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Commissioner of Education  
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## **Every New York student has the right to a free public education**

New York Attorney General Letitia James reminds you that students between the ages of 5 and 21 have the right to a free public-school education in our state, regardless of the student's nationality or immigration status. Policies that prevent students from enrolling in their local public school violate this important right.

You must live in a school district to attend its schools for free. Schools may ask you to submit documents proving where you live, but they must accept many different kinds of proof, such as:

- letter or affidavit from your landlord
- letter or affidavit from a social worker, teacher, lawyer, religious leader, or other person with personal knowledge of your address
- pay stub that shows your address
- Income-tax form
- bill for a utility or other service, such as cell phone, that shows your address
- membership documents based on residency, such as library cards (these do not have to show your address)
- voter registration card
- driver's license, learner's permit, or non-driver ID
- identification, issued by New York state or another government body, that shows your address
- documents issued by a federal, state, or local government agency, such as a local social services agency or the federal Office of Refugee Resettlement
- custody or guardianship papers
- other proofs of residency you present

When a student requests enrollment:

- The school must allow the student to begin attending classes as soon as possible — ideally the next school day.
- The student then has three business days to prove residency.
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- requiring that all residency proofs be less than 30 days old
- requiring you to register or present proof of residency more than once if your address has not changed
- reporting, or threatening to report, information about your living situation to local code-enforcement authorities
- making home visits to investigate every student who does not have a lease or deed
- denying enrollment if you do not have a voter registration card or driver's license

In addition, schools may **not** require your Social Security number or any information about your immigration status as a condition of enrollment.

Under federal and state law:

- Public schools must accept school-age migrants and other students experiencing homelessness, living in shelters, or living in other temporary housing.
- Schools must immediately enroll such students, even if the student cannot provide proof of residency, immunization records, or other required documents.

all children and youth in New York between the ages of 5 and 21 have the right to a free public-school education, regardless of immigration status, language proficiency, or whether the student is living in a shelter, migrant camp, or other temporary housing. This right is firmly embedded in our Constitution, federal and state laws, and the regulations that govern our state's public schools.

Educating our children and youth benefits all New Yorkers. As the Supreme Court recognized decades ago, "education prepares individuals to be self-reliant and self-sufficient participants in society."

<sup>1</sup> Through this joint guidance, the OAG and SED seek to assist our state's public schools in meeting their obligation to provide a free education to every school-age child and youth in their district. If the student cannot provide proofs of residency, immunizations, school records, or other documents typically required for registration.

<sup>3</sup> This immediate-enrollment requirement applies to all students who share

[Guidance: The McKinney-Vento Act: Education of Children and Youth Experiencing Homelessness](https://www.nysed.gov/sites/default/files/nysed-guidance-education-for-homeless-children-and-youths-program-final.pdf) (Aug. 2019), [www.nysed.gov/sites/default/files/nysed-guidance-education-for-homeless-children-and-youths-program-final.pdf](https://www.nysed.gov/sites/default/files/nysed-guidance-education-for-homeless-children-and-youths-program-final.pdf).

<sup>3</sup> 42 U.S.C. § 11432(g)(3)(C)(i); N.Y. Educ. Law § 3209(2)(f)(2). To remain enrolled, all students must receive at least the first dose of all required vaccines within 14 days of registration. New York State Department of Health, [School Vaccination Requirements](https://www.health.ny.gov/prevention/immunization/schools/school_vaccines/) (revised Aug. 2023), [https://www.health.ny.gov/prevention/immunization/schools/school\\_vaccines/](https://www.health.ny.gov/prevention/immunization/schools/school_vaccines/). However, if a child

another's home out of necessity or who sleep in camps, shelters, public spaces, vehicles, substandard housing, or similar spaces.<sup>4</sup>

To be sure, schools may require all other students to submit proof of district residency. However, under our state's education regulations, public schools may not deny a student enrollment because the student or parent cannot provide a specific type of proof, such as a residential lease, a landlord affidavit, or a utility bill.<sup>5</sup> Schools may certainly request such documents when available, but they must also consider many different proofs of residency, including but not limited to:

