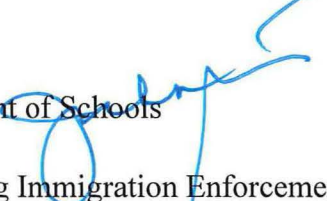


Office of the Superintendent
MONTGOMERY COUNTY PUBLIC SCHOOLS
Rockville, Maryland

February 23, 2017

MEMORANDUM

To: All Principals

From: Jack R. Smith, Superintendent of Schools 

SUBJECT: Updated Guidance Regarding Immigration Enforcement

In recent weeks, Montgomery County Public Schools (MCPS) has received numerous inquiries regarding the potential impact upon our schools of federal initiatives to expand immigration enforcement. To address these inquiries, we are providing updated guidance for you and your staff to utilize in supporting our students and families. We expect to provide additional resources and updates in the coming days and weeks. While we do not intend to cause unnecessary alarm in our school communities, we want our families and students to know that schools are safe and welcoming and that we are working with other Montgomery County agencies and stakeholders to prepare and respond to any scenario.

It is important to keep in mind several key principles, which principals are encouraged to share with counselors and other staff as appropriate:

- **MCPS will continue to follow established procedures to ensure that our schools are safe places for all of our students to learn, regardless of immigration status.** All MCPS staff must adhere to the legal principles set forth in the Supreme Court's landmark 1982 decision, *Plyler v. Doe*. That case made clear that the U.S. Constitution prohibits schools from denying students' access to public education based on immigration status.
- **MCPS staff should not take any actions that may discourage the participation, or lead to the exclusion, of students based on immigration status.** In 2011, the U.S. Department of Education (DOE) and the Department of Justice (DOJ) issued [joint guidance](#) based on *Plyler v. Doe*, encouraging school districts to take proactive steps to assure families that their children are welcome, regardless of their immigration status. MCPS will not tolerate any harassment, bullying, or discrimination on account of immigration status or for any other reason. Any such allegation should be documented and investigated pursuant to [MCPS Regulation JHF-RA, Bullying, Harassment, or Intimidation](#).

- **MCPS has received no indication that there have been or will be immigration actions in schools or on school property.** Under federal policy that remain in effect, Immigration and Customs Enforcement (ICE) treats schools as [sensitive areas](#) where arrests, interviews, searches, or surveillance activities will not generally occur. ICE permits these enforcement actions in schools only under specific circumstances such as an imminent risk of death, violence, or physical harm.

Below you will find a set of FAQs, drawing from these guiding principles:

1) Should schools provide ICE agents with information contained in student records about undocumented students?

MCPS staff will not release any student information, unless required by law. Under the Family Educational Rights and Privacy Act (FERPA), school districts are prohibited from releasing information contained in student records, without parental consent, unless a specific legal exception applies. FERPA does permit release of information from a student's record to comply with a court order or subpoena, typically with parental notification, but not consent. Under MCPS procedures, staff are required to consult with the MCPS Office of the General Counsel (OGC) or the Department of School Safety and Security (DSSS) prior to releasing student information pursuant to a subpoena.

In addition, FERPA permits schools to disclose "directory" information without consent, unless parents/guardians or eligible students (e.g., students who are 18 years old) have "opted out" of such disclosure. Directory information includes, for example, a student's and parent/guardian's name, address, e-mail address, and telephone number; as well as the student's date and place of birth. Parents/guardians or eligible students may opt out using MCPS Form 281-13, [Annual Notice for Directory Information and Student Privacy](#), which is available on the MCPS website and in all schools.

2) Should school staff collect information or inquire about students' immigration status?

MCPS does not require students or their families to provide any information to school staff about their immigration status. Moreover, school staff should avoid asking students or their family about their immigration status because such actions may violate *Plyler v. Doe* by discouraging participation in education. There are special rules, however, that apply to students in foreign exchange programs, and those students should be referred to the School Counseling, Residency and International Admissions (SCRIA) Office.

3) Are school staff required to report an undocumented student to ICE?

According to [guidance](#) from the National Education Association (NEA) and the National School Boards Association (NSBA), "school districts are not required to report undocumented students to ICE . . . because such actions may constitute a denial of access to education under *Plyler*."

Similarly, in a [recent resolution](#), the Montgomery County Executive and County Council made clear that the Montgomery County Police Department plays no role in enforcing federal immigration law.

4) What should school staff do in the unlikely event that ICE agents come onto school grounds for enforcement purposes?

As previously discussed, ICE's general policy is to avoid enforcement actions in schools. In the unlikely event that ICE agents seek to enter a school for enforcement purposes, they will be required to provide proper legal authority, like all other agencies engaged in law enforcement unrelated to school activity. MCPS staff should follow the procedures set forth below to ensure that they neither impede law enforcement activities nor take any action to deny or discourage access to education based on students' immigration status:

- Politely inform the ICE agent that all such requests must be approved by the MCPS OGC or DSSS.
- Request the following information in order to expedite review: (a) name and badge number of the agent; (b) the phone number of the agent's supervisor; (c) the purpose of the visit; (d) whether the agent has a warrant, and if so, a copy of the warrant; (e) any other documentation that would be helpful to review the request.
- Ask the agent to give staff time to call the OGC (240-314-4840) or DSSS (301-279-3066), who will evaluate the request and advise school staff on next steps.

5) What should staff do to ensure the safety of students whose parents/guardians have been detained in an ICE enforcement action?

School staff should take proactive action to support students affected by an ICE enforcement action just as they would for any other family in a crisis situation. For instance, following established procedures for emergency situations, school staff should try to make sure students have adequate supervision and care before releasing them from school.

6) How may counselors and other staff support families concerned about ICE enforcement?

School staff should work to allay fears and reinforce the importance of attending school on a daily basis while encouraging families to seek community resources as needed to support any individual family's issues.

School staff also should be aware that federal law prohibits any person from intentionally "harboring" individuals who are unlawfully in the United States. Harboring means concealing or shielding an individual from detection, where the individual's illegal immigration status is known, or any conduct tending substantially to facilitate that individual's remaining in the U.S. illegally. For example, if staff call parents/guardians to warn them about an impending enforcement action

at their workplace, such actions would likely not be protected by *Plyler v. Doe* because they go beyond ensuring education for all students. Yet harboring **does not include** the sort of care-giving assistance that staff would ordinarily provide in an emergency situation for students whose parents/guardians have been detained in an ICE enforcement action.

7) What else can school staff do proactively in response to these issues?

Schools should avoid taking steps that could inadvertently enhance fears in their communities about ICE's new enforcement action or discourage participation in public education based on immigration status. MCPS recommends that schools provide general reminders to the entire school community about the importance of preparation for family crisis situations and other emergencies, including but not limited to ICE enforcement action.

It is particularly important to remind parents/guardians to complete [MCPS Form 565-1, Student Emergency Information](#) (available in multiple languages) and ensure their information is current. Parents/guardians also should be encouraged to talk with their children, in an age-appropriate manner, about contingency plans in the event of any emergency.

8) What other resources are available?

In addition to the resources cited above, the Montgomery County Office of Community Partnerships has posted resources on its [website](#), including a [directory of legal immigration services providers](#). Other organizations, including the [Charles W. Gilchrist Immigration Resource Center](#), [Catholic Charities](#), and [CASA of Maryland](#) have made information available regarding these issues, including "know your rights" brochures. These resources may be shared with students and families, as appropriate.

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Copy to:
Executive Staff
Mr. Hellmuth