

The 2025 ICE Detained Parents Directive Vs. the 2022 ICE Parental Interests Directive

On July 2, Immigration and Customs Enforcement (ICE) issued a new version of the policy known as the Parental Interests Directive. **ICE Directive 11064.4, *Detention and Removal of Alien Parents and Legal Guardians of Minor Children*** (2025 Directive) supersedes the previous directive, **ICE Directive 11064.3, *Interests of Noncitizen Parents or Legal Guardians of Minor Children or Incapacitated Adults***, which was issued in 2022 (2022 Directive). The new guidance substantially weakens protections for noncitizen parents and dramatically reduces ICE's obligations to facilitate family unity. As immigration enforcement continues to accelerate at an unprecedented pace, the new directive increases the likelihood that parents will be needlessly separated from their children.

ICE issued its first parental interest policy in 2013, with the goal of preserving family unity and protecting the parental rights of noncitizens. The **2013 Parental Interests Directive** provided guidance to ICE officers who encountered noncitizen parents of minor children on whether or when to detain such parents, facilitating parents' decisions about care and custody of their children, enabling participation in any child welfare proceedings, and preserving family unity in the event of deportation. In 2017, **the first Trump administration replaced the 2013 directive** with guidance that eliminated many crucial protections. In 2022, the Biden administration rescinded the 2017 guidance and issued a policy that largely mirrored, but also expanded, the original 2013 protections. Most notably, the 2022 guidance expanded the scope to include incapacitated adults as well as minor children.

The 2025 Directive substantially weakens protections for noncitizen parents. It dramatically reduces ICE's obligations to facilitate noncitizens parents' participation in proceedings concerning their child(ren) or in making care or travel arrangements for their child(ren) in advance of removal, and other protections that promote family unity. It also eliminates the 2022 Directive's application to incapacitated adults. As importantly, the **2025 Directive weakens ICE's obligation to follow or enforce its own weaker guidance.**

WRC is gravely concerned that the 2025 Directive will increase family separations and erode parental rights.

Below is a **side-by-side comparison of the key differences** between the 2022 Directive and 2025 Directive.

Prioritizing Detention and Deportation at the Expense of Family Unity

2022 Directive	2025 Directive
ICE committed to “humane enforcement” and “ensuring the fundamental interests of parents, legal guardians, and their minor children.”	ICE commits to executing immigration laws and limits itself to suggesting agents “remain cognizant of the impact enforcement actions <i>may</i> have on minor children” (emphasis added).
ICE recognized the rights of parents, legal guardians, and minor children in the parent-child (or legal guardian-child) relationship.	ICE erases most references to these rights and ignores the clear impact of its enforcement on these rights.
ICE foregrounded its recognition of the rights of parents and legal guardians through its terminology, “parental interests.”	ICE signals its abandonment of those rights through its terminology change, replacing “parental interests” with “detained parent,” downgrading from the rights possessed by any parent or legal guardian to a physical and legal custody status that ICE controls.
ICE recognized the importance of the relationship between legal guardians and incapacitated adults.	ICE removes all references and obligations to consider the impact of enforcement on incapacitated adults and their caregivers.
ICE’s qualifiers on taking action in favor of parents or legal guardians are mostly whether an action is “practicable,” making the question whether ICE <i>can</i> do something.	ICE’s more extensive qualifiers on the more limited action it may take in favor of parents or legal guardians are based on whether an action is “operationally feasible,” making the question about whether ICE <i>chooses</i> to do something.
ICE provided relatively broad definitions on who and what circumstances would qualify someone as the parent or legal guardian of a child.	ICE appears to restrict its definition of who qualifies as a parent or legal guardian to: (1) A biological parent can only be a mother who gave birth or a father who “contributed genetically to a child biologically.” This restriction could disproportionately impact LGBTQ+ parents; and (2) a legal guardian must have been granted custody and power over a “child’s protection, education, discipline,” which could allow ICE to disqualify guardians not explicitly granted physical custody or whose guardianship orders lack these terms.

