

Compliance Reporting Sanctuary Policy



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 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 any of the requirements provided in Code Sections 13-10-91, 36-60-6, 36-80-23, and 50-36-1 shall 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 portion 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.

Each government must annually certify that no such policies exist. This is done through the annual reporting with the Department of Audis 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 notifying federal officials of the immigration status of a person when the employees are acting in their official capacity. **If you do not have any policies that prohibit such communication, you are in compliance with the law.**

The Report

Home Page upon Login

| Section | Status |
|---|---------------|
| Section 1 Please Enter / Confirm your E-Verify # | Need Response |
| Section 2 Title 13: E-Verify Contractor Reporting | Need Response |
| Section 3 Title 36-80-6: Issuance/Renewal of Business Licenses | Not Required |
| Section 3 Title 36-80-23: Sanctuary Policy | Need Response |
| Section 4 Title 50: Public Benefit Reporting | Need Response |

For Technical Support please call: 404-732-9100 or email webmaster@audits.ga.gov

Click here to access report for compliance with 36-80-23

When you click on link, you will see the following screen.

Title 36-80-23: Sanctuary Policy -- Step 1 of 2

This organization has not enacted a sanctuary policy and is in compliance with O.C.G.A. §36-80-23.

True False

Next

The DOAA does not have a policy that would prohibit an employee from notifying federal officials if they were made aware of someone's immigration status in the course of their duties. Therefore, DOAA will respond "True" to this question.

Answer True if: the entity does not have any policies that prohibit employees from notifying federal officials of a person's immigration status while such local official or employee is acting within the scope of his or her official duties.

Answer False only if: the entity has any type of policy that would prohibit or discourage employees from notifying federal officials of a person’s immigration status while such local official or employee is acting within the scope of his or her official duties. You must answer “False” even if such policy only affects one department/division within the entity.

Note: O.C.G.A. §36-80-23 (a)(6) defines sanctuary policy and the entity’s response should be based upon this specific definition.

If You Answered “True”, the next screen will appear as follows:

The screenshot shows the 'Immigration & Reform Act Collection System' interface. The title is 'Title 36-80-23: Sanctuary Policy'. The organization is 'Audits and Accounts, Department of'. The submission period is '2019'. The update status is 'Confirmed' with a '31' in a red box. A message box states: 'This organization has not enacted a sanctuary policy and is in compliance with O.C.G.A. §36-80-23.' There is a 'Back' button at the bottom left.

If You Answered “False”, the next screen will appear as follows:

The screenshot shows the 'Immigration & Reform Act Collection System' interface. The title is 'Title 36-80-23: Sanctuary Policy -- Step 2 of 2'. The current status is 'Confirmed'. A message box states: 'This organization has enacted a sanctuary policy and is NOT in compliance with O.C.G.A. §36-80-23.' Below the message box, it says: 'The process for Sanctuary Policy has been completed by Kenneth McManus on 12-07-2017 3:51 PM. If you clicked "Confirm" by mistake, please contact ImmHelp@audits.ga.gov for assistance.' There are 'Back' and 'Home' buttons at the bottom.

You would report you are not in compliance only if you have a policy that prohibits employees from notifying federal officials about the immigration status of an individual.

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.

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.