



**Biwo Pwokirè Jeneral Eta
New York la**

Letitia James | Pwokirè Jeneral



**Biwo Gouvènè
New York la**

Kathy Hochul | Gouvènè



New York State
EDUCATION DEPARTMENT
Knowledge > Skill > Opportunity

Betty A. Rosa | Komisè Edikasyon

Gid Eta New York sou Pwoteksyon Dwa Elèv Imigran yo

Janvyè 2025

Biwo Pwokirè Jeneral Eta New York (OAG) la, Biwo Gouvènè New York la, Kathy Hochul, ak Depatman Edikasyon Eta New York (SED) la pataje yon angajman depi lontan pou pwoteje dwa tout elèv, enkli elèv ki pa sitwayen ameriken. Biwo nou yo te deja pibliye direktiv sou plizyè sijè pou distri lekòl yo ak ajans eta yo pou asire elèv imigran New York yo genyen aksè egal nan edikasyon ak lòt sèvis piblik yo.¹ Nan limyè menas resan yo pou ogmantasyon aksyon federal nan zafè imigrasyon nan kominote nou yo, nou ekri pou reyafime lekòl yo dwe rete yon kote ki an sekirite kote yo akeyi tout elèv yo epi resevwa edikasyon piblik gratis.

Gid sa a souliye ak klarifye resous ki enpòtan pou distri lekòl yo konsènan obligasyon yo anba lwa leta ak lwa federal yo. Menm si gid sa a pa adrese règleman lokal ki ka bay pwoteksyon adisyonèl, distri lekòl yo ta dwe konnen tout règleman ki gouvènè operasyon yo. Si gen nenpòt kesyon sou konfòmite, nou ankouraje distri lekòl yo kontakte SED ak OAG.²

I. Kondisyon Enskripsyon ak Anrejistreman

Dapre lwa New York, tout timoun ki gen laj 5 lane jiska 21 lane ki poko diplome nan lekòl segondè, yo gen dwa ak yon edikasyon piblik gratis nan distri kote yo abite a.³ Distri lekòl yo pa ka refize admisyon sou baz orijin nasyonal, estati imigrasyon, ras, oswa konesans lang, pami lòt rezon.⁴ Depi lontan, Tribinal Siprèm Ameriken an te deklare tou yo pa ka refize elèv yo yon edikasyon piblik gratis akòz estati imigrasyon yo oswa estati paran yo oswa gadyen yo.⁵ Règleman lekòl yo ki anpeche aksè egal nan edikasyon kapab ekspozè distri yo ak responsablite legal epi febli kominote lekòl yo.

Pou asire tout elèv yo byenvini nan lekòl New York yo, nou raple distri lekòl yo yo pa dwe monte baryè diskriminatwa pou enskripsyon oswa dekouraje elèv imigran yo pou yo enskri.⁶ Se poutèt sa, lekòl yo dwe pran an konsiderasyon plizyè prèv rezidans nan yon distri epi mete yon lis ki pa konplè disponib pou piblik la sou fòm dokiman ki akseptab.⁷ Lekòl yo entèdi tou pou mande yon kat oswa nimewo Sekirite Sosyal, oswa nenpòt enfòmasyon ki ta revele estati imigrasyon nan moman enskripsyon an.⁸ Epi lekòl yo dwe imedyatman enskri elèv migran ak elèv ki san kay, menm si yo pa gen prèv rezidans, vaksen, dosye lekòl, oswa lòt dokiman ki anjeneral obligatwa pou enskripsyon, yo ankouraje distri eskolè yo pou yo konsilte Gid Konjwen sou Enskripsyon 2023 nou an.¹⁰

Anplis, Lwa Federal McKinney-Vento pou Asistans pou Sanzabri, ansanm ak Lwa Edikasyon New York la ak règleman enpleman li yo, kreye yon obligasyon afimatif pou distri lekòl yo pou bay elèv ki sanzabri oswa k ap viv nan lojman tanporè aksè nan edikasyon, tankouabri pou migran yo.¹¹

Gid Konjwen McKinney-Vento 2021 nou an eksplike an detay ki jan distri lekòl yo dwe ranpli obligasyon legal yo pou satisfè bezwen elèv ki san kay yo.¹² Li souliye elèv sa yo gen dwa ak enskripsyon imedyat, swa nan lekòl orijin yo oswa kote yo ye kounye a, menm si yo pa nan menm distri a.¹³ Lekòl yo responsab pou idantifye timoun ak jèn ki san kay ki bezwen asistans epi anjeneral yo responsab pou bay transpò pou ale ak pou sòti kote lojman tanporè elèv la ye a.¹⁴ Pou plis resous konsènan aplikasyon Lwa McKinney-Vento a ak sipò pou elèv ki san kay yo, yo ankouraje distri lekòl yo kontakte Sant Asistans Teknik ak Edikasyon Eta New York la pou Elèv Sanzabri yo (NYS-TEACHS).¹⁵

