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MODEL POLICY AND COMPLIANCE PROCEDURES: IMPLEMENTATION OF NY EDUC. LAW § 3201-b

Statutory Effective Date: May 27, 2026

This model policy and compliance procedures apply to all New York State Public School Districts, Charter Schools, Boards of Cooperative Educational Service (BOCES), State-Operated Schools, Special Act School Districts, and Universal Pre-Kindergarten (UPK) Programs operating on school property.

ARTICLE I: PURPOSE AND LEGAL AUTHORITY

The U.S. Supreme Court has long 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)). And, in 2026, the New York State Legislature codified this right in New York State Education Law § 3201-b. This law requires all New York State Public School Districts, Charter Schools, Boards of Cooperative Educational Service (BOCES), State-Operated Schools, Special Act School Districts, and Universal Pre-Kindergarten (UPK) Programs operating on school property to maintain safe environments for all students, ensuring uninterrupted access to education regardless of immigration status.

In accordance with New York Education Law § 3201-b (enacted as Part LL, Subpart D of the Public Protection and General Government budget bill), this Model Policy establishes mandatory operational standards to safeguard the rights of immigrant and noncitizen students. The purpose of this policy is to guarantee all children an uninterrupted free public education and to ensure that school environments remain safe havens free from unauthorized immigration enforcement or discrimination based on actual or perceived immigration status, citizenship, nationality, or country of origin. District personnel should consult the *Joint Guidance on Safeguarding the Rights of Immigrant Students* ("Joint Guidance") for additional materials (issued Jan. 2025/updated Dec. 2025), which serves as an authoritative reference for day-to-day operational compliance under New York Education Law § 3201-b.

ARTICLE II: MANDATORY DESIGNEE and CUSTODY CARE PROTOCOL

1. Districts must establish procedures to review immigration authorities' requests to enter school property or take custody of a student, **designate** a specific person to handle these requests, and notify parents or legal guardians of their legal rights and protections.
   Note: The *Joint Guidance* contains procedures which include (a) a requirement to seek guidance from an attorney for the district before responding to any requests from immigration authorities; (b) review of requests to determine whether they are accompanied by a valid judicial warrant or court order issued by a federal U.S. District Court; and (c) a notification to the SED Privacy Office when a request is made.
2. These procedures must also outline the school's response if a parent or guardian is detained by immigration authorities or fails to pick up a student as scheduled. At a minimum, the

school must keep the student safely on school premises and cannot contact the statewide central register for child abuse and maltreatment unless school personnel have made every reasonable effort to reach all other authorized emergency contacts.

ARTICLE III: RESTRICTING THE USE OF SCHOOL RESOURCES AND SHARING INFORMATION

School personnel are strictly **prohibited** from:

- using school resources for immigration enforcement purposes;
- disclosing, or threatening to disclose, information or records about actual or perceived citizenship or immigration status of a student or student's family, subject to the exceptions listed below;
- inquiring, or collecting information, about a student or student's family's citizenship, immigration status, nationality, or country of origin, subject to the exceptions listed below;
- disclosing to employees of an immigration authority personally identifiable information, including name, SSN, physical description, associated addresses, phone number, financial/medical info, place of employment of a student or family, subject to the exceptions listed below;
- designating immigration status, citizenship, nationality, or national origin as "directory information"; or
- using registration and enrollment requirements or procedures that have the intent or effect of delaying or denying the enrollment of non-citizen students, including delaying the enrollment and attendance in class of students if they cannot immediately provide all documents required for registration, including proofs of residency and age.
- implementing policies, procedures, practices, or actions that have the intent or effect of deterring a student from participating in or denying a student the benefits of programs or activities, or that exclude parents or guardians from participating in parental engagement activities, on account of perceived or actual citizenship or immigration status.

Personally identifiable information is defined by the Family Education Rights and Privacy Act ("FERPA) to include: the student's name, name of the student's parent or other family members, address of the student or student's family, personal identifiers such as the student's social security number, student number, or biometric record; indirect identifiers, such as the student's date of birth, place of birth, and mother's maiden name; other information that, alone or in combination, is linked or linkable to a specific student that would allow a reasonable person in the school community, who does not have personal knowledge of the relevant circumstances, to identify the student with reasonable certainty; or information requested by a person who the educational

agency or institution reasonably believes knows the identity of the student to whom the education record relates.

Exceptions: when disclosure is required by law (e.g., to comply with a federal judicial warrant or court order signed by a federal U.S. District Court or 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 United States Department of Homeland Security or any other federal, state, or local governmental entity, in compliance with 8 U.S.C. § 1373 and 8 U.S.C. § 1644; for voter registration, etc.).

ARTICLE IV: RESTRICTING ACCESS TO PROPERTY

1. School personnel must not grant or facilitate access to non-public areas of school property or facilities to any immigration authority unless presented with a valid federal judicial search or arrest warrant signed by a federal U.S. District Court or Magistrate judge.
2. **Note:** Civil immigration warrants, administrative detainers, notices to appear, and other non-judicial documents **do not** grant sufficient authority to access non-public areas of school property.

ARTICLE V: RESTRICTING ACCESS TO STUDENTS

School personnel are strictly **prohibited** from:

- Granting permission for or facilitating the release, transfer, surrender, escort of 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, subject to the exceptions listed below;
- 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 non-judicial document;
- Assisting immigration authorities in locating, questioning, or detaining a student, subject to the exceptions listed below;
- Using an immigration authority as interpreters or translators for any law enforcement matters involving individuals they interact with during the course of their employment duties.

Exceptions: to comply with a judicial warrant or court order from a competent state or federal court explicitly authorizing the removal, detention, or assumption of custody of that student by an immigration authority; to exchange information regarding an individual's citizenship or immigration status with the United States Department of Homeland Security or any other federal, state, or local governmental entity, in compliance with 8 U.S.C. § 1373 and 8 U.S.C. § 1644; to comply with valid court orders or judicial warrants issued by an Article III federal judge or a federal magistrate judge (e.g., to locate, question or detain a student); to comply with a judicial warrant, court order, or lawful criminal investigation conducted in accordance with applicable New York State criminal law and procedure.

Note: the provisions of New York Education Law § 3201-b supersede any contrary state or local law, charter, code, ordinance, resolution, rule, or regulation, and shall not be construed to expand the authority of school personnel to participate in immigration enforcement. However, nothing in this article prevents or restricts a municipal government or school district from adopting local policies, ordinances, or regulations that meet or exceed the minimum standards of this section, or that further restrict school personnel from participating in immigration enforcement beyond these requirements. The provisions of New York Education Law § 3201-b shall not be construed to prohibit or restrict a school or school personnel from sending to or receiving from the United States Department of Homeland Security or any other federal, state, or local governmental entity information regarding the citizenship or immigration status of an individual under 8 U.S.C. § 1373 and 8 U.S.C. § 1644.

VERIFICATION: Within 60 days of the publication of these model procedures, the Superintendent or Chief Administrative Officer of each covered educational agency must log into the NYSED monitoring portal to formally certify to the Commissioner of Education that they have developed and implemented procedures that comply with this model policy and compliance procedures.