

Under New York Education Law, school districts that employ SROs must formally de ne their roles and areas of responsibility through a written contract or memorandum of understanding (MOU) developed with stakeholder input. Our of ces advise school districts to incorporate policies and procedures to safeguard the rights of undocumented students into their contracts or memoranda of understanding with SRObuding:

- (1) Clearly de ned restrictions on SROs' ability to access and redisclose student records containing information that reveal a student's immigration status. This includes whether SROs are "school of cials" entitled to access student records;
- (2) Policies prohibiting SROs from questioning students and students' family members about their immigration status
- (3) A commitment from SROs and school personnel not to share information about the actual or perceived immigration status of students or their family members with immigration authorities, unless required to do<sup>7</sup>so by law;
- (4) Policies prohibiting SROs from detaining students at the request of immigration authorities, making arrests based on civil immigration warrants, responding to noti cation or transfer requests from immigration authorities, or otherwise using campus facilities for any immigration enforcement purposes, unless required to do so by law; an
- (5) A requirement that all SROs consult with the superintendent or other designated school of cer before deviating fro the preceding safeguards.

## IV. Bullying and Harassment

New York and federal law prohibit harassment and bullying by students or employees based on actual or perceived raccolor, national origin, ethnic group, and citizenship or immigration status, among other globableol districts are encouraged to consult our agencies' prior guidance and resources on the Dignity for All Students Act to understand the legal duty to create a school environment free from harassment and btilly image obligations include: developing policies for responding to such behavior; training staff on the district's policies and incorporating them into the district's code of conduct; providing students with instruction that discourages bullying, harassment, and discrimination; and reporting incidents to SED.

In addition, New York law prohibits targeting a person or their property for violence, threats, or harassment because of person's race, color, national origin, ancestry, gender, religion, age, disability, or sexual orienteemas and Bias Prevention Unit can launch non-criminal investigations of violations of that law and can provide related resour to school districts.

## V. Detention or Deportation of Student Family Members

Students—regardless of immigration status—may have parents, guardians, or other family members who have been detained or deported. School districts are encouraged to ensure that all students and their families provide updated emergency contact information, including secondary emergency contacts. This can be particularly important in the event that immigration enforcement affects a parent or guardian's ability to provide care. School districts may also shar information about relevant legal and community resources with students and their families, including those provided in Appendix.

- 1. Relevant immigration education guidance issued by OAG and SED includes: OAG and SED, "Dear Colleague" Letter (Feb. 27, 2017), available https://www.nysed.gov/sites/default/ les/oag-sed-letter-ice-2-27-17.pdf ("2017 Joint Immigration Education Guidance"); VOADeand: SIEDague" Letter (Aug. 29, 2019), available at https://ag.ny.gov/sites/default/ les/joint\_oag-sed\_-\_ice\_sros\_in\_schools\_w\_ag\_signature.pdf ("2019 Joint Immigration Guidance"); OAG and SED, "Dear Colleague" Letter (Feb. 16, 2021), available at https://www.nysed.gov/sites/default/ les/programs/coronavirus/mckinney-vento-guidance.pdf ("2021 Joint McKinney-Vento Guidance"); OAG and SKnow Your Rights and "Dear Colleague" Letter (Aug. 28, 2023), available at https://ag.ny.gov/sites/default/ les/letters/kyr-ed.pdf ("2023 Joint Enrol 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 Of ce of Counsel, Statement on Rights of Narrived Immigrants (Aug. 15, 2023), available at https://www.nysed.gov/sites/default/ les/programs/bilingual-ed/8-14-23-oc-ltr-re-new-arrivals-a.pd 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. tit. 9, § 8.170, respectively. E.O. 170 prohibits State of cers and employees, including law enforcement of cers, from inquiring about an individual's immigration status unless necessary to determine eligibility for public bene ts or required by law. E.O. 170 also prohibits State of cers and employ including law enforcement of cers, 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 E language learners equal access to all school programs and services offered by the school district[.]").
- 5. Plyler v. Doe, 457 U.S. 202 (1982);

20. As explained in Section III, school of cials should not allow federal and local law enforcement of cials to remove students from the school environment for questioning. Additionally, SROs should not assist federal law enforcement of cials in immigration enforcement except in the narround rare circumstance where there is a formal agreement between the county employing the SRO and ICE lawfully providing the authority to do:
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. De Privacy Technical Assistance Center, School Resources Of cers, School Law Enforcement Units, and the Family Education Rights and Privacy A Question 15 at 11-12, available at https://studentprivacy.ed.gov/sites/default/ les/resource_document/ le/SRO_FAQs.pdf ("SROs and FERPA").
22.

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 de to dismiss equal protection claim after SROs questioned undocumented students about their immigration status on school gracoquista 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 a
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 (Dec. 13, 2019), available at