II. Kolekte Enfòmasyon sou Elèv yo ak Aksè nan Dosye Elèv yo

Lwa Federal yo ak lwa Eta yo, sitou Lwa 1974 sou Dwa Edikasyon Familyal ak Pwoteksyon Vi Prive (FERPA), jeneralman entèdi divilgasyon enfòmasyon pèsonèl idantifyab (PII) san konsantman paran yo.¹⁶ Nan ka sa a, lekòl yo ka divilge PII yo sèlman si se enfòmasyon anyè oswa si yo bay yo kòm repons yon “òdonans lajistis oswa manda arestasyon ki emèt legalman.”¹⁷ Enfòmasyon anyè yo enkli enfòmasyon tankou non yon elèv, adrès, ak nimewo telefòn li.¹⁸ Yo pa enkli enfòmasyon oswa dokiman sou estati imigrasyon, sitwayènte, oswa orijin nasyonal, epi lekòl yo pa ta dwe chèche kolekte enfòmasyon sa yo nan yon fason afimatif sof si yo oblije fè sa. Si enfòmasyon sa a nesèse pou patisipasyon nan yon pwogram espesifik oswa pou fè yon rapò, yo ta dwe kolekte li apre pwosesis enskripsyon an epi li dwe rete anonim nan mezi posib. Dapre eksepsyon ki endike anwo a konsènan yon òdonans lajistis oswa yon sitasyon yo bay legalman,¹⁹ lekòl yo pa oblije pataje enfòmasyon elèv yo ak fòs lòd federal yo oswa lokal yo.²⁰

FERPA entèdi lekòl yo tou divilge dosye ki genyen enfòmasyon sou estati imigrasyon elèv yo bay Ajan Resous Lekòl yo (SRO) san konsantman yon paran, gadyen legal oswa elèv ki pa minè, eksepte nan sèten sikonstans kote yo konsidere SRO yo kòm responsab lekòl yo.²¹ Menm lè sa a, SRO yo ka sèlman itilize enfòmasyon pèsonèl ki soti nan dosye edikasyon pou objektif edikasyon lejitim yo t ap chèche enfòmasyon yo te mande a, sa vle di, pou ankouraje sekirite akademik ak fizik elèv yo. Biwo nou yo ap fè w sonje enfòmasyon konsènan estati imigrasyon sa yo pa satisfè sekirite lekòl sa yo oswa rezon edikasyon lejitim. Se poutèt sa, SRO yo pa ta dwe egzamine dosye lekòl yon elèv pou jwenn enfòmasyon sou estati imigrasyon li.²² Anplis, lè SRO yo divilge enfòmasyon sa yo, yo kapab vyole tou limitasyon FERPA sou divilgasyon ak redivilgasyon PII ki nan dosye edikasyon yo.²³

Si yon ajan fòs lòd federal oswa lokal mande enfòmasyon sou yon elèv, lekòl la pa dwe divilge enfòmasyon sa a epi li dwe mande pito sitasyon an oswa lòt dokiman ki jistifye demann lan. Lè yo resevwa li, lekòl la dwe kontakte avoka li anvan li divilge nenpòt enfòmasyon sou elèv la.²⁴ Lekòl yo dwe notifiye Biwo Pwoteksyon Vi Prive SED a sou nenpòt kalite demann sa yo.²⁵

- (1) Pa otorize ofisye yo antre nan pwopriyete lekòl la pou gen aksè ak yon elèv, eksepte pou adrese yon sitiyasyon sekirite iminan oswa lè lalwa egziye sa akòz yon manda oswa yon òdonans lajistis;
- (2) Sonje genyen divès fòm dokiman yon ofisye ka prezante, epi tout pa sifi legalman pou jistifye divilgasyon dosye oswa akòde aksè ak yon elèv. Ou ta dwe mande ofisye a pou dokiman yo. Dokiman sa yo ka pran plizyè fòm, tankou:
 - a. Manda oswa òdonans lajistis: Yon manda oswa yon òdonans lajistis siyen yon Jij Distri Etazini oswa yon (Jij) Majistra Federal e li demontre gen yon rezon pwobab pou kwè yon moun te komèt yon krim oswa yon deli.
 - b. Manda administratif: Otorite federal imigrasyon yo prepare epi bay yon manda administratif epi li mande ofisye federal yo pou yo arete yon moun ki pa sitwayen ameriken pou yo ka depòte li oswa pou yo ka antame pwosedi depòtasyon li.³⁶ Se pa yon manda jidisyè epi li pa bay yon rezon pwobab pou kwè yon moun te komèt yon krim oswa yon ofans paske, kòm yon règ jeneral, se pa yon krim pou yon moun ki pa gen papye rete Ozetazini.³⁷
 - c. Lòd detansyon imigrasyon: Yon lòd detansyon imigrasyon ("immigration detainer" nan lang anglè) se yon demann, anjeneral, otorite federal imigrasyon yo voye bay fòs lòd lokal yo, pou kenbe yon moun nan prizon pou jiska 48 èdtan apre dat pou lage moun nan pwograme. Li pèmèt otorite federal yo gen plis tan pou yo detèmine si yo dwe kenbe moun nan nan prizon pou angaje pwosedi aplikasyon lalwa nan kesyon imigrasyon.³⁸
- (3) Anvan nenpòt lòt aksyon, bay sipè-entandan ak avoka distri lekòl la dokiman yo, yo pral evalye nan yon kontèks demann ki fè respektè lalwa, epi tann konsèy anvan yo kontinye; epi
- (4) Avize paran oswa gadyen elèv la imedyatman (si sa aplikab) sof si yo entèdi sa (pa egzanp, pa lòd tribinal).