Eliminating or Severely Curtailing ICE's Obligation to Consider Whether a Noncitizen is a Parent or Guardian When Making Detention and Enforcement Decisions

2022 Directive	2025 Directive
ICE had to take into account someone being a parent or legal guardian of a child (or children) when deciding whether to arrest or detain. "In the limited circumstances in which detention is appropriate..."	ICE under no obligation to reconsider arresting or detaining someone who is the parent or legal guardian of a child (or children). Detained Parent Coordinator no longer provides guidance to field on initial detention placement and transfer decisions.
ICE had to try to place a parent or legal guardian in a detention facility near their child(ren).	ICE under no obligation to choose a detention facility near enough for the child(ren) to visit.
ICE had to evaluate whether it was necessary to continue detaining a parent or legal guardian of a child (or children) involved in child welfare or guardianship proceedings.	ICE under no obligation to reconsider the necessity of detaining parents or legal guardians involved in child welfare or guardianship proceedings.
Pending deportation, ICE had to evaluate whether the parent or legal guardian had a reasonable opportunity to make arrangements for their child(ren) and whether deportation would adversely impact ongoing family court or child welfare proceedings.	ICE under no obligation to ensure that parents or legal guardians afforded an opportunity to make arrangements for their child(ren) or avoid adverse impacts on family court or child welfare proceedings, i.e., a child's long-term wellbeing.
Pending deportation, ICE had to assess whether, under the totality of the circumstances, deportation was appropriate where the parent or legal guardian was a party to ongoing family court or child welfare proceedings.	Pending deportation, ICE only reviews, using the same totality of the circumstances test, whether the parent or legal guardian needs to communicate with the court or child welfare agency or lawyer prior to deportation.

Denying Parents and Legal Guardians Facing Deportation a Reasonable Opportunity To Make Arrangements for Their Children

2022 Directive	2025 Directive
ICE "must afford...a reasonable opportunity to make a decision regarding the care or travel of their minor child(ren)" and consult with counsel pending deportation.	ICE "should, to the extent practicable," give detained parents or legal guardians a reasonable opportunity to consult with their lawyer, only pending deportation.
ICE "shall facilitate...efforts to make arrangements for their minor child(ren)" pending deportation.	ICE "should, to the extent operationally feasible, facilitate...efforts to make arrangements for their minor children" pending deportation.

Making It Harder for Parents and Legal Guardians To Keep Their Parental or Guardianship Rights and Increasing the Likelihood Those Rights Will Be Violated

2022 Directive	2025 Directive
ICE considered whether the other parent is in the US <i>or</i> gives permission for the child(ren) to return to the country of removal with the detained parent.	ICE considers whether the other parent or legal guardian is in the US <i>and, if applicable</i> , consents to the child(ren) returning to the country of removal with the detained parent or legal guardian, with no explanation given of how ICE will determine whether the other parent's or legal guardian's consent is "applicable," a circumstance that invites ICE to illegally substitute itself as the arbiter of parental and custodial rights.
n/a	ICE now also considers whether a US citizen child or a child with or pursuing lawful immigration status consents to the child(ren) returning to the country of removal with the detained parent, with no assessment of whether a child has the capacity to consent, a circumstance that invites ICE to coerce children or misrepresent their expressed wishes.
ICE states in footnotes that "[t]his Directive does not authorize ICE personnel to adjudicate disputed rights between parents/legal guardians."	Despite maintaining the same footnote warning, ICE Detained Parent Field POCs must now consult with the ICE Office of the Principal Legal Advisor (OPLA) in their consideration of whether to facilitate the return of children with their parent or legal guardian to the country of removal, despite OPLA having no subject matter expertise on or jurisdiction over family law, child welfare, or the best interest of the child.
ICE Parental Interests Field Points of Contact (POCs) responsible for ensuring that information on how to contact them is posted in all detention facilities.	ICE Detained Parent Field POCs have no responsibility to ensure that information on how to contact them is posted in detention facilities where parents and legal guardians are detained.
ICE had to "ensure the dissemination to all over-72-hour facility law libraries relevant resource guides, including materials prepared by non-governmental organizations and reviewed by ICE, regarding dependency proceedings and the intersection of these proceedings with immigration enforcement and detention."	ICE no longer under any obligation to ensure that resources and information for parents and legal guardians are available in detention facilities; with ICE's increasing restrictions on allowing detainees to access lawyers, this will inevitably result in more children going into the US child welfare system and permanent family separation.
ICE encouraged to obtain a written or sworn statement from a parent or legal guardian	Detained parents or legal guardians "who decide to leave" their child(ren) in the US

