

ORGANIZATION, PHILOSOPHY, AND GOALS

Philosophy and Goals

Trust Policy

This is a new policy.

I. PURPOSE

To confirm the School Board's commitment to providing a safe and welcoming space for all students and their families by aligning Fairfax County Public Schools (FCPS) with Fairfax County's Public Trust and Confidentiality Policy to ensure that FCPS students and families can access FCPS benefits and services without fear that information will be disclosed, directly or indirectly, to federal immigration officials.

II. DEFINITIONS

Citizenship or immigration status: Citizenship refers to whether a person is a citizen of the United States (including individuals who hold United States citizenship in addition to citizenship of another country) or is solely a citizen of another country (a "non-citizen"). Immigration status refers to the type of authorization a non-citizen has for their presence in the United States (e.g., lawful permanent resident, conditional permanent resident, visa holder, temporary protected status or undocumented, among other types of status). Perceived citizenship or immigration status refers to characteristics that could suggest a person may be a non-citizen or of uncertain immigration status, such as actual or assumed place of birth, country of origin, ancestry, native language, looking or sounding "foreign", any other national origin indicator or absence of a social security number. These perceived characteristics are separate from, and not included in the term "citizenship or immigration status."

Administrative warrant: A document issued by an immigration enforcement official, including those from the United States Department of Homeland Security (DHS), United States Immigration and Customs Enforcement (ICE) or an administrative immigration judge (IJ), relating to suspected violations of immigration law. The term includes civil administrative warrants, administrative subpoenas, detainer requests, removal orders, database entries (e.g., from the National Crime Information Center) and any similar civil order for the arrest or detention of an individual or for information. An administrative warrant is not a criminal judicial warrant.

Court order: An order entered by a state or federal court, not to include an administrative immigration court.

Criminal judicial warrant: A warrant issued by a state or federal court upon a finding of probable cause to believe a violation of a federal, state, or local criminal law has occurred.

Directory information: Information contained in an education record of a student that

would not generally be considered harmful or an invasion of privacy if disclosed. Examples include, but are not limited to: name, including nickname; participation in officially recognized activities and sports; height and weight, if a member of an athletic team; attendance record, etc. The FCPS definition of “directory information” is set forth at the beginning of each school year in the Annual Notice of Survey, Records, Curriculum, Privacy and Related Rights and Opt-Out Forms (the Opt-Out Forms packets (see: <https://www.fcps.edu/registration/opt-out-forms>)).

Employee: Any person employed by or acting on behalf of FCPS as defined herein as its employee, agent, or representative.

Immigration and Customs Enforcement (ICE): The federal law enforcement agency under the United States Department of Homeland Security (DHS) responsible for the enforcement of immigration laws in the interior United States and for the representation of the United States in administrative immigration proceedings. This definition shall also encompass any successor agency to ICE.

Immigration enforcement official: Any federal employee or agent engaged in immigration enforcement operations including but not limited to agents of ICE, DHS, and the United States Department of Justice (DOJ).

Personally Identifiable Information: Any information that can be used to distinguish or trace an individual’s citizenship, immigration status (certificate of naturalization or citizenship number, alien number), national origin, race, ethnicity, language proficiency, religion, sexual orientation, gender identity, disability, age, place and date of birth; status government identifiers (driver’s license, biometric data such as fingerprints and facial features, social security/taxpayer identification/passport/visa numbers), student scholastic and enrollment records, and medical histories, either alone or when combined with other personal or identifying information that is linked or linkable to a specific individual. The term also includes information that can be used to identify, contact and/or locate a non-citizen or person of uncertain immigration status, including but not limited to: home/work address, means of contacting someone, and law enforcement information such as release date from incarceration.

III. COMMITMENTS OF THE SCHOOL BOARD

1. The School Board affirms the following:
 - A. Every student has the right to attend school, and access all resources therein, in a safe and welcoming environment.
 - B. Students’ physical safety and emotional well-being are paramount to their ability to achieve in school.
 - C. FCPS families and students should feel that schools and classrooms are safe, inviting, and inclusive, regardless of immigration status.

- D. A safe and inviting environment would be disrupted by the presence of immigration agents or ICE enforcement activities; such activities create a climate of fear and stress that would impact all students.
- E. Every FCPS site is a safe place for its students and families to seek help, assistance, and information.
- F. FCPS employees are responsible for protecting the privacy of students and families and shall not disclose personally identifiable information except in limited, circumstances as outlined in Policies 2202, Eligibility for Enrollment, and Policy 4220, Personnel Files.