Gid Konjwen Edikasyon sou Imigrasyon 2019 nou an te klarifye tou devwa distri lekòl yo pou asire SRO yo respektè dwa elèv ki pa gen papye yo pou yo ale lekòl san yo pa pè konsekans imigrasyon negatif.³⁹ N ap raple distri lekòl yo SRO yo pa dwe kenbe oswa kesyone elèv yo pou detèmine estati imigrasyon yo. Katriyèm Amannman an entèdi SRO yo kenbe oswa kesyone yon elèv sof si yo gen yon rezon ki rezonab pou kwè elèv la te vyole politik lekòl la oswa komèt yon zak ilegal ki te menase "bezwen sekirite espesyal nan lekòl la".⁴⁰ Yo ta dwe pran aksyon sa sèlman anba enstriksyon yon responsab lekòl la epi sèlman pou mennen ankèt sou swadizan vyolasyon politik la oswa zak ilegal la.⁴¹ Estati imigrasyon yon elèv pa afekte sekirite oswa politik lekòl la epi li p ap janm jistifye detansyon oswa entèwogasyon nan espas lekòl la.⁴²

Vrèmanvre, pratik ilegal sa yo, lè yo baze sou ras, etnisite, orijin nasyonal, sitwayènte oswa estati imigrasyon yon elèv, yo ka vyole tou Konstitisyon eta a ak divès lwa sou dwa sivil federal yo ak nan eta a.⁴³ Distri lekòl ki otorize SRO yo vyole pwoteksyon legal sa yo riske angaje responsabilite yo si yo pa byen fòme ak sipèvize SRO yo nan lekòl yo.⁴⁴

Dapre Lwa sou Edikasyon New York la, distri lekòl ki anplwaye SRO yo dwe defini fòmèlman wòl yo ak domèn responsablite yo atravè yon kontra alekri oswa yon pwotokòl akò (MOU) ki devlope ak kontribisyon moun ki konsène yo.⁴⁵ Biwo nou yo konseye distri lekòl yo enkòpore politik ak pwosedi pou pwoteje dwa elèv ki pa gen papye yo nan kontra yo oswa pwotokòl akò yo ak SRO yo,⁴⁶ tankou:

- (1) Restriksyon ki klèman defini sou kapasite SRO yo pou jwenn ak redivilge dosye elèv ki gen enfòmasyon ki kapab revele estati imigrasyon elèv la. Sa enkli si SRO yo se “responsab lekòl la” ki gen otorizasyon pou jwenn aksè nan dosye elèv yo;
- (2) Politik ki entèdi SRO yo kesyone elèv yo ak manm fanmi yo sou estati imigrasyon yo;
- (3) Angajman SRO yo ak pèsonèl lekòl la pou yo pa pataje ak otorite imigrasyon yo enfòmasyon sou estati imigrasyon elèv yo oswa manm fanmi yo, sof si lalwa egzije sa;⁴⁷
- (4) Politik ki entèdi SRO yo kenbe elèv yo sou demann otorite imigrasyon yo, fè arestasyon ki baze sou manda imigrasyon sivil yo, reponn demann otorite imigrasyon yo fè pou notifikasyon oswa transfè, oswa itilize enstalasyon kanpis yo pou rezon aplikasyon lwa imigrasyon, sof si lalwa egzije sa; Epi
- (5) Obligasyon pou tout SRO yo konsilte sipè-entandan an oswa lòt responsab lekòl la deziyen anvan yo vyole mezi pwoteksyon ki endike anwo yo.

