



Compliance and Reporting Requirements Regarding Sanctuary Policy Laws

Important Legal References

Per O.C.G.A. §36-80-23 (b), No local governing body, whether acting through its governing body or by an initiative, referendum, or any other process, shall enact, adopt, implement, or enforce any sanctuary policy.

Per O.C.G.A. § 36-80-23 (a)(6), "Sanctuary policy" means any regulation, rule, policy, or practice adopted by a local governing body which prohibits or restricts local officials or employees from complying with an immigration detainer notice or communicating or cooperating with federal officials or law enforcement officers with regard to reporting immigration status information while such local official or employee is acting within the scope of his or her official duties.

O.C.G.A. §50-36-4 (b) requires each agency or political subdivision subject to submit an annual immigration compliance report to the department by December 31 that includes the information required under subsection (d) of this Code section for the annual reporting period. If an agency or political subdivision is exempt from any, but not all, of the provisions of subsection (d) of this Code section, it shall still be required to submit the annual report but shall indicate in the report which requirements from which it is exempt.

Specific to compliance with §36-80-23, the immigration compliance report provided for in subsection (b) of O.C.G.A. §50-36-4 shall contain the agency or political subdivision's certificate of compliance with Code Section §36-80-23.

In Summary

Governments **cannot** have any policies in effect within any unit or department of its government that prohibits employees from notifying federal officials of the immigration status of a person when the employees are acting in their official capacity. Additionally, governments **cannot** enact policies that prohibit employees from cooperating or communicating with federal officials or law enforcement officers regarding the immigration status of a person when the employees are acting in their official capacity.

Each government must annually certify that no such policies exist. This is done through the annual reporting with the Department of Audits and Accounts.

What are you Certifying to on the Report?

The law requires that you certify you **do not have a policy that prohibits** employees from complying with an immigration detainer notice or communicating or cooperating with federal officials or law enforcement officers with regard to reporting immigration status information while such employee is acting within the scope of his or her official duties. **A government is in compliance with this law if it does not have any regulations, policies, or practices that prohibit such compliance, cooperation, and communication with federal official or law enforcement.**

Who Must Submit a Certification Relating to Sanctuary Policies?

O.C.G.A. §36-80-23(b) specifies that no local governing body shall enact, adopt, implement or enforce any sanctuary policy. O.C.G.A. §36-80-23(a)(4) defines 'local governing body' to mean any political subdivision of this state, including county, consolidated government, municipality, authority, school district, commission, board, or any other local public corporate, government unit, sheriff's office, law enforcement agency, or political subdivision. Therefore, all governmental entities are required to certify compliance with the state's prohibition against sanctuary policies.

Cities and counties must consider the policies and practices of their city/county police department and respond based on any policies/practices they have, along with all other units of their government. However, counties should not consider the policies/practices of their county sheriff's office in their response. Each sheriff's office will submit its own report.

The Report

Reports are to be submitted online through the Department of Audits and Accounts Immigration and Reform Act Collection System. All persons completing the report must have an account. If you do not have an account, you may request credentials at the log-in page of the collection system. To access the Department of Audits and Accounts Immigration and Reform Act collection system click the following link [Georgia Department of Audits and Accounts Collection System](#).

For guidance on accessing, completing, and submitting the report, please review the "Guidelines for Completing the Immigration Compliance Report" document which can be found in the resources section of the Department of Audits and Accounts website. To access this resource page, click the following link [Immigration Resource Page - DOAA](#).

The annual report is due to the Department of Audits and Accounts by December 31st of each year.

Penalties for Noncompliance

O.C.G.A. §36-80-23 (c) and (d) specify the possible penalties to entities that have enacted sanctuary policies that prohibits employees from notifying federal officials about the immigration status of an individual. Specifically:

- **(c)** Any local governing body that acts in violation of this Code section shall be subject to the withholding of state funding or state administered federal funding other than funds to provide services specified in subsection (d) of Code Section 50-36-1.
- **(d)** As a condition of funding, the Department of Community Affairs, the Department of Transportation, or any other state agency that provides funding to local governing bodies shall require certification pursuant to Code Section 50-36-4 as proof of compliance with this Code section.

Furthermore, O.C.G.A. §36-80-23 (e)(1) and (e)(2) note that it is unlawful for any local official or employee to knowingly and willfully violate any provision of this Code Section. A person convicted of a violation shall be guilty of a misdemeanor. Second and subsequent violations will result in higher charges.

Penalties for Failure to Report

The Department of Audits and Accounts will also consider all entities that do not submit an annual report as noncompliant. Such entities would also be subject to the withholding of state funding.

Do you need assistance?

The Department of Audits and Accounts' website includes resources to assist you in complying with the immigration laws and submitting your report. You can access these resources on our immigration resources page at the following link [Immigration - DOAA](#).

If you have questions relating to immigration compliance and/or reporting, please contact immhelp@audits.ga.gov.