



RESOLUTION ENSURING IMMIGRANT STUDENT ACCESS TO THE FULL BENEFITS OF AN LCPS EDUCATION

WHEREAS, The United States Supreme Court held in *Plyer v. Doe* (1982) that no public school district has a basis to deny children access to education based on their immigration status, citing the harm it would inflict on the child and society itself, and the equal protection rights of the Fourteenth Amendment; and

WHEREAS, U.S. Immigration and Customs Enforcement's (ICE) longstanding policy states that it will not conduct immigration enforcement activity at any sensitive location, including on school property, at education-related activities or events, and at marked or known bus stops, during periods when school children are present at the stop, unless exigent circumstances exist or without special permission from specific federal law enforcement officials; and

WHEREAS, no state or federal law mandates that local school districts assist ICE in the enforcement of immigration laws; and

WHEREAS, Las Cruces Public Schools (LCPS) welcomes all students and has a responsibility to ensure that all students who reside within its boundaries, regardless of immigration status, can safely access a free public education; and

WHEREAS, educational personnel are often the primary sources of support, resources, and information to assist and support students and their families, which includes their emotional health; and

WHEREAS, licensed support personnel such as counselors, social workers, and family school liaisons, as part of their support to students and families, have a professional and ethical responsibility within the scope of their license to provide information regarding District and community resources; and

WHEREAS, through its policies and practices, LCPS has made a commitment to a quality education for all students, which includes a safe and stable learning environment.

NOW, THEREFORE, BE IT RESOLVED that the LCPS Board encourages the Superintendent to increase and enhance partnerships with non-profit community-based organizations who provide resources to families faced with fear and anxiety about immigration enforcement efforts; and

BE IT FURTHER RESOLVED, that all students, regardless of immigration status, who register for or seek to participate in any and all benefits of a LCPS public education, receive all such school benefits and services to which they are otherwise entitled, including free or reduced-cost meals, transportation, health care treatment from the school nurse or a school-based health center, extracurricular activities and educational services, and that no school district staff shall take any steps that would deny students access to education based on their immigration status or that would "~~chill~~" inhibit the rights of any student to the benefits of a LCPS public education;

BE IT FURTHER RESOLVED, that in its continued commitment to the protection of student privacy, the Board directs the Superintendent to review the District’s record-keeping policies and practices to ensure that no data is required, or is being collected, with respect to students’ immigration status or place of birth; and to cease any such collection as it is irrelevant to the educational enterprise; and

BE IT FURTHER RESOLVED, that the Board directs the Superintendent to communicate to District personnel the expectation that District personnel not report undocumented students to ICE, including B-2 visa bearers who attempt to attend school, and should ICE or other immigration law enforcement agents request any student information, the request shall be referred to the Superintendent’s Office to ensure compliance with the Family Educational Rights and Privacy Act (FERPA), student constitutional privacy, standards for a judicial warrant, and any other limitation on disclosure; this review will be conducted expeditiously, but before any production of information is made; and

BE IT FURTHER RESOLVED, that the LCPS Board directs the Superintendent to create a rapid response plan to be implemented in the event a minor child attending school in the District is deprived of adult care, supervision, or guardianship outside of school due to a federal law enforcement action, such as detention by ICE or a cooperating law enforcement agency; and

BE IT FURTHER RESOLVED, that the Superintendent shall post this Resolution on the LCPS website and distribute it using usual means of communication; and

BE IT FURTHER RESOLVED, that the Board affirms that certified employees have the academic freedom to discuss this Resolution during class time, provided the discussion is age-appropriate and does not promote political candidates or partisan activities; and

BE IT FURTHER RESOLVED, that any third party providing services on behalf of the District through contractual or other arrangements, including nonacademic and extracurricular services and activities, shall be notified of this Resolution and required to abide by it.

Adopted this ____ day of _____ 2017, Las Cruces, New Mexico.

Maria A. Flores
President, Board of Education
Las Cruces Public Schools

Ed Frank
Vice President, Board of Education
Las Cruces Public Schools

Ray Jaramillo
Secretary, Board of Education
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Maury Castro
Member, Board of Education
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POLICY JB

Board of Education Las Cruces Public Schools

Related Entries: JB-R, AC, EEA, EEAE, EEAFA, JFA, JFA-R, JLIBA, KLG, KLG-R,
Responsible Office:

ACCESS TO EDUCATION AND PROTECTIONS FOR IMMIGRANT STUDENTS

I. PURPOSE

The purpose of policy JB is to ensure all students, regardless of the student’s or family member’s immigration status, can safely access the public education, including all secondary benefits of public education, provided by the district to which they may be otherwise eligible.