IV. Entimidasyon ak Asèlman

Lwa New York yo ak lwa federal yo entèdi asèlman ak intimidasyon sou elèv oswa anplwaye yo sou baz ras, koulè, orijin nasyonal, gwoup etnik, sitwayènte oswa estati imigrasyon, pami lòt bagay.⁴⁸ Nou ankouraje distri lekòl yo revize konsèy ak resous pase ajans nou yo sou Lwa sou Diyite pou Tout Elèv yo pou yo konprann obligasyon legal yo genyen pou kreye yon anviwònman lekòl ki san asèlman ak intimidasyon.⁴⁹ Obligasyon sa yo enkli: devlope politik pou adrese konpòtman sa yo; fòmasyon anplwaye yo sou politik distri a epi enkòpore yo nan kòd konduit distri a; bay elèv yo ansèyman ki vize dekouraje intimidasyon, asèlman ak diskriminasyon; epi rapòte ensidan yo bay SED a.⁵⁰

Anplis, lwa New York yo entèdi vize yon moun oswa byen li pou fè vyolans, menas, oswa asèlman akòz ras, koulè, orijin nasyonal, zansèt, sèks, relijyon, laj, andikap, oswa oryantasyon seksyèl moun nan.⁵¹ Inite Prevansyon Krim Rayisman ak Prejije nan Biwo Pwokirè Jeneral la kapab lanse investigasyon ki pa kriminel sou vyolasyon lwa sa a epi li kapab bay distri lekòl yo resous apwopriye.⁵²

V. Detansyon oswa Ekspilsyon Manm Fanmi yon Elèv

Elèv yo, kèlkeswa estati imigrasyon yo, gendwa genyen paran, gadyen, oswa lòt manm fanmi yo yo te arete oswa depòte. Nous ankouraje distri lekòl yo pou asire tout elèv ak fanmi yo bay enfòmasyon sou kontak ijans ki ajou, sa ki enkli enfòmasyon pou kontakte nan ka ijans segondè yo. Sa a ka patikilyèman enpòtan lè aplikasyon lwa imigrasyon an afekte kapasite yon paran oswa yon gadyen pou pran swen timoun nan. Distri lekòl yo ka bay elèv yo ak fanmi yo enfòmasyon sou resous legal ak kominotè ki enpòtan yo, enkli sa yo bay nan anèks la.

Dapre wa sou Edikasyon New York la distri lek l ki anplwaye yo dwe de ini mèlman w l yo ak domèn responsa lite yo atra è yon kontra alekri oswa yon pwotok l ak ki de lope ak kontri isyon moun ki konsène yo.⁴⁵ Biwo nou yo konseye distri lek l yo enk pore politik ak pwosedi pou pwoteje dwa elè ki pa en papye yo nan kontra yo oswa pwotok l ak yo ak yo,⁴⁶ tankou:

- (1) estriksyon ki klèman de ini sou kapasite yo pou jwenn ak redi il e dosye elè ki en en masyon ki kapa re ele estati imi rasyon elè la a enkli si yo se responsa lek l la” ki en otorite asyon pou jwenn aksè nan dosye elè yo;
- (2) olitik ki entèdi yo kesyon elè yo ak manm anmi yo sou estati imi rasyon yo;
- (3) n ajman yo ak pèsonelek l la pou yo pa pataje ak otorite imi rasyon yo en masyon sou estati imi rasyon elè yo oswa manm anmi yo so si lalwa e ije sa;⁴⁷
- (4) olitik ki entèdi yo ken e elè yo sou demann otorite imi rasyon yo è arestasyon ki a e sou manda imi rasyon si il yo reponn demann otorite imi rasyon yo è pou noti ikasyon oswa trans è oswa itili e enstalasyon kanpis yo pou re on aplikasyon lwa imi rasyon so si lalwa e ije sa Epi
- (5) li asyon pou tout yo konsilte sipè entandan an oswa l t responsa lek l la de iyen an an yo yole me i pwoteksyon ki endike anwo yo.

IV. Entimidasyon ak Asèlman

wa New York yo ak lwa ederal yo entèdi asèlman ak intimidasyon sou elè oswa anplwaye yo sou a ras koulè orijin nasyonal woup etnik sitwayènte oswa estati imi rasyon pami l t a ay Nou ankouraje distri lek l yo re i e konsèy ak resous pase ajans nou yo sou wa sou Diyite pou out Elè yo pou yo konprann o li asyon le al yo enyen pou kreye yon an iw nman lek l ki san asèlman ak intimidasyon li asyon sa yo enkli: de lope politik pou adrese konp tman sa yo masyon anplwaye yo sou politik distri a epi enk pore yo nan k d konduit distri a ay elè yo ansèyman ki i e dekouraje intimidasyon asèlman ak diskriminasyon epi rap te ensidan yo ay ED a

nplis lwa New York yo entèdi i e yon moun oswa yen li pou è yolans menas oswa asèlman ak ras koulè orijin nasyonal ansèt sèks relijyon laj andikap oswa oryantasyon seksyèl moun nan nite re ansyon Krim ayisman ak rejije nan Biwo wokirè eneral la kapa lanse en esti asyon ki pa kriminel sou yolasyon lwa sa a epi li kapa ay distri lek l yo resous apwopriye

