

Desert Trails Preparatory Academy Board of Directors Policy
Law Enforcement Student Access Policy

Desert Trails Preparatory Academy (DTPA), shall cooperate with requests from law enforcement while maintaining maximum protection for our scholars. DTPA shall adhere to the following policies and procedures in the event a law enforcement officer or child protective services agent (referred to collectively as “law enforcement officer”) seeks access to a scholar on campus. This policy also sets forth guidelines for DTPA staff to follow if U.S. Immigration and Customs Enforcement (“ICE”) agents come to campus and request information or access to scholars. All references to “parent” in this policy shall mean parent or legal guardian.

Initial Contact and Authentication of Law Enforcement Officer

When a law enforcement officer arrives on campus, DTPA shall:

- **Refer Officer to Responsible Person:** DTPA staff should first refer a law enforcement officer who visits the campus to the Chief Executive Officer (CEO), Principal or SPED Director. If these individuals are unavailable it needs to be reported to Administration in charge. These individuals are responsible for communicating with law enforcement officers are collectively the “Responsible Person.”
- **Request Information from Law Enforcement Officer:** When any law enforcement officer requests access to a scholar or for information concerning a scholar, the Responsible Person should request proof of the law enforcement officer’s identity and official capacity (e.g., his/her badge number), the reason for the visit, and the legal grounds for the requested access or information.
- **Authentication of Law Enforcement Officer:** If it is unclear that the law enforcement officer is a legitimate law enforcement officer, the Responsible Person should reach out to the law enforcement officer’s department to confirm the officer’s identity and need to be on campus.
- **Determine Reason for Visit:** If after the reasonable inquiry outlined above, the law enforcement officer and his/her visit to campus appears legitimate, the Responsible Person should find out more about why the law enforcement officer is on campus. The Responsible Person should determine what is being requested (e.g., need to question a scholar, arrest a scholar access student records, etc.) and the reason (e.g., to investigate an incident, to meet with the scholar because he/she is a suspected victim of child abuse or neglect, etc.).
- **Parental Consent is Not Needed:** Parental consent is not required in order for a law enforcement officer to arrest a minor scholar. Nor is parental consent legally required for questioning a scholar on-campus. In most cases, DTPA will endeavor to notify parents when a law enforcement officer questions a scholar, unless such notification may reasonably impede the law enforcement officer’s investigation or may harm the scholar (e.g., in cases of suspected child abuse or neglect by parents/guardians).
- **Exception in Case of Emergency:** The initial contact and authentication procedures outlined above may be abbreviated or delayed in the event the law enforcement officer is on campus to respond to an emergency or immediate threat to health and safety. However, in any such instance, the Responsible Person should still attempt to authenticate the law

enforcement officer and provide appropriate parental notification as soon as practicable once the situation is under control.

If Law Enforcement Officer Seeks to Question a Scholar

When a law enforcement officer seeks to question a scholar, DTPA shall:

- **Determine if Questioning is Appropriate:** If the law enforcement officer seeks only to question a scholar for issues unrelated to the school, the Responsible Person may ask the officer to seek to question the scholar off campus. However, there are situations where questioning of a scholar on campus may be appropriate, including when law enforcement officers enter the school premises in “hot pursuit” of a suspect, when investigating a serious crime, when investing child abuse, when responding to an emergency, or when responding to a crime being committed on school property. The Responsible Person shall determine based on the reason for questioning whether to allow a law enforcement officer to question a scholar on campus.
- **Facilitate Questioning:** If the law enforcement officer questions the scholar on school grounds, the Responsible Person should inform him or her where the questioning may be conducted assuming the scholar agrees to be questioned. If possible, a non-public area should be identified. The Responsible Person should summon the scholar in a routine manner in order to minimize any disruptions to educational activities.
- **Accommodations Required for Students with Disabilities:** If the scholar requested for questioning by the law enforcement officer is a student with disabilities, the Responsible Person should consult the student’s IEP to determine if an accommodation must be made before allowing the questioning. If a law enforcement officer asks about an accommodation provided to a student as part of the questioning, the Responsible Person must avoid revealing information from the student’s IEP and just inform the law enforcement officer that the accommodation is provided to ensure the questioning process is done in a safe manner. A disclosure from a student’s IEP without parental consent may constitute a violation of the Family Educational Rights and Privacy Act (FERPA).
- **Monitoring Role:** Before any on-campus questioning, the Responsible Person should inform the law enforcement officer and the scholar of his or her intention to monitor the questioning process to ensure the questioning is done in a safe manner. The Responsible Person shall monitor the questioning or assign an appropriate staff member who is familiar with this policy to conduct the monitoring. Whoever monitors the questioning on behalf of DTPA cannot require a scholar to involuntarily sit through questioning and shall not aide the law enforcement officer in questioning.
- **Respect Scholar Requests:** If the scholar asks that the Responsible Person not attend the questioning, the Responsible Person should comply. If the law enforcement officer asks that the Responsible Person not attend the questioning, The Responsible Official should comply only if the scholar consents. It is the responsibility of the law enforcement officer to advise a scholar of his/her legal rights. However, the Responsible Person can inform the scholar that the scholar may have a right to have his or her parent or guardian present, that the questioning is voluntary and the scholar is not being forced to participate, and that the scholar may be entitled to receive Miranda warnings.

- Notify Parents: In most cases, DTPA should notify the scholar's parent of the law enforcement questioning as soon as practicable. However, if the law enforcement officer has articulated a justification not to inform the parents about the questioning that implicates the health and safety of the scholar or others, such as suspected child abuse by the parents, the Responsible Person should rely on the law enforcement officer's direction and as a result, should not notify.

The Responsible Person should not hesitate to contact legal counsel if there are questions about the appropriateness of notifying parents.

