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New York State Education Department has a duty to safeguard the rights of all students including undocumented students to receive a public education without fear of intervention by federal immigration officials.¹ Following the issuance of that guidance, our agencies have received questions concerning the possibility that school resource officers might seek to interview students or obtain access to student records in order to convey information about their immigration status to representatives of U.S. Immigration and Customs Enforcement. We write to provide supplementary guidance on this issue.

SROs are responsible for preventing crime and ensuring safety in primary and secondary schools. Whether they are employed by a state's office, or a school district, SROs work with school administrators to preserve a safe learning environment for students, teachers, and staff.² As set forth in detail below, regardless of their employment status vis-à-vis a school district, SROs may be subject to the same restrictions as school officials with respect to (i) detaining or interrogating students, and (ii) maintaining the privacy of student education records and information.

In past guidance, our agencies have made clear that school districts must ensure that all students within the compulsory school age attend upon full-time instruction, and that undocumented children, like U.S. citizen children, have the right to attend school full-time as long

¹ See MaryEllen Elia and Eric T. Schneiderman, "Dear Colleague" Letter, New York State Education Department and New York State

as they meet the age and residency requirements established by state law.³ Actions or policies, even facially neutral ones, that significantly deter undocumented students from receiving such a full-time education can expose school districts to liability.⁴ In the event that a school district permits SROs on its school campuses, the district is similarly responsible for ensuring that those SROs do not significantly deter the rights of students to receive an education. To clarify our February 2017 guidance as it applies to SROs, we again address the two topics of detaining/interrogating students and accessing student records or information.

An SRO's detention or interrogation of a student in order to determine the immigration status could expose a school district to liability. As stated in our prior guidance letter generally prevent law enforcement officers from removing a student from school property or interrogating a student relation. Accordingly, in the event that ICE or other federal immigration officials appear at a school seeking access to a student, our agencies recommend that a school district attorney for assistance in meeting its duties under the New York Uniform

Furthermore, the Fourth Amendment to the U.S. Constitution imposes limitations on an students. An SRO must have, at minimum, reasonable suspicion that the

educational agencies and institutions *i.e.*, school districts and their schools that receive federal funds from releasing personally identifiable information record without written consent from a parent/eligible student over the age of eighteen.

directory information policy