V. Detansyon oswa Ekspilsyon Manm Fanmi yon Elèv

Elè yo kèlkeswa estati imi rasyon yo endwa enyen paran adyen oswa l t manm anmi yo yo te arete oswa dep te Nous ankouraje distri lek l yo pou asire tout elè ak anmi yo ay en masyon sou kontak ijans ki ajou sa ki enkli en masyon pou kontakte nan ka ijans se ondè yo a a ka patikilyèman enp tan lè aplikasyon lwa imi rasyon an a ekte kapasite yon paran oswa yon adyen pou pran swen timoun nan Distri lek l yo ka ay elè yo ak anmi yo en masyon sou resous le al ak kominotè ki enp tan yo enkli sa yo ay nan anèks la

VI. Anèks: Resous

Resous Biwo Gouvènè a pou Elèv yo ak Fanmi yo:

- » Biwo New York pou Nou o meriken yo ede imi ran yo jwenn aksè ak na i e nan sè is ak sip ratis atra è re o ounisè kominotè li yo nan tout eta a ou plis en masyon i ite <https://dos.ny.gov/office-new-americans>.
- » ou resous pou elè ki pa en kay i ite paj sa a: Biwo è is imoun ak anmi Eta New York la, èn ki Kite Kay yo e ki an a ri <https://ocfs.ny.gov/programs/youth/rhy>.
- » ou resous pou elè ak adilt ki si i diskriminasyon ki a e sou ras koulè orijin nasyonal sèks relijyon laj andikap oryantasyon seksyèl oswa l t klasi ikasyon pwoteje i ite paj sa a: Di i yon Dwa oun Eta New York <https://dhr.ny.gov/complaint>.

Resous Depatman Edikasyon Eta New York la:

- » Kontakte Biwo Pwoteksyon Vi Prive Depatman Edikasyon Eta a nan:
 - » **Adrès:** 89 Washington Avenue, EB 152, Albany, NY, 12234
 - » **Telefòn:** 518-474-0937
 - » **Imèl:** Privacy@nysed.gov
- » ou depo e yon plent pou pwoteksyon i pri e ki di yon moun ki pa otori e te di il e en masyon pèsònèl yon elè oswa te jwenn aksè nan en masyon pèsònèl yon elè i ite paj sa a: Depatman Edikasyon Eta New York aran ak Elè Depo e lent pou woteksyon i ri e, <https://www.nysed.gov/data-privacy-security/parents-and-students-file-privacy-complaint>.
- » ou kesyon konsènan id sa a kontakte Biwo Konsèy Biwo Konsèy Depatman Edikasyon Eta New York la nan:
 - » **Telefòn:** 518-474-6400
 - » **Imèl:** legal@nysed.gov

Resous Biwo Pwokirè Jeneral Eta New York la:

- » ou depo e yon plent pou yolasyon dwa si il nan Biwo wokirè eneral Eta New York la i ite: <https://ag.ny.gov/file-complaint/civil-rights>
- » ou depo e yon plent pou krim rayisman nan Biwo wokirè eneral Eta New York la i ite: <https://ag.ny.gov/publications/hate-crimes>
- » ou jwenn en masyon sou a oka oswa repre antan ki akredite pou pwosedi ki en rap ak imi rasyon ak resous pou e ite wod imi rasyon i ite paj sa a: Biwo wokirè eneral Eta New York la Konnen Dwa u wod nan è is mi rasyon, <https://ag.ny.gov/publications/immigration-services-fraud>.
- » ou kesyon konsènan konsèy sa a kontakte Biwo wokirè eneral Dwa i il Eta New York la nan:
 - » **Imèl:** civil.rights@ag.ny.gov

