



MURIEL BOWSER
MAYOR

Keeping DC Schools Safe for All Protocol for DC School Officials

As we navigate the current climate, it is important that we provide appropriate guidance to our educators, administrators and other officials who work with DC students and families. We must ensure that our policies follow applicable DC and federal laws while making all Washingtonians feel safe and included.

The following points provide guidance that can help to protect DC students, DC families and those who work at DC schools. Please take a moment to review this information.

ADVICE FOR SCHOOL ADMINISTRATORS

What can I tell my students and their families?

- **Assure students and their families that *all* students, regardless of immigration status, have a constitutional right to a public education.** DCPS and our charter schools continue to welcome children, regardless of their immigration or citizenship status. According to *Plyler v. Doe*, a Supreme Court case from 1982, a State cannot bar undocumented children from public school. This would violate the Equal Protection Clause of the Fourteenth Amendment. Even if *Plyler* did not exist, barring undocumented students would violate our DC values. This means that kids enrolled in school, regardless of status, may take advantage of all school related programs other than ones necessitating a passport, regardless of status. That is, they can participate in school meal programs; they are entitled to special education services where needed; they get the same Kids Ride Free benefits; they can participate in the same school sponsored after school activities; they get the same services from the school nurse. They are treated the same.
- **Remind students that schools, daycare centers and school activity events are sensitive locations.** According to a 2011 ICE Memorandum (“Sensitive Locations Policy”), as expanded under the Trump Administration, ICE cannot conduct enforcement activities at, near or in a way that would disrupt the operation of “sensitive locations” – *unless* the agents have prior approval from ICE. “Sensitive locations” include known and licensed daycares, pre-schools, primary schools, secondary schools, scholastic or education-related activities/events, colleges, universities, vocational/trade schools and marked/known school bus stops during periods when school children are present. Though this policy does *not* create an enforceable right, the guidance should provide some comfort to immigrant students and their families.

- **Do not ask students about immigration status.** Do not put students in an uncomfortable situation. Do not make examples of them, even if your motives are rooted in kindness. Do not ask students to protest or voice dissent with federal immigration policies; you could be putting them in an uncomfortable or risky situation. *Plyler* bars school officials from “discouraging” participation in education. Remember that schools are *not* required to ask immigration status. If anyone asks you for this information, say that DCPS does not inquire into immigration status. Then report this to your principal or administrative leader.
- **Do not assume that foreign-born students, English language learners, or anyone else is here without documentation.** About 1/7 of DC residents were born abroad. A much smaller percentage of our international population is here without documentation.
- **Advise students and their families that they can “opt out” of directory information disclosure.** Although the Family Educational Rights and Privacy Act (FERPA) protects personally identifiable information (PII), FERPA permits schools to disclose “directory” information without consent *unless* parents, guardians or eligible students (generally refers to students 18 and older) have “opted out” of disclosure. Directory information includes a student’s name, address and dates of attendance, as well as the student’s date and place of birth. Parents/guardians or eligible students may “opt out” of directory information disclosure using the Release of Student Directory Information form on the Enrollment Forms page of the DCPS website.

DCPS does not share personally identifiable information (PII) with federal immigration officials except where legally required to do so. Consider making copies of the Release of Student Directory Information form readily available, in all languages that are used by students’ families, and reminding students that “opt out” must occur each year if they want to protect directory information that may be private or sensitive.

How can I support my students?

- **Issue frequent reminders to update contact information.** Because a student’s parents may be detained, try to have accurate and updated contact information – including contact information for other family members, a family friend or guardian who can help. If families have specific questions about assigning a “power of attorney” or immigration issues generally, consult the DCPS Office of the General Counsel for a list of nonprofit and legal services organizations that may be willing to help.
- **Address bullying proactively.** If you see bullying based on immigration status or anything else, follow the District-Wide Bullying Prevention Policy. The District-Wide Bullying Prevention Policy can be accessed at <http://dcps.dc.gov/publication/dcps-bullying-prevention-policy>.
- **Offer resources for students and their families.** Several organizations and government agencies in the greater DC Metro Area provide assistance for students and their families through Know Your Rights trainings, educational materials and direct services. One way to support your students and their families is to help connect them with these resources. If you are interested in obtaining Know Your Rights brochures and other online resources (e.g. those created by nonprofit groups), providing

referrals to legal counsel or conducting Know Your Rights training on campus, please contact the Office of the Chief of Schools and the Office of the General Counsel for guidance.