II. BACKGROUND

Las Cruces Public Schools (LCPS) welcomes all students and has a responsibility to ensure that all students who reside within its boundaries, regardless of immigration status, can safely access a free public education. This position is supported by the Supreme Court of the United States that held in *Plyer v. Doe* (1982) that no public school district has a basis to deny children access to education based on their immigration status, citing the harm it would inflict on the child and society itself, and the equal protection rights of the Fourteenth Amendment. Likewise, the U.S. Immigration and Customs Enforcement (ICE) has a longstanding policy that it will not conduct immigration enforcement activity at any sensitive location, which includes school property and education-related activities or events and bus stops that are marked and/or known, during periods when school children are present at the stop, unless exigent circumstances exist or without special permission from specific federal law enforcement officials. There is also no state or federal law that mandates that local school districts must assist ICE in the enforcement of immigration laws.

III. POSITION

- A. All students, regardless of immigration status, who register for or seek to participate in the benefits of a LCPS public education including any secondary benefits to which they are otherwise eligible, are entitled to participate in and receive all such benefits and services, including free or reduced-cost meals, transportation, health care treatment from the school nurse or a school-based health center, extracurricular activities and nonacademic services.
- B. District personnel shall not inquire about or record a student’s or a family member’s immigration status, and pursuant to the Family Education Rights and Privacy Act (“FERPA”), shall not disclose, without parental consent, the immigration status of any student or other personally identifiable information

unless a FERPA exception applies. Requests for documentation may not discriminate or have the effect of discriminating on the basis of national origin or immigration status. All students shall be treated equally in the admission procedures as set forth in Policy JFA. Any reliable proof of the student's identity and age required for school admission or other educational services shall not be maintained or disclosed by the District. Instead, the Superintendent, through Administrative Regulation implementing Policy JFA, shall develop a verification process, verifying that the campus registrar has witnessed a birth certificate or other reliable documentation of age and identity.

- C. Any request for information by immigration agents shall be initially denied and immediately forwarded to the Superintendent for review and a decision on whether access to the information will ensure District compliance with *Plyler v. Doe*, FERPA and any other applicable laws. The request must be provided with adequate notice so that the Superintendent can take steps to provide for the emotional and physical safety of its students and staff absent exigent circumstances.
- D. The Superintendent's Office shall process requests by immigration law enforcement agents to **enter a school site** or **obtain student data** as follows:
 - 1. Request identification from the officers or agents and photocopy it;
 - 2. Request a judicial warrant and photocopy it;
 - 3. If no warrant is presented, request the grounds for access, make notes, deny access and, if necessary, contact legal counsel for the District;
 - 4. Request and retain notes of the names of the students and the reasons for the request;
 - 5. If school site personnel have not yet contacted the students' parents or guardians, do so immediately;
 - 6. Do not attempt to provide your own information or conjecture about the students, such as their schedule, for example, without legal counsel present;
 - 7. Provide the agents with a copy of this Policy;
 - 8. Request the agents' contact information; and

9. Advise the agents you are required to complete these steps prior to allowing them access to any school site or student data unless exigent circumstances exist.
- E. The District shall refuse all voluntary information sharing with immigration agents across all aspects of the District to the fullest extent possible under the law.
- F. The District will not enter into agreements with state or local law enforcement agencies, ICE, or any other federal agency for the enforcement of federal immigration law, except as required by law.
- G. The District and its staff, faculty, employees, and ~~campus police~~ School Resource Officers (pursuant to MOU or other agreements under Policy KLG) will not honor any ICE detainers or requests, except as required by law.
- H. Campus security are prohibited from inquiring about or recording any information regarding an individual's immigration status or country of birth.
- ~~I. Campus police shall create a policy acknowledging that they have no authority to enforce federal immigration law and declaring that they will not participate in immigration enforcement efforts of federal authorities. This includes campus police not holding people on ICE detainers, not responding to ICE notification or transfer requests, not making arrests based on civil immigration warrants, and not allowing ICE to use campus facilities for immigration enforcement purposes, except as required by law.~~

Agreements with law enforcement authorities under Policy KLG shall be consistent with this policy and assure that there shall be no enforcement of federal immigration law on District property (sensitive locations). This includes not participating in any immigration enforcement efforts of federal authorities such as holding people on ICE detainers, responding to ICE notification or transfer requests, making arrests based on civil immigration warrants, or allowing ICE to use campus facilities for immigration enforcement purposes, except as required by law.

- J. All District staff shall treat all students equitably in the receipt of all school services, including but, not limited to, the free and reduced-cost lunch program, transportation, extracurricular activities and educational instruction.
- K. The Superintendent shall create a rapid response plan to avoid releasing students into a potentially hazardous situation. This rapid response plan may include the following:
 1. Work with parents to develop a family immigration enforcement emergency plan.

Policy JB: Access to Education and Protection for Immigrant Students

2. Designate safe places for students to wait if a parent or sibling has been detained.
3. Appoint a committee of ancillary and other school personnel to identify existing District and public and nonprofit community resources for dealing with the various situations that may arise as a result of ICE immigration enforcement activities.
4. Strengthen relationships with public and nonprofit community-based organizations that can support the needs of students impacted by immigration enforcement activities.

Board of Education, President

Date

Legal Ref: [Will input]

History: New Policy April 2017