1. Relevant immigration education guidance issued by OAG and SED includes: OAG and SED, “Dear Colleague” Letter (Feb. 27, 2017), available at <https://www.nysed.gov/sites/default/files/oag-sed-letter-ice-2-27-17.pdf> (“2017 Joint Immigration Education Guidance”); OAG and SED, “Dear Colleague” Letter (Aug. 29, 2019), available at https://ag.ny.gov/sites/default/files/joint_oag-sed_-ice_sros_in_schools_w_ag_signature.pdf (“2019 Joint Immigration Education Guidance”); OAG and SED, “Dear Colleague” Letter (Feb. 16, 2021), available at <https://www.nysed.gov/sites/default/files/programs/coronavirus/mckinney-vento-guidance.pdf> (“2021 Joint McKinney-Vento Guidance”); OAG and SED, Know Your Rights and “Dear Colleague” Letter (Aug. 28, 2023), available at <https://ag.ny.gov/sites/default/files/letters/kyr-ed.pdf> (“2023 Joint Enrollment Guidance”); Memorandum, Jhone M. Ebert to District Superintendents et al. re: Available Guidance and Resources to Combat Harassment, Bullying and Discrimination in Schools in Light of Recent Immigration-Related Actions, SED, Feb. 27, 2017, available at <https://www.p12.nysed.gov/dignityact/documents/dasa-guidance> (“2017 DASA Memo”). See also SED Office of Counsel, Statement on Rights of Newly Arrived Immigrants (Aug. 15, 2023), available at <https://www.nysed.gov/sites/default/files/programs/bilingual-ed/8-14-23-oc-ltr-re-new-arrivals-a.pdf>. Executive Order No. 6, Oct. 8, 2021, continuing Executive Order 170 (E.O. 170), originally issued Sept. 15, 2017, available at <https://www.governor.ny.gov/executive-order/no-6-continuation-and-expiration-prior-executive-orders> and N.Y. Comp. Codes R. & Regs. (N.Y.C.R.R.), tit. 9, § 8.170, respectively. E.O. 170 prohibits State officers and employees, including law enforcement officers, from inquiring about an individual’s immigration status unless necessary to determine eligibility for public benefits or required by law. E.O. 170 also prohibits State officers and employees, including law enforcement officers, from disclosing information to federal immigration authorities unless required by law.
2. See Appendix for OAG and SED contact information.
3. N.Y. Educ. Law §§ 3201-02, 3209; N.Y. Exec. Law § 296(4).
4. N.Y. Exec. Law § 296(4); 2023 Joint Enrollment Guidance, *supra* note 1; see also 8 N.Y.C.R.R. 154-2.1(a) (“Each school district shall provide English language learners equal access to all school programs and services offered by the school district[.]”).
5. *Plyler v. Doe*, 457 U.S. 202 (1982); see also *Hisp. Int. Coal. v. Governor of Ala.*, 691 F.3d 1236, 1247 (11th Cir. 2012) (holding unconstitutional a facially neutral policy that “significantly deters undocumented children from enrolling in and attending school”) (citing *Plyler*, 462 U.S.).
6. 2023 Joint Enrollment Guidance, *supra* note 1.
7. *Id.*; 8 N.Y.C.R.R. § 100.2(y).
8. 8 N.Y.C.R.R. § 100.2(y)(3)(i)(a). To the extent school districts must collect information relevant to immigration status pursuant to state or federal requirements, they should do so after the student is enrolled so as to avoid the suggestion that such information will be used in enrollment determinations. 2023 Joint Enrollment Guidance, *supra* note 1, at 1-2.
9. 2023 Joint Enrollment Guidance, *supra* note 1; 42 U.S.C. § 11432(g)(3)(C)(i); N.Y. Educ. Law § 3209(2)(f)(2). To remain enrolled, all students must receive at least the first dose of all required vaccines within 14 days of registration. New York State Department of Health, *School Vaccination Requirements* (revised Aug. 2023), https://www.health.ny.gov/prevention/immunization/schools/school_vaccines. If a child experiencing homelessness or housing instability “needs to obtain immunizations . . . the enrolling school shall immediately refer the parent or guardian of the child or youth, or (in the case of an unaccompanied youth) the youth, to the local educational agency liaison . . . who shall assist in obtaining necessary immunizations or screenings . . . [.]” 42 U.S.C. § 11432(g)(3)(C)(iii).
10. 2023 Joint Enrollment Guidance, *supra* note 1.
11. 42 U.S.C. § 11431 *et seq.*; N.Y. Educ. Law § 3209 *et seq.*
12. 2021 Joint McKinney-Vento Guidance, *supra* note 1.
13. *Id.*
14. 42 U.S.C. § 11432(e)(3)(E)(i)(III), (g)(6)(A)(i); N.Y. Educ. Law § 3209(4)(c); 8 N.Y.C.R.R. § 100.2(x)(7)(iii)(a)(2).
15. New York State Technical and Educational Assistance Center for Homeless Students (NYS-TEACHS), www.nysteachs.org; NYS-TEACHS helpline: 1-800-388-2014.
16. 20 U.S.C. § 1232g; 34 C.F.R. § 99; N.Y. Educ. Law § 2-d; 8 N.Y.C.R.R. Part 121, § 200.5(e)(2); N.Y. Gen. Mun. Law § 805-a (prohibiting municipal officers and employees from “disclos[ing] confidential information acquired . . . in the course of [their] official duties[.]”). Revealing confidential information could also be grounds for removal, see, e.g., *Appeal of Nelson*, 49 Ed. Dept. Rep., Decision No. 15,964 (Aug. 14, 2009), <https://www.counsel.nysed.gov/Decisions/volume49/d15964>; *Appeals of Ziegelbauer*, 62 Ed. Dept. Rep., Decision No. 18,143 (Jul. 7, 2022), <https://www.counsel.nysed.gov/Decisions/volume62/d18143>. Cf. 8 U.S.C. § 1373 (officials may not prohibit or restrict government entities sharing, maintaining, or exchanging information on citizenship or immigration status, but does not create obligation to affirmatively collect or disclose such information).
17. See generally 34 C.F.R. § 99.31.
18. Memorandum, Louise DeCandia to School District Superintendents et al. re: Directory Information, SED, Jun. 7, 2023, available at <https://www.nysed.gov/sites/default/files/programs/data-privacy-security/directory-guidance-final-june-2023.pdf> (“DeCandia Memorandum”).
19. As explained in the 2017 Joint Immigration Education Guidance, *supra* note 1, limited exceptions to the FERPA nondisclosure rule exist as set forth in the law’s implementing regulations. These exceptions include requests made by specifically enumerated individuals of the federal government, but only “in connection with an audit or evaluation of Federal or State supported education programs, or for the enforcement of or compliance with Federal legal requirements that relate to those programs,” and all PII must be protected “from further disclosures or other uses,” 34 C.F.R. § 99.35(a). Further, a request from ICE or other federal immigration officials to access student PII from education records would not appear to satisfy any of the FERPA exceptions to the general rule that a parent or eligible student must consent to disclosures to third parties.

