IMPLEMENTATION OF NEW YORK EDUCATION LAW § 3201-b

BROOME-TIOGA BOCES COMPLIANCE PROCEDURES FOR IMMIGRANT STUDENT PROTECTIONS

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/BOCES 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 procedural statement establishes mandatory operational standards to safeguard the rights of immigrant and noncitizen students. The purpose of these procedures is to provide all children an uninterrupted free public education and that BOCES environments remain safe havens free from unauthorized immigration enforcement or discrimination based on actual or perceived immigration status, citizenship, nationality, or country of origin. BOCES 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.

MANDATORY DESIGNEE AND CUSTODY CARE PROTOCOL

1. BOCES must establish procedures to review immigration authorities' requests to enter BOCES 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. These procedures are as follows:
    a. a requirement to seek guidance from the attorney for the BOCES 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 BOCES's response if a parent or guardian is detained by immigration authorities or fails to pick up a student as scheduled. These procedures are as follows:
    - BOCES will keep the student safely on BOCES premises and will not contact the statewide central register for child abuse and maltreatment unless BOCES personnel have made every reasonable effort to reach all other authorized emergency contacts.

RESTRICTING THE USE OF BOCES RESOURCES AND SHARING INFORMATION - BOCES personnel are strictly prohibited from:

- using BOCES 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”;
- 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/family engagement activities, on account of perceived or actual citizenship or immigration status. 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.).

RESTRICTING ACCESS TO PROPERTY

1. BOCES personnel must not grant or facilitate access to non-public areas of BOCES 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 unless an exigent circumstance has been declared such as to prevent a harmful criminal action from immediately occurring.
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 BOCES property.

RESTRICTING ACCESS TO STUDENTS

BOCES 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 nonjudicial 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.

Parental and Community Notification:

Safeguarding the Rights of Immigrant and Noncitizen Students

BOCES Commitment

BOCES is committed to providing a **safe, welcoming, and inclusive educational environment for every student**, regardless of immigration status, citizenship, nationality, or country of origin.

Federal and New York State law provide important protections to students regardless of their actual or perceived immigration status, citizenship, nationality, or country of origin.

Statutory Rights

- **Right to a public education:** Students have the right to access a free public education regardless of immigration status.
- **Equal access:** Students and families may not be denied enrollment, attendance, educational programs, services, or opportunities based on immigration status.
- **Equal participation:** Students and families are entitled to participate in school programs and family engagement activities without discrimination based on actual or perceived immigration status.
- **Protection from immigration-based discrimination:** BOCES practices and procedures must not be used to discourage, delay, or prevent students from receiving educational services because of their immigration status.

Privacy Protections

- BOCES protects the confidentiality of student and family information in accordance with applicable federal and New York State law.
- BOCES does not seek or collect information about a student's or family's citizenship or immigration status unless required or permitted by law.
- Immigration status, citizenship, nationality, and national origin are not treated as directory information.
- Personally identifiable student and family information is not disclosed to immigration authorities unless disclosure is required or otherwise authorized by law.
- Requests for student or family information from immigration authorities are reviewed by designated BOCES officials and legal counsel before any response is provided.

Safety Safeguards

- BOCES maintains procedures for responding to requests from immigration authorities to enter school property or obtain custody of a student.
- Access to **non-public areas** of BOCES property is restricted and generally requires appropriate legal authority, such as a valid federal judicial warrant or court order.
- Civil immigration warrants, administrative detainers, notices to appear, and other non-judicial documents do not, by themselves, authorize access to non-public school areas or custody of a student.
- A student will not be released to immigration authorities solely because a parent or guardian has been arrested or detained.
- If a parent or guardian is detained or unable to pick up a student, BOCES will prioritize the student's **safety and care** and make reasonable efforts to contact authorized emergency contacts.

Our Commitment to Families

These protections are intended to ensure that **school remains a safe place to learn, participate, and receive educational services**. BOCES will follow applicable law while safeguarding student rights, protecting confidential information, and prioritizing the safety and well-being of students and families.

For additional information, families may consult the New York State Education Department's Joint Guidance on Safeguarding the Rights of Immigrant Students.