EQUAL ACCESS TO PUBLIC EDUCATION AND PROTECTION OF IMMIGRATION AND CITIZENSHIP-RELATED INFORMATION

Policy Statement

The **Charlottesville City** School Board affirms that every child residing within the school division and otherwise entitled to attend the public schools of the division, has full and equal access to a free public education and to school programs, services, activities, and opportunities without discrimination in accordance with the Constitution of Virginia, federal law, and the Code of Virginia.

No child is denied enrollment, attendance, or participation in any school activity based on the actual or perceived immigration or citizenship status of the student or a parent of the student. Immigration or citizenship status is not used as a factor in determining enrollment, attendance, participation, services, or access to educational opportunities.

No parent of a division student is excluded from participating in any parental engagement activities or programs available to other parents of students on this basis.

No student or family member of a student shall be the subject of discrimination, harassment, or retaliation based on actual or perceived immigration or citizenship status of the student or their family.

This policy implements Va. Code § 22.1-2.2 and applicable federal and state privacy and education laws, consistent with guidance issued by the Virginia Department of Education.[1]

Definitions

"Immigration or citizenship status" means the status applied to any individual based on the individual's citizenship in the United States or any other country or such individual's authority or lack thereof to be lawfully present in the United States.[2]

"Law-enforcement agent"[3] includes law-enforcement officers, federal immigration officers, and law-enforcement officers of federal, state, or local agencies whose duties include immigration-related enforcement. It does not include any school resource officer employed by a school board acting in the scope of his normal duties. Local law-enforcement agents,

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Implementation Guidelines for Local School Boards Regarding the Right to Free Public Elementary and Secondary Education and Protecting Children's Privacy (Implementing Guidelines), Virginia Department of Education Guidance, available at https://www.doe.virginia.gov/home/showpublisheddocument/79249/639244559160357798.

[2] Va. Code § 22.1-2.2(A). See the Implementing Guidelines at page 5 for more information as to what may qualify as immigration or citizenship related information, which the Guidelines state that divisions should interpret the scope of as broadly as necessary to ensure the safety of students and families.

[3] Va. Code § 22.1-2.2(A).

including school resource officers, generally do not have the authority to enforce civil immigration laws without a judicial warrant or judicial subpoena.

A "judicial warrant"[4] is a court order issued and signed by a judge or magistrate judge (not an administrative immigration judge) and states the specific address to be searched, describes the place or person to be searched or seized, and specifies the time period within which the search or seizure must occur.

A "nonjudicial warrant"[5] or "administrative warrant" is an order issued by a government agency or official that has not been issued or signed by a judge or magistrate judge. For immigration purposes, a nonjudicial warrant will have a Department of Homeland Security seal, label, and form number. Examples may include immigration detainers and certain federal immigration forms, including Forms I-200 and I-205.

A "non-public area" is any portion of school property or a school building that is not generally open to members of the public.

Enrollment and Access

The school division does not deny or discourage enrollment, attendance, participation, or access to educational services based on actual or perceived immigration or citizenship status of a student or a student's parents. School division enrollment procedures do not require students or parents to provide immigration or citizenship information unless expressly required by state or federal law.

The Superintendent or Superintendent's designee shall periodically review enrollment forms, online registration systems, informational materials, and related procedures to ensure compliance with this policy.

Eligibility for school-sponsored programs and activities shall be based on legitimate program-related criteria and shall not depend upon a student's or parent's actual or perceived immigration or citizenship status.

School communications shall not contain language that reasonably could deter a student or parent from enrolling in or participating in school because of actual or perceived immigration or citizenship status.

Collection and Maintenance of Information

The school division prohibits requesting or collecting citizenship or immigration-related information except to the extent required by law. This applies broadly to division documents, including but not limited to enrollment documents, student information systems, teacher or staff

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Implementing Guidelines at 8.
[5] Implementing Guidelines at 9.

notes, paper and electronic records, and other records maintained by the school division.