20. As explained in Section III, school officials should not allow federal and local law enforcement officials to remove students from the school environment for questioning. Additionally, SROs should not assist federal law enforcement officials in immigration enforcement except in the narrow and rare circumstance where there is a formal agreement between the county employing the SRO and ICE lawfully providing the authority to do so.
21. 2019 Joint Immigration Education Guidance, *supra* note 1; 20 U.S.C. §§ 1232g(b)(2)(A), 1232g(d); 34 C.F.R. §§ 99.30, 99.31(a)(1)(i); U.S. Dep't of Educ., Privacy Technical Assistance Center, *School Resources Officers, School Law Enforcement Units, and the Family Education Rights and Privacy Act (FERPA)*, Question 15 at 11-12, available at https://studentprivacy.ed.gov/sites/default/files/resource_document/file/SRO_FAQs.pdf ("SROs and FERPA").
22. *Id.*
23. 34 C.F.R. §§ 99.31(a)(1)(i); 99.33; 2019 Joint Immigration Education Guidance, *supra* note 1; SROs and FERPA, *supra* note 21.
24. See 2017 and 2019 Joint Immigration Education Guidance, *supra* note 1.
25. See Appendix for SED Privacy Office contact information.
26. See 34 C.F.R. § 99.3 "Directory information."
27. See *id.*
28. DeCandia Memorandum, *supra* note 18; 34 C.F.R. § 99.37(d).
29. DeCandia Memorandum, *supra* note 18.
30. Districts must provide annual notification of FERPA rights to parents. This notice, which should be conspicuously posted on school districts' websites, must identify the district's directory information policy and inform parents of their right to opt-out of providing such information. 2019 Joint Immigration Education Guidance, *supra* note 1; DeCandia Memorandum, *supra* note 18; 34 C.F.R. §§ 99.37(a), 99.7(a)(3)(iii). It must also disclose which categories of individuals operating on school campuses are generally considered school officials with legitimate educational interests in education records. See 34 C.F.R. § 99.7(a)(3)(iii).
31. *E.g.* Office of the Massachusetts Attorney General, "Information for schools on ICE requests for access or information," available at <https://www.mass.gov/info-details/information-for-schools-on-ice-requests-for-access-or-information> (last accessed Dec. 22, 2024).
32. See Appendix for information on filing a privacy complaint with SED.
33. 2017 and 2019 Joint Immigration Education Guidance, *supra* note 1.
34. See *id.*; SED Counsel's Opinion 67 (Mar. 7, 1952) ("[P]olice authorities have no power to interview children in the school building or to use the school facilities in connection with police department work, and the board [of education] has no right to make children available for such purpose. The police authorities must take the matter up directly with the parents."); SED Counsel's Opinion 91 (Jun. 17, 1959) ("[L]aw enforcement officers of any kind may not remove a child from a school building while a child is properly in attendance without permission of the child's parents for questioning" and "law enforcement officers do not have the legal right to interrogate a pupil in the school without permission of the parents."); see also SED Counsel's Opinion 148 (Feb. 23, 1965) ("The school particularly does not have custody of pupils for the purpose of authorizing law enforcement officers or other third parties to interrogate pupils or to remove them from the premises for any purpose whatever.") This position is based on various laws including, *inter alia*, the New York Family Court Act (NYFCA), which requires that a police officer must make every reasonable effort to immediately contact a child's parent or anyone responsible for the child's care when a child is taken into the custody of law enforcement, and further holds that such a child cannot be interrogated, unless and until his or her parent or guardian, if present, is advised of the child's rights and afforded an opportunity to attend the interrogation. N.Y. Fam. Ct. Act § 305.2; see *Matter of Jimmy D.*, 15 N.Y.3d 417 (2010).
35. Executive Order 170.1, Amendment to E.O. 170, *supra* note 1, originally issued Apr. 25, 2018, at 9 N.Y.C.R.R. § 8.170.1.
36. See U.S. Dep't of Homeland Sec. (DHS), Sample Form I-200, Warrant for Arrest of Alien, available at https://www.ice.gov/sites/default/files/documents/Document/2017/I-200_SAMPLE.PDF, or DHS, Sample ICE Form I-205, Warrant of Removal/Deportation, available at https://www.ice.gov/sites/default/files/documents/Document/2017/I-205_SAMPLE.PDF.
37. See *Arizona v. United States*, 567 U.S. 387, 407 (2012) (citation omitted); see also *People ex rel. Wells v. DeMarco*, 88 N.Y.3d 518, 530-31 (2d Dep't 2018).
38. See, e.g., DHS, Form I-247D, Immigration Detainer—Request for Voluntary Action, available at <https://www.ice.gov/sites/default/files/documents/Document/2016/I-247D.PDF>. Despite including a check-box for ICE to designate that "Probable Cause Exists that The Subject is a Removable Alien," this does not constitute probable cause to believe that an individual has committed a crime.
39. 2019 Joint Immigration Education Guidance, *supra* note 1.
40. See *id.*; U.S. Const. amend. IV; *In re Gregory M.*, 82 N.Y.2d 588, 594 (1993) (holding that the lower "reasonable suspicion" standard for searching and questioning students only applies where the search is "conducted by school officials for the special needs of school security and not for a criminal investigative purpose"); see also SED Counsel's Opinion 148 (Feb. 23, 1965) ("The school particularly does not have custody of pupils for the purpose of authorizing law enforcement officers or other third parties to interrogate pupils or to remove them from the premises for any purposes whatever."); see also *G.M. ex rel. B.M. v. Casalduc*, 982 F. Supp. 2d 1235, 1249-50 (D.N.M. 2013) (collecting 10th Circuit cases holding that SROs act as school officials when acting to protect school security or enforce school property under the direction of a school official).
41. See 2019 Joint Immigration Education Guidance.
42. See *id.*
43. See, e.g., N.Y. Const. Art. I, § 11; N.Y. Exec. Law § 296(4); N.Y. Civ. Rights Law § 40-c; Title VI, Civil Rights Act of 1964, Pub. L. No. 88-3520, 78 Stat. 252 (1964) (codified as amended at 42 U.S.C. § 2000d) ("Civil Rights Act").