- Scholar Taken into Custody: In some circumstances, law enforcement officers may need to remove the scholar from the school premises in order to conduct their investigation. If it is unclear why law enforcement officers seek to take a scholar into custody for questioning, the Responsible Person must request that the law enforcement officer provide an explanation for the removal. DTPA needs this information to determine next steps and to notify the scholar's parents or legal guardian.

If the law enforcement officer decides to take a scholar into custody because the scholar is a suspected victim of child abuse or neglect, it is the responsibility of the law enforcement officer to notify the scholar's parent. In this scenario, the Responsible Person should provide the name, address, and phone number of the scholar's parents to the law enforcement officer.

If a scholar is taken into custody for reasons unrelated to child abuse or neglect, the Responsible Person should take steps to immediately notify the scholar's parent or guardian that the scholar was taken into custody.

If Law Enforcement Officer Seeks to Arrest a Scholar

When a law enforcement officer seeks to arrest a scholar, DTPA shall:

- Review Arrest Warrant/Court Order: If a law enforcement officer presents a warrant or court order that indicates a scholar is to be arrested, the Responsible Person should initially review the warrant or court order. The Responsible Person (if he or she is not the CEO) should make sure the CEO is informed of the arrest warrant. The CEO may contact legal counsel if he or she needs support to review the warrant or court order. The CEO may delegate the authority to handle arrest requests to the Principal or other Administration, if the CEO is unavailable, any such Responsible Person shall handle the arrest request.
- Cooperate in Making Scholar Available: If the arrest warrant or court order is valid, the CEO should cooperate in making the scholar available. Aside from an emergency situation, the CEO should provide access to the scholar in the least disruptive and most protective manner possible.
- Notifying Parents: If a scholar is taken into custody for reasons unrelated to child abuse or neglect the Responsible Person must immediately notify the scholar's parent or guardian that the scholar was taken into custody.

If Law Enforcement Officer Requests Student Information or Records

When a law enforcement officer seeks student information or records, DTPA shall:

- **If Officer Asks if a Scholar is Present at School:** The Responsible Person may confirm to a law enforcement officer whether a scholar is present on campus. In most cases, revealing the scholar's presence to a law enforcement officer on campus is appropriate and would not cause harm to the scholar. However, there may be some scenarios where it would harm the scholar to reveal if he or she is present (e.g., if ICE agent requests this information) and in such cases, the Responsible Person shall direct the ICE agents to wait in a waiting area until the CEO can be reached to assist them with their request. As discussed below, the CEO is responsible for responding to requests and visits from ICE.
- **Request for Records:** If a law enforcement officer requests a scholar's education records, the Responsible Person must inform the officer that they need to first consult with legal counsel in order to respond to the records request appropriately. If the Responsible Person provides a scholar's education records to law enforcement officers without parental consent, it may be a violation of FERPA.
- **Emergency Request:** However, if law enforcement officers request a scholar's education records in an emergency situation where the Responsible Person believes that the disclosure of records is necessary to protect the health or safety of the scholar or other individual, the Responsible Person may disclose those records without parental consent. Please note, the Responsible Person must not provide information to ICE agents, even in an emergency, without discussing with legal counsel because of the harm that may come to the scholar due to disclosure. The Responsible Person must document the reason for any emergency disclosure in the scholar's file as required by FERPA.

Recordkeeping for Law Enforcement Officer Visits

The Responsible Person should document any questioning of scholars by law enforcement officers and place it in the scholar's file. The Responsible Person should record the following information at a minimum:

1. Name, form of official identification (e.g., badge number), and agency/department of law enforcement officer(s);
2. Arrival and departure time of the law enforcement officer(s);
3. Where the school official witnessed the questioning;
4. Notes taken from the scholar questioning; and
5. Other information the Responsible Person considered relevant.

ICE Agents Conducting Immigration Enforcement at School

DTPA recognizes that ICE has a longstanding policy that it will not conduct immigration enforcement activity at any "sensitive location", which includes schools, without special permission by specific federal law enforcement officials and unless urgent circumstances exist.

- Do Not Provide Consent to Enter: If ICE agents come to campus, school staff should direct the ICE agents to wait in a waiting area until the CEO can be reached to assist them with their request. DTPA staff should not give permission to enter the school or conduct a search without a warrant. DTPA staff should not sign any documents on behalf of the school without approval from the CEO.
- Review Warrant or Court Order: Generally, ICE will need a warrant or court order to arrest or question someone on school campus. The CEO should ask to see the warrant or other legal documentation that justifies the search or intrusion on the school site. The CEO should contact legal counsel to assist with the review of the warrant or other legal documentation. DTPA staff must not provide information to ICE agents, even in an emergency, without first discussing with legal counsel because of the harm that may come to the scholar due to disclosure.
- Do Not Impede ICE Activity: If an ICE official presents a valid warrant, DTPA staff should not obstruct or otherwise impede ICE activity.
- Document ICE Activity: DTPA staff should gather agents' business cards or badge numbers, make a note of the records that are searched and/or retrieved, who is interviewed, reasons stated for the search, and other observations.

Warrants usually have limitations, such as describing pertinent records that may be searched. If a DTPA staff member believes a search is being conducted beyond the scope of a warrant, he or she must document it and relay this information to the CEO and legal counsel. Again, school staff must not attempt to stoop or impede an ICE search on their own.

- Notifying Parents: It is highly unlikely that ICE agents will seek to question or arrest a specific scholar at school campus. If this happens, the CEO or his/her designee should immediately contact the scholar's parents or legal guardians. DTPA cannot obstruct ICE enforcement actions if they have a valid warrant or court order, but the CEO or his/her designee should take steps to immediately inform families in the event ICE takes a scholar into custody or questions a scholar on campus.