IV. STANDARDS TO PROTECT CONFIDENCE AND ENHANCE TRUST

1. Requesting, Accessing, or Disclosing Prohibited Information

- A. Citizenship or immigration status. No employee shall request, record, access in FCPS records, or disclose to any person or entity the citizenship or immigration status of an individual, unless the action is (a) required by valid state or federal law or regulation, judicial warrant, court order or subpoena, or (b) has been authorized by the individual or guardian. Nothing in this Trust Policy shall be construed to conflict with federal law.
- B. Other personally identifiable information. No employee shall request, access in FCPS records/databases or disclose to any person or entity any personally identifiable information unless the action is (a) required by valid state or federal law or regulation, judicial warrant, court order or subpoena; (b) has been authorized by the parent or guardian; or (c) is required to fulfill the mission or obligations of FCPS and disclosure is limited to the recipients necessary to fulfill such mission or obligation. The determination of necessity shall be made in accordance with applicable FCPS Policies and regulations as modified to conform to this Policy, or by the Office of Division Counsel as outlined in Section VIII.2 of this Policy.
- C. FCPD officers (including School Resource Officers) are not agents of the Immigration and Customs Enforcement agency and as such they shall not participate in or facilitate immigration enforcement or any request for assistance including access to personally identifiable information as set forth in [General Order 604](#) and the [County's Public Trust and Confidentiality Policy](#).
- D. Exceptions. (a) Protections or benefits: If the citizenship or immigration status of a student is relevant to protections or benefits accorded them under state or federal law or regulation or required by any international treaty, an FCPS administrator may notify the parents/guardians of the relevant protection or requirement and provide them the opportunity to voluntarily disclose their citizenship or immigration status. (b) Demographic data for program evaluation: Nothing in this section is intended to prevent the collection and publication of data, other than citizenship and immigration status, useful to program evaluation (e.g. disparity studies), so long as the underlying data is kept confidential and not

disclosed outside of authorized individuals. Nothing herein shall be construed to restrict the sharing of de-identified aggregated data outside of FCPS.

- E. Discrimination, Threats or Conditioning Action Based on Citizenship or Immigration Status Prohibited: Students and employees shall not discriminate against, threaten, coerce, or intimidate anyone based on their citizenship or immigration status, actual or perceived, or the actual or perceived citizenship or immigration status of a member of the person's household. Employees shall not condition the provision of FCPS benefits, opportunities, or services on actual or perceived citizenship or immigration status unless required by state or federal law or regulation or court order.

V. ACCEPTABLE IDENTIFICATION DOCUMENTS

1. Employees shall accept a combination of documents to verify a student's identification and an address or other information sufficient to reasonably demonstrate the student's residence or address for purposes of School Enrollment as outlined in Policy and Regulation 2202, Required Admission Credentials for Students.
2. Unless required by federal or state law or regulation or an explicit funding requirement, in order to provide FCPS services or benefits, employees shall accept a combination of documents to verify an individual's identification and an address or other information sufficient to reasonably demonstrate the individual's residence or address, including but not limited to:
 - A. A photo identity document (ID) issued by a state and/or foreign government (such as a driver's license, passport or consular identification documents) or other pre-approved forms of photo identification authorized under Fairfax County's Public Trust and Confidentiality Policy. These documents may not be expired more than five years.
 - B. Presentation of such alternate forms of ID shall not subject the person to a higher level of scrutiny or different treatment than if the person had provided a driver's license or state identification card.
 - C. Unless otherwise required by state or federal law, employees shall not maintain copies or record the type of identification documentation provided.

This section does not apply to the completion of federal I-9 forms or similar federal or state forms requiring a specific form of identification or license under defined circumstances.

VI. RESPONSIBILITIES

1. Employees
 - A. Maintain confidentiality of all personally identifiable student and family information, releasing only in accordance with relevant FCPS policies and the Family Educational Rights and Privacy Act ("FERPA"), and not collect or maintain any information on the

citizenship or immigration status of students or their families.

- B. Maintain confidentiality of all employee information, releasing only in accordance with Regulation 4220, Maintenance and Disclosure of Personnel Information and Files, or as otherwise required by law.
- C. Ensure that all students feel safe and welcome at school and foster their right to access resources without fear of repercussions.
- D. Treat all students equitably in the delivery of all school services, including but not limited to, the free and reduced lunch program, transportation, and educational instruction.
- E. Ensure that all students and families see school as a welcoming and safe environment.
- F. Refer all requests by immigration enforcement officials or agents for information or records to the Office of Division Counsel for review. Do not provide access to school sites without prior clearance from the Office of Division Counsel.

