

**Letter Template for Students and Parents to Give to Schools**  
**Regarding Rights During Enrollment & Registration**

[Date]

[School Address]

Dear [Principal/Superintendent]:

My name is \_\_\_\_\_ and I am the parent of \_\_\_\_\_ who attends [name of school]. I am concerned with the way my child was recently treated at school. I want to work together with the teachers and principal at the school to make sure that my child and all students feel safe, protected, and welcomed.

**Rights of Immigrant & Non-Citizen Children in Schools in New York to Access Education**

All children in New York, regardless of immigration status, have the right to attend school if they can meet New York State's age and residency requirements.<sup>1</sup> School districts may not deny students access to a free public education because they are undocumented or are non-citizens without violating the United States Constitution.<sup>2</sup>

Students in New York public schools have a variety of rights under both state and federal law.<sup>3</sup> A student who meets age and residency requirements, for example, cannot be denied enrollment because of an inability to provide a copy of a birth certificate or a copy of a social security card. Local schools districts cannot engage in enrollment practices that discourage student enrollment.<sup>4</sup> The New York State Education Department (NYSED) gave guidance that "schools should not ask questions related to immigration status that may reveal a child's immigration status, such as requesting a Social Security number," and "while school districts may need to collect certain data pursuant to state and/or federal laws, they should do so after a student has enrolled in school so as not to inadvertently give the impression that information related to immigration status will be used in making enrollment determinations."<sup>5</sup>

Students, therefore, must not be required to submit a birth certificate or any documentation that reveals her or his country of origin before enrolling, even if no other identifying documentation is available. The NYSED "does not require districts to collect students' Social Security cards or numbers for any purpose or at any time, either prior to or following

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<sup>1</sup> MaryEllen Elia & Eric T. Schneiderman, Letter from Commissioner Elia and NYS Attorney General Regarding U.S. Immigration and Customs Enforcement (NYSED Letter), NYSED.gov (Feb. 27, 2017), <http://www.nysed.gov/common/nysed/files/oag-sed-letter-ice-2-27-17.pdf>.

<sup>2</sup> See Plyler v. Doe, 457 U.S. 202 (1982).

<sup>3</sup> *Id.*; see also NYSED Letter, NYSED.gov (Feb. 27, 2017), <http://www.nysed.gov/common/nysed/files/oag-sed-letter-ice-2-27-17.pdf>; N.Y. EDUC. LAW §§ 3202, 3205, 3209.

<sup>4</sup> See U.S. Dep't of Justice, Dear Colleague Letter: School Enrollment Procedures (May 8, 2014), <http://www.p12.nysed.gov/sss/documents/EducationalServicesforRecentlyArrivedUnaccompaniedChildren.pdf>.

<sup>5</sup> NYSED Letter, NYSED.gov (Feb. 27, 2017), <http://www.nysed.gov/common/nysed/files/oag-sed-letter-ice-2-27-17.pdf>.

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student enrollment.”<sup>6</sup> So, schools should limit the information they require parents and children to prove residency, age, and immunization so that noncitizen children and parents feel welcome and safe when enrolling in public education.

Please allow my child to enroll in [name of school or school program] immediately.

**Privacy Rights of Immigrant and Non-Citizen Children in New York Schools**

U.S. Immigration officials are collaborating with local police on Long Island for the purpose of immigration enforcement.<sup>7</sup> Immigration officials have agreed not to target schools because of an understanding that they are “sensitive locations,” and parents should not be afraid to send their children to school.<sup>8</sup> School officials, therefore, should never ask students about their immigration status.

The NYSED advises that school officials cannot and should not share information about students or family members with any immigration official because it may violate federal privacy laws.<sup>9</sup> The NYSED says that “upon receipt of a request from immigration officials to access student education records, school districts should immediately consult with their attorneys, as compliance with such request through disclosure may violate FERPA” as it appears that “a request from ICE or other federal immigration officials to access student . . . education records does 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.”<sup>10</sup>

Please do not share any information about my child with immigration or any other sort of law enforcement official in violation of state and federal law. Please notify me immediately if an immigration or law enforcement official asks for information about my child.<sup>11</sup>

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<sup>6</sup> NYSED Letter, NYSED.gov (Feb. 27, 2017), <http://www.nysed.gov/common/nysed/files/oag-sed-letter-ice-2-27-17.pdf>.

<sup>7</sup> Julianne Hing, *ICE Admits Gang Operations are Designed to Lock Up Immigrants* (Nov. 30, 2017), <https://www.thenation.com/article/ice-admits-gang-operations-are-designed-to-lock-up-immigrants/>.

<sup>8</sup> U.S. Immigration and Customs Enforcement, FAQ on Sensitive Locations and Courthouse Arrests, <https://www.ice.gov/ero/enforcement/sensitive-loc> (last visited Mar. 27, 2018).

<sup>9</sup> In New York, the confidentiality of student records is protected by the New York Family Court Act, N.Y. Fam. Ct. Act §§ 305.1, 305.2 (2010), and the federal Family Educational Rights Privacy Act (FERPA), 12 U.S.C. § 1232g. If ICE requests information about any student from the school, the NYSED advises that “[p]rior to responding to any such request, school district employees should work with their superintendents and attorneys to determine whether honoring such a request could cause the school district to violate a law of general applicability.” NYSED Letter, NYSED.gov (Feb. 27 2017), <http://www.nysed.gov/common/nysed/files/oag-sed-letter-ice-2-27-17.pdf>.

<sup>10</sup> NYSED Letter, NYSED.gov (Feb. 27 2017), <http://www.nysed.gov/common/nysed/files/oag-sed-letter-ice-2-27-17.pdf>.

<sup>11</sup> “[L]aw enforcement officers may not remove a student from school property or interrogate a student without the consent of the student’s parent or person in parental relation, except in very limited situations (e.g., when law enforcement officers have a valid warrant or when a crime has been committed on school property).” NYSED Letter, NYSED.gov (Feb. 27 2017), <http://www.nysed.gov/common/nysed/files/oag-sed-letter-ice-2-27-17.pdf>.

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School Commitment to a Safe and Supportive Learning Environment for All Students

[Name] School District should recommit to creating a safe and welcoming environment for all of its students and do the following:

1. Remove any policy or practice that requires a student or family member to disclose their immigration status at any time.
2. Establish a process for enrolling students that does not require a birth certificate or social security card, and that makes accommodations for delayed immunizations.
3. Review the privacy and security of all student information.
4. Provide teachers with adequate training and resources to foster a safe and supportive learning environment for noncitizen students and their families.
5. Inform students of their rights when interacting with school personnel, police in schools, and when they are facing in-school or Superintendent's suspensions.

Thank you for taking the time to read my letter and hear my concerns. I look forward to working together to ensure that students like [student name] at [name of school] are free to go to school with the confidence that they and their families are welcome, protected, and seen as an important part of the school community here.

Sincerely,  
[Name]