In accordance with Virginia Code § 22.1-2.2(C)(3)(b), the following are not designated as directory information:

- immigration status;
- citizenship status;
- country of origin or birth;
- nationality; **or**
- national origin.

If a student, parent, or family voluntarily provides immigration- or citizenship-related information, staff shall not solicit additional information concerning that status. Any such information that is maintained in an education record shall be protected and disclosed only as permitted by applicable law.

The Superintendent or Superintendent's designee shall ensure periodic review of student information systems, forms, databases, and record-keeping practices to identify and eliminate unnecessary immigration- or citizenship-related fields.

Immigration- or citizenship-related information that is improperly collected or maintained shall be addressed in accordance with applicable records-retention requirements, the Virginia Public Records Act, and division records-management procedures.

Confidentiality and Disclosure

No school Board employee, contractor, agent, volunteer, or school resource officer shall disclose or threaten to disclose actual or perceived immigration or citizenship status of a student, a student's parent, or another person associated with the student except as permitted or required by applicable law. This includes informal comments, assumptions, impressions, observations, schedules, locations, or other information concerning a student's or family's immigration or citizenship status.

Any disclosure of personally identifiable information from education records must be specifically permitted or required by applicable federal and Virginia law.[6]

Law-Enforcement and Immigration Agent Contact

When a law-enforcement or immigration agent arrives at a school or school division facility in connection with an immigration-related matter, employees shall comply with established division procedures.

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This includes, but is not limited to, the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. § 1232g, 34 C.F.R. Part 99, the Individuals with Disabilities Education Act (IDEA), applicable provisions of the Code of Virginia, and applicable Virginia administrative regulations.

The Superintendent or Superintendent's designee is responsible for developing such procedures in accordance with the guidance provided by the Virginia Department of Education.

The Superintendent shall also designate a central point of contact for law-enforcement and immigration-related requests and appropriate backup personnel in the absence of the designated contact.[7]

All warrants shall be promptly forwarded to the Superintendent's designee, who will refer to legal counsel for review as appropriate.

A judicial warrant designates the scope of authorized access in the warrant. Staff shall not permit access beyond the authority granted by the warrant.

A nonjudicial or administrative immigration warrant does not, by itself, authorize entry into non-public areas of school property.

Except where access is otherwise required by law, school staff shall not permit access to non-public areas of school property, students, student information, or staff members until the warrant or request has been reviewed pursuant to division procedures by the Superintendent's designee and, when appropriate, legal counsel.

Nothing in this policy shall prevent appropriate action when exigent circumstances exist, including circumstances involving an imminent threat to life, serious property damage, imminent escape of a suspect, or imminent destruction of evidence. Staff shall follow applicable emergency and safety procedures.

School resource officers are subject to the requirements of Va. Code § 22.1-2.2 and this policy when acting in their capacity as law-enforcement agents.[8]

De-Escalation and Safety

The safety of students, division personnel, families, and the community is priority.

When an interaction becomes stressful or emotionally charged, employees shall focus on maintaining a safe and orderly environment and obtaining assistance from appropriate administrators. Division personnel must be familiar with and utilize de-escalation techniques,

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For example, the designee may include the superintendent's office, the superintendent's designee; an office of legal services, division counsel; or another administrator designated by the superintendent.

[8] The School Board's memorandum of understanding with local law enforcement shall address applicable legal requirements concerning interactions with school personnel and students, access to school property, and information sharing.

as developed and disseminated by the Superintendent or Superintendent's designee in accordance with guidance from the Virginia Department of Education.[9]

Employees shall not physically interfere with, obstruct, or attempt to restrain a law-enforcement agent.

De-escalation is intended to reduce tension and protect safety; it is not intended to resolve legal questions concerning a warrant or law-enforcement request.

