

THE UNIVERSITY OF THE STATE OF NEW YORK
THE STATE EDUCATION DEPARTMENT

Office of Counsel

As an unprecedented number of students and families arrive in our schools, we remind school districts that they are legally required to treat all students equally. This means that new enrollees are entitled to equal access to all school programs and services offered to district students, including programs required for graduation.

The Equal Protection Clause ensures that “any person within [the] jurisdiction” of the United States receives the protection of law. In *Plyler v. Doe*, the United States Supreme Court confirmed that non-citizens are entitled to equal protection. It also held that school districts could not deny education to the children of non-citizens, reasoning that these children “can affect neither their parents’ conduct nor their own status.” The Court further opined that a law “directing the onus of ... parent[s]’ misconduct against [their] children does not comport with fundamental conceptions of justice.” Thus, all children who enroll in a school district, be they residents or homeless students, are entitled to a sound basic education therein.

These protections are well established law and are not policy matters within the purview of boards of education. As such, school officers’ refusal to register newly arrived students, offer them placement in a full-time educational program, or determine their eligibility for special education and related services will be considered a knowing and willful violation of law—and will not be tolerated by the New York State Education Department.

Dated August 14, 2023