2. Office of Division Counsel

- A. Coordinate all immigration-related inquiries and requests for information in accordance with FCPS policies and regulations, valid state or federal laws or regulations, judicial warrants, and court orders or subpoenas.
- B. The Office of Division Counsel will determine if FCPS' compliance with the presented request is mandatory under this Policy, in order to comply with valid state or federal laws or regulation, judicial warrants, court order or subpoenas.
- C. Grant access to school sites only if the immigration enforcement officials or agents provide a criminal judicial warrant. Absent exigent circumstances, the warrant must be reviewed by the Office of Division Counsel before access to the school site is permitted. Requests must be provided with adequate notice so that the Superintendent and Office of Division Counsel can take steps to provide for the emotional and physical safety of its students and staff.

3. Administrators

- A. Ensure school and department-wide implementation and compliance for this procedure with this Policy, to include directives identifying the types of confidential information, including personally identifiable information, that may and may not be collected or disclosed.
- B. Explain how data is collected, maintained, and protected in school-related investigations and for other purposes.
- C. Address violations of this Policy by utilizing the appropriate disciplinary actions, as appropriate.

- D. Advise students and families that while School Resource Officers (SROs) do conduct criminal investigations, they shall not become involved in routine school discipline matters, and explain how data is collected, maintained, and protected in school-related investigations for disciplinary matters, SRO criminal investigations, and for other purposes.

4. Division Superintendent or their Designee

- A. Shall review enrollment practices and procedures, including Policy and Regulation 2202, to ensure alignment with the spirit of this Policy and that the requirements for identification and address verification for enrolling students do not pose an unnecessary burden on immigrant students or their families, especially students whose parents do not live or no longer live in the United States and who are living with an adult relative other than a parent.
- B. Shall ensure that all FCPS grant applications, contracts, memoranda of understanding, and other agreements with grant-making organizations, vendors, contractors, government agencies, and other entities protect the privacy of students and families and do not disclose personally identifiable information except in limited, legally required circumstances or as otherwise outlined in this and other Policies. FCPS agreements, including renewals, shall require that the recipient not disclose any personally identifiable information received or collected to a third party without the prior consent of the parent or eligible student or pursuant to any relevant FERPA exemption as necessary to fulfill the mission of the school division. See 34 CFR § 99.31.
- C. Shall review all student and family information collection practices, forms, and documents and revise as needed to confirm the information being requested is required by law or to fulfill the mission or obligations of FCPS. Shall also provide a statement of compliance to the School Board and confirm compliance for all new information collection practices, forms, and documents.
- D. Shall annually review the definition of “directory information” to confirm that disclosure of included personally identifiable information does not harm students’ and families’ ability to access FCPS benefits and services without fear that information will be disclosed, directly or indirectly, to federal immigration officials.
- E. Shall review the annual notice of opt-out rights to ensure clarity and transparency, including around which organizations may be provided directory information, including parent email address and provide guidance to external organizations such as PTAs and booster clubs will be encouraged not to make submission of parent address, phone and email mandatory for membership.
- F. Shall explore technological solutions to facilitate a system wide, secure communication platform for families without requiring the disclosure of personally identifiable information such as email addresses, phone numbers, and mailing addresses.
- G. Shall provide proper written notification about the Policy to all students and families in

the language spoken at home. Such notice shall also be provided annually in advance of the beginning of each school year. Additionally, details about the Policy and associated regulation and FCPS' commitment to immigrant families shall be clearly communicated on the FCPS website in multiple languages. All notifications shall be made available in any language upon request.

- H. Shall provide each school and administrative facility with signage that clearly and concisely conveys the purpose of the Policy in multiple languages for easily visible posting near all exterior building entrances and interior main office entrances.
- I. Shall ensure that all employees are trained about this Policy in alignment with their duties. Such training shall include the goals of this Policy, the recognition of student and family rights regardless of immigration status, and the protection of all student data, including which data is releasable as "directory information." The training shall be annual for all school administrators, front office staff members, school counselors, security staff and anyone other employees designated by an administrator as likely to receive requests for information.

Legal reference: Title 34 Code of Federal Regulations Part 99
Fairfax County Police Department, General Order 604
Fairfax County, Public Trust and Confidentiality Policy

See also the current version of:

Policy 2202, Eligibility for Enrollment
Policy 2701, Student Personal Data
Policy 2730, Confidentiality of Student Information
Regulation 2205, Enrollment of Homeless Students
Regulation 2701, Student Personal Data
Regulation 4220, Maintenance and Disclosure of Personnel Information and Files

Policy
adopted April 28, 2022

FAIRFAX COUNTY SCHOOL BOARD