44. See, e.g., *Gonzalez ex rel. v. Albuquerque Pub. Schs.*, No. CIV 05-580 JB/WPL, 2006 WL 1305032, at *3 (D.N.M. Jan. 17, 2006) (denying defendants' motion to dismiss equal protection claim after SROs questioned undocumented students about their immigration status on school grounds); *Benacquista v. Spratt*, 217 F. Supp. 3d 588, 601-02 (N.D.N.Y. 2016) (denying motion to dismiss student's claim that the school district failed to act or supervise an SRO).
45. N.Y. Educ. Law § 2801-a(10).
46. Schools are encouraged to consult New York Civil Liberties Union, *Recommendations for a Memorandum of Understanding Between Schools and Police* (Dec. 13, 2019), available at https://www.nyclu.org/uploads/2019/12/mou_recommendations_for_schools_and_police_0.pdf.
47. We recommend school districts' policies include language to the effect of: Nothing in this policy prohibits any local agency from sending to or receiving from any local, state, or federal agency—as per 8 U.S.C. § 1373—(i) information regarding an individual's country of citizenship or (ii) a statement of the individual's immigration status.
48. Dignity for All Students Act ("DASA"), N.Y. Educ. Law §§ 10-18, 801-a, 2801; 8 N.Y.C.R.R. § 100.2; N.Y. Exec. Law § 296(4); Title VI, Civil Rights Act, *supra* note 43. These protections cover students not just on school property but also at school functions and online cyberbullying. N.Y. Educ. Law §§ 11-12.
49. SED, The Dignity Act Resources, available at <https://www.nysed.gov/student-support-services/dignity-act-resources>; see also 2017 DASA Memo, *supra* note 1.
50. *Id.*; N.Y. Educ. Law §§ 10-18.
51. N.Y. Civ. Rights Law § 79-n.
52. See Appendix for information on filing a complaint with the OAG Hate Crimes and Bias Prevention Unit.