LEAGUE RECOMMENDATION

The governor’s office can and should issue a comprehensive executive order along with guidance documents implementing safe zone policies to safeguard the rights of immigrants when using state facilities, including schools, healthcare facilities and courthouses while allowing these agencies to carry out their missions.

In conjunction with the executive order, the attorney general should issue guidance documents confirming the legality of such policies with implementation guidance, particularly for the courts and state law enforcement agencies.

Background

Safe Zone Policies and Why They Are Needed

With vulnerable immigrant communities under attack from the Trump administration and deportations rising at an unprecedented rate across the country, governors and attorneys general are using their executive powers to create policies intended to help immigrants feel safe in their communities—safe to attend schools, to use the courts and to seek necessary medical attention without the fear of deportation or family separation.

Safe zone policies can be created through executive order by the governor’s office and implemented through advisory and guidance documents issued by both the governor and attorney general. These policies generally provide that state facilities, including state-funded schools, universities, healthcare centers and courts, may not grant access or provide information not otherwise required by law to Immigration & Customs Enforcement (ICE) agents without a valid court-issued warrant reviewed by appropriate personnel at the facility. Safe zone policies may also preclude law enforcement officers and other state officers and employees from asking about immigration status where irrelevant to the services being provided, or in the case of law enforcement officers, the illegal activity under investigation.

Communities with these protections have had statistically lower crime rates, with unauthorized immigrants willing to serve as
witnesses and report criminal activity, and stronger economies, with less poverty and lower unemployment, than jurisdictions without such protections.1

The Legality of Safe Zone Policies

Safe zone policies are legal and necessary for the well-being of immigrants and our local communities. The mere fact that an individual is not lawfully in the United States is not, in itself, a crime, and there is no legal requirement that state and local facilities detain such individuals or even share information with Immigration & Customs Enforcement agents unless a valid criminal warrant is presented. Safe zone policies protect the constitutional rights of immigrants and assure that the mission of the state’s schools, medical centers and courts is not jeopardized.

Existing Statewide Safe Zone Policies Across the Country

Safe zone policies have been implemented in states and localities across the country through various means, including legislation, executive orders, and local ordinances and policies adopted by municipalities, schools, universities, and healthcare facilities.

State-level laws and policies have been implemented in numerous states, including New York, Vermont, California and Oregon. In New York, Gov. Andrew Cuomo issued a 2017 executive order prohibiting state agencies from inquiring into immigration status and disclosing data, and Attorney General Eric Schneiderman issued guidance documents providing the legal basis for the order and model language for localities to use to limit local agency participation in federal immigration activities.

In Oregon, Gov. Kate Brown issued a 2017 executive order prohibiting state agencies from assisting with the detection and detention of undocumented immigrants and collecting information relating to immigration status, unless otherwise required by law. Connecticut, Illinois, Rhode Island, Vermont and Washington have also enacted statewide measures to appropriately limit law enforcement cooperation with immigration authorities.

Recommendations for Action

Governor’s Office: The League recommends that Gov. Gretchen Whitmer take quick action to assure the immigrant community that they are safe and secure in the state of Michigan. The governor should issue a comprehensive executive order that protects the civil rights of immigrants by prohibiting state entities from:

- Inquiring about immigration status unless required by law and necessary to the services being provided, or in the case of law enforcement, related to the crime being investigated;
- Disclosing immigration status to federal immigration officials unless required by law; and
- Detaining individuals on the basis of immigration status without a valid federal warrant.

Attorney General’s Office: The League recommends that the attorney general’s office create guidance documents to supplement the governor’s executive order, which would include:

- The legal basis for the safe zone policies adopted in the executive order, including in detail the rights and obligations of schools, hospitals and other healthcare organizations, law enforcement agencies, and courts to protect immigrants civil rights;
- Community education materials regarding the legality of safe zone policies and more specific legal guidance on the issue when useful; and
- Model safe zone policies that localities can voluntarily enact, consistent with current federal law, to appropriately limit law enforcement and local agency participation in federal immigration activities.