- x a letter or affidavit from the student's landlord;
- x a letter or affidavit from a social worker, teacher, lawyer, religious leader, or other individual with personal knowledge of where the student lives;
- x a pay stub;
- x an income-tax form;
- x a bill for a utility or other service, including cell phone, that shows the student's address;
- x a membership document based on residency, such as a library card, whether or not it states the student's address;
- x a voter registration card;
- x a driver's license, learner's permit, or non-driver ID;
- x identification issued by New York state or another government body that shows the student's address;
- x documents issued by a federal, state, or local government agency, such as a local social services agency or the federal Office of Refugee Resettlement; and
- x custody or guardianship papers.<sup>6</sup>

State regulations require schools to make publicly available a non-exhaustive list, like the one above, of the types of documentation that students or their parents may submit to establish residency in a school district.<sup>7</sup> Your compliance with these policies is vital to ensuring that every student in our state enjoys the opportunities for growth and learning our schools are uniquely qualified to provide.

Schools should immediately welcome students into their classrooms, even if the student requires additional time to establish residency.

When a student, parent, or person in parental relation requests enrollment, schools must allow the student to attend classes on the next school day, or as soon as possible, even

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experiencing homelessness or housing instability "needs to obtain immunizations ... the enrolling scholoizaand lhose3-.862 -1838(d)-0.9 .9 (t)5.obomes30.279 (b)5.1 (i)-r Tw 8.31132 (ow -22e(i)3.6 (ng)-1.9 (o)-2.9 (l)3.6

if the student has not yet established residency in the district. <sup>8</sup> The student will then have three business days to submit documents proving residency .<sup>9</sup>

If the school determines that the student does not, in fact, live in the district, the school may then exclude the student from the school . But within two business days of making that determination, the school must provide a letter explaining the basis of its decision and how the student can appeal it .<sup>10</sup>

Policies that make it difficult or impossible for migrant children and youth to enroll in school are contrary to state education regulations and may expose schools to legal liability.

The OAG and SED have recently learned that some districts employ enrollment policies that make it difficult or impossible for noncitizens, undocumented students, and people who rent their homes without a formal lease to register for school. These discriminatory policies harm our most vulnerable students, who rely on our schools for a safe, nurturing environment where they can learn and thrive . They are also at odds with the purpose of our state's enrollment regulations, which is "to ensure that all eligible students are admitted to [public] schools without undue delay." <sup>11</sup> Finally, such policies may violate constitutional and statutory protections, exposing school districts to lawsuits and liability .<sup>12</sup>

Several registration policies are of particular concern . Some school

Finally, our offices remind school districts that they may not require a social security number or any information that could reveal a student's immigration status at the time of enrollment.<sup>14</sup> Nor may schools require that a student living with an immigration sponsor submit a judicial custody order or an order of guardianship as a condition of enrollment.<sup>15</sup>

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For more information about our state's enrollment requirements and the rights of migrant students, please consult the relevant education regulations, SED's August 14, 2023, "Statement on the Rights of Newly Arrived Immigrants," and joint guidance documents from the OAG and SED dated August 29, 2019, and February 27, 2017.<sup>16</sup> If you have questions, you may also contact SED's Office of Bilingual Education and World Languages at [obewl@nysed.gov](mailto:obewl@nysed.gov). The OAG and SED are committed to supporting your continued efforts to make New York the state of opportunity for all children and youth, no matter their immigration status or living situation.

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<sup>14</sup> 8 N.Y.C.R.R. § 100.2(y)(3)(i)(a).

<sup>15</sup> Id. § 100.2(y)(3)(i)(c).

<sup>16</sup> See generally id. § 100.2(y); SED Office of Counsel, [Statement on Rights of Newly Arrived Immigrants](#) (Aug. 14, 2023),