

# ICE at Schools

## All Students are Guaranteed the Right to Attend School

- Every child has the right to an education regardless of immigrant status, as guaranteed by the U.S Constitution.

## JCPS is a Safe Haven School District

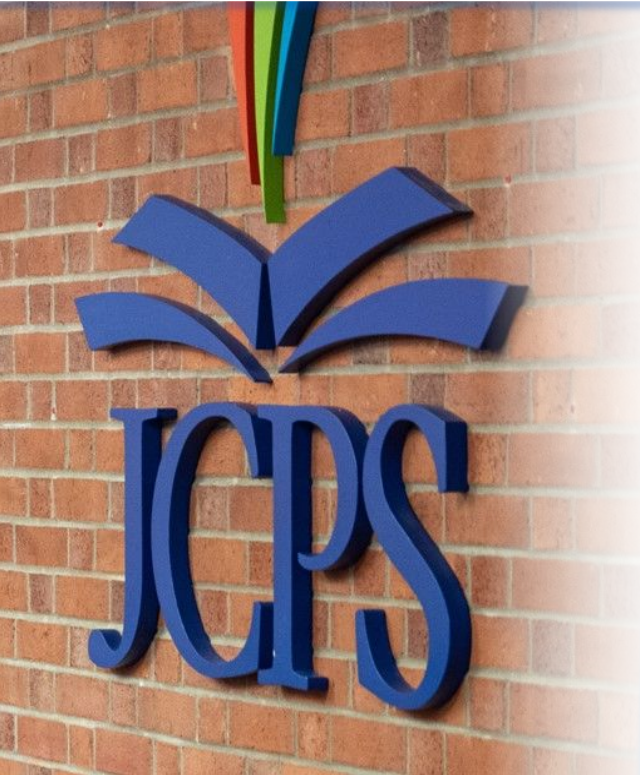
- 2017 resolution declaring JCPS a Safe Haven School District

## JCPS Protects Student Privacy

- JCPS does not ask about or disclose immigration status (FERPA)

## JCPS Welcomes All Students

- JCPS will not take any action that might discourage students from enrolling and participating in school, or that might lead to the exclusion of students, based on immigration status.





## **Instructions for Non-Emergency Visits from Government Officials**

### **Office Staff:**

(1) When someone comes to a school in a non-emergency situation and identifies themselves as a government official, tell that person that someone will come outside shortly to talk with them.

Be polite but firm.

(2) Ask your administrator to meet the official at the entrance.

### **Administrator:**

(1) Request the official's name and ID. Have them write down their name and the agency they work for.

(2) Ask for the purpose of their visit and if they have any documentation that is pertinent to their visit.

(3) Tell the official that you are required by district protocol to notify and seek guidance from the General Counsel's office. Tell the official they may wait in the front office while you speak with the General Counsel's office.

(4) Call the General Counsel's office at 485-3622 and tell them that you have a government official at your school and send them the documentation the official presented. You may scan the documentation into your computer and email it to the General Counsel's office or take a picture of the documentation and send it via text.

Someone from the General Counsel's office will review the documentation and advise you on next steps.

If the official acts inappropriately, call JCPS Security at 485-3121 and report the conduct. Do not attempt to physically impede the official.

(5) Advise the official what the General Counsel instructs you to say. Do not disclose student information to the official unless the General Counsel instructs you to do so.

(6) Except in situations involving allegations of child abuse, contact the parents of the student in question to let them know that the official came to school and what the General Counsel has advised you to do.

# Protections Against Discrimination in Schools

## **Federal laws prohibit discrimination in public education, including discrimination on the basis of race, color, or national origin.**

- Title IV of the Civil Rights Act of 1964, 42 U.S.C. § 2000c-6 (public elementary and secondary education);
- Title VI, 42 U.S.C. § 2000d (recipients of federal funds).

Federal law specifically prohibits schools from “[utilizing] criteria or methods of administration which have the effect of subjecting individuals to discrimination because of their race, color, or national origin, or have the effect of defeating or substantially impairing accomplishment of the objectives of the program as respects individuals of a particular race, color, or national origin.

- 28 C.F.R. § 42.104(B)(2); 34 C.F.R. § 100.3(b)(2)

# FERPA

**The Family and Educational Rights and Privacy Act (FERPA), 20 U.S.C. section 1232(g), protects the personal information and records of all students, regardless of immigration status.**

FERPA allows a law enforcement officer to obtain student information from a school if they have a valid court order or judicial subpoena. *20 U.S.C. § 1232g(b)(2)(B), (b)(1)(J).*

Schools must make a reasonable effort to alert parents or adult students to a subpoena before providing information. *See 34 C.F.R. § 99.31(a)(9)(ii).*

Under FERPA, school security officers may use FERPA-protected information if they are acting as a “school official” in order to fulfill a “legitimate educational interest.” School security officers may not disclose that information to other law enforcement officers who are not acting as “school officials” for the same task. Immigration enforcement is not a “legitimate educational interest.” *See 34 C.F.R. § 99.31(a)(1)(i)(B), § 99.31(a)(1)(ii) and § 99.33(a)(2).*

# Protections Regarding the Immigration Status of Students

**The Supreme Court, in the case *Plyler v. Doe*, 457 U.S. 202 (1982) also held that discrimination on the basis of immigration status in access to basic public education violates the Constitution.**

- As the Court explained, denying access to education “imposes a lifetime hardship on a discrete class of children not accountable for their disabling status.”*Id.* at 223.

Requiring students, parents or guardians to provide schools with information regarding their immigration status, or taking other actions that significantly interfere with the right to a basic public education, violates the constitutional principles set out in *Plyler v. Doe*.

# Protections Regarding the Immigration Status of Students

## *In summary,*

- Schools should not ask about or require students to provide proof of immigration status
- Schools should not ask students for information such as social security numbers or place of birth that may indicate a student's immigration status
- Schools should not require documents for determining residency or age that only people with U.S. citizenship or current immigration status can have (e.g. U.S. passport, driver's license, etc.). Instead, schools should provide a variety of means for establishing information necessary for enrollment.
- School administrators should limit the information collected from students, parents and guardians. If there is no reason to collect it, then do not collect it.

# Steps for Schools to Take If ICE Shows Up:

- If ICE agents present a warrant, it is critical to read it and **determine whether it is judicial or administrative**. Administrative warrants, do not give ICE agents authority to enter school property that is not otherwise open to the public.
- **Clearly demarcate the public and non-public areas in your schools.** If school playgrounds, sports fields, etc., are not open to the public during certain hours, you can also post signage setting out those limits.
- **Establish protocols for exactly what school staff should do if immigration agents come to a school.** School staff should not themselves consent to immigration enforcement officers entering non-public areas and should not allow immigration enforcement officers to interview students. Legal review of all requests for student information by the school's attorney is critical. Judicial warrants and subpoenas are often limited to particular places or people. The school's attorney and decision-makers should hold immigration agents to the limits in the warrant or subpoena.
- **Any actions by immigration agents should be observed and documented.** Schools should make copies of officers' identification documents, as well as any warrants or subpoenas.