

SAFEGUARDING THE RIGHTS OF IMMIGRANT AND NONCITIZEN STUDENTS

Purpose and Legal Authority

The U.S. Supreme Court has held that students may not be denied a free public education based on their immigration status or that of their parents or guardians. *Plyler v. Doe*, 457 U.S. 202 (1982). New York Education Law Section 3201-b codifies this right and requires covered educational agencies to maintain safe environments for all students and ensure uninterrupted access to education regardless of immigration status.

In accordance with Education Law Section 3201-b, this policy establishes mandatory operational standards to safeguard the rights of immigrant and noncitizen students. Its purpose is to guarantee all children an uninterrupted free public education and to ensure that school environments remain safe from unauthorized immigration enforcement and discrimination based on actual or perceived immigration status, citizenship, nationality, or country of origin.

Mandatory Designee and Custody Care Protocol

The District will maintain procedures to review every request by an immigration authority to enter school property or take custody of a student. The Building Principal and Superintendent, or designee in their absence, will be the specific person responsible for handling these requests and ensuring that parents or legal guardians are notified of their legal rights and protections.

Upon receiving a request from an immigration authority, school personnel will immediately refer the request to the designated individuals and will not grant access, release a student, or disclose information while review is pending. The designated individuals will:

1. Obtain the requester's identification and agency information and copies of all warrants, court orders, detainers, notices, or other documents presented;
2. Seek guidance from an attorney for the District before responding and review available guidance material, as appropriate;
3. With counsel, determine whether the request is accompanied by a valid judicial warrant or court order issued by a federal U.S. District Court, including a warrant or order signed by a federal U.S. District Court judge or federal magistrate judge, and determine its lawful scope;
4. Notify the student's parent or legal guardian of the request and applicable legal rights and protections unless notice is prohibited by a valid court order or by law; and
5. Notify the NYSED Privacy Office when a request is made, in accordance with current NYSED procedures.

If a parent or guardian is detained by an immigration authority or fails to pick up a student as scheduled, the District will:

1. Keep the student safely supervised on school premises until the student is retrieved by an authorized individual;

2. Make and document every reasonable effort to contact the parent or guardian and all other authorized emergency contacts; and
3. Not contact the Statewide Central Register of Child Abuse and Maltreatment unless school personnel have made every reasonable effort to reach all other authorized emergency contacts and contact is otherwise required or authorized by law.

Restricting the Use of School Resources and Sharing Information

Subject only to the exceptions stated below, school personnel are strictly prohibited from:

1. Using school resources for immigration enforcement purposes;
2. Disclosing, or threatening to disclose, information or records about the actual or perceived citizenship or immigration status of a student or the student's family;
3. Inquiring about or collecting information concerning a student's or the student's family's citizenship, immigration status, nationality, or country of origin;
4. Disclosing personally identifiable information to an employee of an immigration authority, including a name, Social Security number, physical description, associated address, telephone number, financial or medical information, or place of employment of a student or family member;
5. Designating immigration status, citizenship, nationality, or national origin as "directory information";
6. Using registration or enrollment requirements or procedures with the intent or effect of delaying or denying the enrollment of noncitizen students, including delaying enrollment or attendance in class when a student cannot immediately provide every document required for registration, including proof of residency or age; and
7. Implementing a policy, procedure, practice, or action with the intent or effect of deterring a student from participating in, or denying a student the benefits of, a program or activity—or excluding a parent or guardian from parental-engagement activities—because of actual or perceived citizenship or immigration status.

The Family Educational Rights and Privacy Act (FERPA) defines personally identifiable information to include a student's name; the name of the student's parent or other family member; the address of the student or family; personal identifiers such as a Social Security number, student number, or biometric record; indirect identifiers such as date of birth, place of birth, or mother's maiden name; other information that, alone or in combination, is linked or linkable to a specific student and would allow a reasonable person in the school community without personal knowledge of the circumstances to identify the student with reasonable certainty; and information requested by a person whom the District reasonably believes knows the identity of the student to whom the education record relates.

Exceptions: A disclosure or action may occur when required by law, including to comply with a federal judicial warrant or court order signed by a federal U.S. District Court judge or federal magistrate judge; to administer a public program or benefit requested by the family; to exchange information regarding an individual's citizenship or immigration status with the U.S. Department of Homeland Security or another federal, state, or local governmental entity in compliance with 8 United States Code (USC) Sections 1373 and 1644; or for voter registration. The designated person will consult District counsel before relying on an exception unless immediate action is legally required.

Restricting Access to Property

1. School personnel will not grant or facilitate access by an immigration authority to non-public areas of school property or facilities unless the authority presents a valid federal judicial search or arrest warrant signed by a federal U.S. District Court judge or federal magistrate judge. The designated person will consult District counsel before granting access and will limit access to the warrant's lawful scope.
2. Civil immigration warrants, administrative detainers, notices to appear, and other nonjudicial documents do not provide sufficient authority to access non-public areas of school property.

Restricting Access to Students

Subject only to the exceptions stated below, school personnel are strictly prohibited from:

1. Granting permission for or facilitating the release, transfer, surrender, escort, or delivery of a student into the custody of an immigration authority solely because a parent or legal guardian has been arrested, detained, or taken into federal custody;
2. Releasing, transferring, surrendering, escorting, or otherwise delivering a student into the custody of an immigration authority based on a civil immigration warrant, immigration detainer, notice to appear, or other nonjudicial document;
3. Assisting an immigration authority in locating, questioning, or detaining a student; and
4. Using an immigration authority as an interpreter or translator for a law-enforcement matter involving a person with whom school personnel interact in the course of their duties.

Exceptions: School personnel may act when required to comply with a judicial warrant or court order from a competent state or federal court explicitly authorizing an immigration authority to remove, detain, or assume custody of the identified student; to exchange information regarding an individual's citizenship or immigration status with the U.S. Department of Homeland Security or another federal, state, or local governmental entity in compliance with 8 USC Sections 1373 and 1644; to comply with a valid judicial warrant or court order issued by an Article III federal judge or federal magistrate judge, including an order to locate, question, or detain a student; or to comply with a judicial warrant, court order, or lawful criminal investigation conducted in accordance with applicable New York criminal law and procedure. The designated person will consult District counsel before relying on an exception unless immediate action is legally required.

Ref:

Education Law Section 3201-b

Plyler v. Doe, 457 U.S. 202 (1982)

Family Educational Rights and Privacy Act, 20 USC Section 1232g; 34 Code of Federal Regulations Part 99

8 USC Sections 1373 and 1644

NYSED Model Policy and Compliance Procedures: Implementation of NY Education Law Section 3201-b

NYSED Joint Guidance on Safeguarding the Rights of Immigrant Students

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