- **Provide resources to help teachers, counselors and administrators emotionally support their students.** For many families, fear of deportation raids may create significant anxiety. To ensure that teachers, counselors and school officials are equipped to handle this stress, consider booking a training on trauma-informed care. Trainings may be coordinated through your school's mental health team. These practices could help teachers to support their students – and have side benefits for all students who have experienced or are experiencing trauma.

What should I be doing to support my staff?

- **Set a school policy that no teacher, administrator or other personnel should inquire about immigration status.** Section 1373(g) of the Immigration and Nationality Act states that states/localities cannot forbid employees from voluntarily sharing information – specifically, information about citizenship or immigration status – with ICE. However, the law does *not* require any actor to ask about immigration status. In the education context, even asking about immigration status could create a hostile environment for immigrant students, potentially violating our constitutional duty to provide educational opportunity. In the words of the federal Department of Education, “student enrollment practices that may chill or discourage the participation, or lead to the exclusion, of students based on their or their parents’ or guardians’ actual or perceived citizenship or immigration status... contravene Federal law.” See *Letter from U.S. Department of Justice Civil Rights Division and U.S. Department of Education Office for Civil Rights to State and Local Education Agencies* (May 8, 2014). Remember that under *Plyler*, no State can bar undocumented children from attending public school.
- **Be sure that all Security Personnel understand school immigration-related policies.** Your school may have DCPS Security Staff, School Resource Officers or Security Officers working in your building. These individuals must obey school policy on immigration. DC school personnel, including DCPS Security Staff, cannot help apprehend undocumented immigrants. Moreover, they must obey school policies like not inquiring into immigration status. If you are concerned about security personnel knowing or following these policies, consider drafting a directive that states the relevant rules. This directive could prove helpful if DHS guidance changes. Contact the Office of the Chief of Schools and the Office of the General Counsel for guidance and support.
- **Train your teachers in FERPA and immigration-related policies.** At an upcoming faculty meeting, consider going over the laws, policies and procedures surrounding FERPA and immigration status. Make sure that all school officials are clear on the right processes. In this training, consider including guidance surrounding how teachers should address immigration-related concerns in class. If you would like to have someone present DC law or policy, contact the Office of the Chief of Schools and the Office of the General Counsel.

What do I do if ICE comes to my school?

- **If ICE shows up, follow established protocols for guests.** If ICE seeks to enter any area where students have a reasonable expectation of privacy, basically anywhere that is not open to the public, you should follow your established protocol for guests. In January 2017, DCPS issued a School

Visitor Policy that all visitors to D.C. schools must report to the school's administrative office and receive permission to enter the premises. Please review Chancellor's Directive 260.2, School Visitor Policy. Once ICE is in the school's administrative office, immediately call the Office of the Chief of Schools and the Office of the General Counsel. Once engaged, the appropriate DCPS officials will likely demand to know whether the agents have proof of ICE approval and a judicial warrant.

- **If ICE requests information, follow established protocols on PII.** You must follow established policies on safeguarding personally identifiable information (PII). Section 1373 of the Immigration and Nationality Act makes it clear that government institutions – so DCPS schools and government programs – cannot forbid anyone from voluntarily sharing information with ICE. As such, do not advise, require or suggest noncooperation with immigration enforcement. However, *do* follow established policies on protecting private information because educational institutions are bound by FERPA. Should you get any request for private information, immediately contact the Office of the Chief of Schools and the Office of the General Counsel so that legal counsel can assess the FERPA implications.

DC charter schools, as they are not government entities, may set policies that prohibit information sharing with ICE.

- **Check that school property is clearly demarcated.** While ICE cannot enter school areas that are not open to the general public, such as school buildings and playgrounds, ICE *can* enter areas that are open to the public. To prevent any confusion or misunderstandings regarding which school areas are not open to the public, please consult with the DCPS Office of the Chief Operating Officer to explore options for ensuring that school property is clearly fenced-off or otherwise distinguished.