Notification and Communication

Following an encounter with a law-enforcement or immigration agent, the building administrator shall notify the Superintendent or designated division representative as soon as practicable.

The division shall determine, consistent with applicable law and student privacy requirements, whether:

- a parent, guardian, or caregiver should be notified;
- additional administrators should be notified;
- affected staff should receive information;
- additional safety measures are necessary; **and/or**
- communication to the broader school community is appropriate.

Communications shall be timely, respectful, accurate, and consistent with confidentiality requirements.

Documentation

The division shall document law-enforcement and immigration-related encounters in an objective manner.

Documentation shall:

- describe what occurred;
- identify individuals involved as appropriate;
- identify the steps taken by division personnel;
- include copies of any legal documents presented;
- record referrals to administrators or legal counsel; and
- avoid unnecessary recording or dissemination of a student's actual or perceived immigration or citizenship status.[10]

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See VDOE Guidelines page 18. The division should determine how much specificity they want to incorporate into policy vice establishing the de-escalation techniques in implementing regulations or procedures.

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Documentation shall be maintained by the Superintendent's office in accordance with applicable records-retention requirements.

Complaints, Investigation, and Corrective Action

Any student, parent, guardian, employee, or other aggrieved person may report an alleged violation of this policy to the Superintendent or the Superintendent's designee. The division shall establish procedures for promptly investigating alleged violations.

Where applicable under Va. Code § 22.1-2.2(E), an aggrieved party may provide the Superintendent and clerk of the school board written notice identifying with reasonable specificity the nature and grounds of the alleged violation and the relief or remedial action sought.

Upon receipt of such notice, the division shall investigate and, where warranted, cure the alleged violation or provide appropriate remedial or corrective action within the period prescribed by law.[11]

Nothing in this policy limits any rights or remedies available under state or federal law.

Training

The Superintendent or Superintendent's designee shall ensure that all division principals and administrators complete training concerning compliance with Va. Code § 22.1-2.2 and this policy.[12] [13]

The Superintendent or Superintendent's designee shall provide or require additional training, as appropriate, for other individuals reasonably likely to encounter law-enforcement agents or receive requests for protected information.[14]

The division shall document completion of required training and maintain training records.

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[11] The division's response may include review of relevant records, interviews with relevant personnel, review of school or division procedures, corrective training, revision of forms or practices, restoration of access to a program or service, other appropriate remedial measures; and documentation of the investigation and outcome.
[12] The required training shall be completed as soon as practicable but no later than the beginning of the 2027–2028 school year.
[13] The required training should include, at a minimum, enrollment and access processes, participation and program eligibility, information collection and record keeping, disclosure requirements, judicial and nonjudicial warrants, procedures for handling warrants, guidance on interactions with law-enforcement and immigration agents, information-sharing restrictions, de-escalation techniques; and employee and student safety.
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For example, front-office personnel, school registrars, principals and assistant principals, school security personnel, school resource officers, counselors, volunteers, contractors, and employees responsible for student records.

Implementation Procedures

The Superintendent or Superintendent's designee shall develop administrative procedures necessary to implement this policy.

Adopted:

Legal Ref.: 8 U.S.C. §§ 1373 and 1644
20 U.S.C. §1232g-1232h (Family Educational Rights and Privacy Act).
20 U.S.C. §§ 1400–1485 (Individuals with Disabilities Education Act).
34 C.F.R. Part 99, Part 300.

Code of Virginia, 1950, as amended, §§ 2.2-3800 through 2.2-3809, 15.2-1726.1, 16.1-260, 16.1-305.1, 16.1-305.2, 22.1-2.2, 22.1-3.1, 22.1-270, 22.1-271.2, 22.1-287, 22.1-287.01, 22.1-287.1, 22.1-288, 22.1-288.2, 22.1-289, 32.1-36.1, 42.1-76 through 42.1-90.1.

Cross Ref.:

AC	Nondiscrimination
JEC	School Admission
JO	Student Records