) and [United We Dream](#). Feel free to reach out to either organization for help!
- » Identify the resources and allies (financial, departmental, etc.) you would need to run a successful campaign
- » Develop a plan and timetable to bring this initiative before your school board or Board of Trustees.

Who should be involved in creating your school's sanctuary protections?

- » Faculty and teachers
- » Undocumented students
- » Students from other vulnerable student populations, including Black students and other students of color, Muslim students, LGBTQ students, etc.
- » School Board members
- » College or university trustees
- » K-12 principals
- » College or university presidents
- » General Counsel
- » Student Affairs Officers
- » Public Safety Officers
- » Student organizations
- » Community members, especially directly impacted community members

RESOURCES AND SAMPLE RESOLUTIONS

What are relevant resources you can use to better understand the sanctuary school and safe zone movement?

- » [Law@theMargins](#) hosted an excellent webinar [Lessons for Organizing Sanctuary Schools and Campuses](#) and published a webinar guide (January 2017).
- » [United We Dream](#) produced the [Here to Stay Institutional Toolkit](#) to help K-12 schools and higher education institutions create sanctuary spaces for their students, parents and educators (December 2016).
- » The [National Education Association](#) (NEA) & [National School Boards Association](#) (NSBA) published [Legal Issues Facing School Districts Related to the Education of Undocumented Students](#) (2009).

Are there any good templates to formulate sanctuary policies?

- » [National Immigration Law Center](#) (NILC) and others² created a Model Campus Safe Zones Resolution Language template for [K-12 school districts](#) and [colleges and universities](#).

Where can you find sample resolutions?

- » Check out [sample resolutions adopted by universities, university systems and school districts including UC Berkeley, Yale, California State University system \(CSU\), San Francisco Unified School District, Los Angeles Unified School District, Albuquerque Public Schools](#) and more!

How many schools or districts have adopted sanctuary protections?

- » More than two hundred colleges or universities have sanctuary petitions or protective policies already in place and many have chosen to be named on a [nationwide list](#).
- » Many elementary, middle or high schools have passed resolutions are seeking to put protections into place, yet no centralized list of schools has been created, to date.
- » View a [nationwide map](#) that shows schools that have adopted sanctuary resolutions and colleges where presidents have made public statements on the sanctuary issue.

² ACLU of California, Advancement Project, Asian Americans Advancing Justice-California (AAAJ-CA), Asian Americans Advancing Justice-Los Angeles (AAAJ-LA), National Immigration Law Center (NILC), and Services, Immigrant Rights, and Education Network (SIREN)

IMPLEMENTATION IS KEY

What do you need to do after adopting a sanctuary resolution?

- » Implementation is key. Ensure that the resolution includes administrative policies that outline procedures for employees to follow to protect students.
- » Develop a plan for training frontline staff, faculty and administrators to ensure they understand the policies and respond accordingly.
- » Make an announcement to students & parents so they know the resolution is in place..
- » Set clear expectations about what the resolution does and does not do.

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ABOUT US

EDUCATORS FOR FAIR CONSIDERATION (E4FC)

Founded in 2006, Educators for Fair Consideration (E4FC) empowers undocumented young people to achieve education and career goals through personal, institutional and policy transformation. We envision an America where all young people can pursue and complete an education with confidence and without constraint. For more information, please find us online at www.e4fc.org.

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Nancy Jodaitis is the Director of Higher Education Initiatives at Educators for Fair Consideration and has been building educational pathways for undocumented students in higher education since 2008. She works with colleges and universities to identify and address key challenges in supporting undocumented students and conducts UndocuAlly trainings to increase institutional practices that foster student success and graduation. Nancy is the lead author of the [UndocuCollege Guide & Equity Tool: California 2016](#) and [Post-election Guide: What Educators Can Do to Support Undocumented Students](#). She has also developed a [library of educational materials](#) to help undocumented students in California successfully enroll in CA public colleges and universities, and be sure they receive all financial aid for which they are eligible.