indicating their decision to have their child(ren) remain in the US.	“must provide ICE with a written statement indicating their decision.” The language change to “leave their children” is deliberately cruel, as is requiring them to give a written statement without requiring ICE to inform them of this obligation.
The detained parent or legal guardian, their lawyer, the child welfare agency or the court submitted a request to ICE for the parent or legal guardian to participate in family court, child welfare, or guardianship proceedings.	The detained parent or legal guardian, their lawyer, the child welfare agency, or the court <i>must</i> submit a <i>timely</i> notification to ICE that the parent or guardian’s participation is required “to maintain or regain custody or guardianship of their minor child(ren).”
Where facilities don’t allow contact visits, ICE must arrange contact visits with the child(ren) upon request. “The ability of a parent or legal guardian to make such requests must be set out in ICE’s National Detainee Handbook.”	Where facilities don’t allow contact visits, ICE must arrange contact visits with the child(ren) upon <i>written</i> request. ICE under no obligation to ensure that the ability to make such requests appears in the National Detainee Handbook.
The directive had an entire section on “Parents and Legal Guardians’ Access to Participation in Child Welfare Services and Programs.”	ICE has removed this entire section and its guidance on coordinating with child welfare agencies and facilitating the detained parent or legal guardian’s ability to complete court requirements for maintaining or regaining custody of their child(ren).
The directive had an entire section on “Facilitation of Return” for a parent or legal guardian to return temporarily to the US to participate in hearings related to termination of parental rights or guardianship.	ICE has removed this entire section.

Reducing ICE’s Monitoring and Oversight Responsibilities Over Parents and Legal Guardians	
2022 Directive	2025 Directive
ICE Parental Interests Coordinator did quarterly internal reporting on information trends and areas of concerns.	ICE Detained Parent Coordinator has no responsibility to track, monitor, or report information trends or areas of concerns.
ICE had to document all actions and communications pertaining to deporting a parent or legal guardian without their child(ren).	ICE under no obligation to document its actions and communications pertaining to deporting a parent or legal guardian without their child(ren).

Weakening ICE's Obligation to Enforce Its Own Weaker Guidance	
2022 Directive	2025 Directive
ICE Parental Interests Coordinator was responsible for outreach to child welfare stakeholders.	ICE Detained Parent Coordinator no longer provides outreach but instead "training and information" to child welfare stakeholders.
The directive had an entire section on "Outreach," wherein ICE "must work with representatives of family and child welfare courts and child welfare agencies to develop methods for improving communication and cooperation between ICE and family and/or child welfare court systems."	ICE has removed this entire section.
ICE Parental Interests Coordinator consulted with various agencies and offices in ICE and DHS generally in creating its training materials, including the DHS Office for Civil Rights and Civil Liberties (CRCL).	ICE only consults with OPLA in creating its training materials, despite OPLA's lack of expertise on family law, child welfare law, or the best interest of the child.
Training on the directive "shall cover, at a minimum, the means by which ICE personnel will safeguard the parental or guardianship rights of the noncitizens they encounter while executing their duties."	Training no longer required to include information on safeguarding the parental or guardianship rights of the parents and legal guardians against whom ICE takes enforcement action.
ICE Parental Interests Coordinator provided training to not only the Parental Interests Field Points of Contact (POCs), but also to ERO Offices generally.	ICE Detained Parent Coordinator's training for ICE personnel is limited to Detained Parent Field POCs and possibly "other relevant ICE personnel."

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