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Recent immigration-related actions by federal officials have created fear and confusion across the country. New York State residents, whom both of our agencies and the New York State Board of Regents have pledged to serve, have communicated directly with our agencies about the anxiety and questions these actions raised. The New York State Office of the Attorney General (“OAG”) and the New York State Education Department (“SED”) write today to reaffirm to students, schools, families, and communities across the State of New York that our schools will remain safe havens where all students can learn.

Pursuant to the New York State Education Law, children over five and under twenty-one years of age who have not received a high school diploma are entitled to attend the public schools in the school district in which they reside without paying tuition. Moreover, school districts must ensure that all students within the compulsory school age attend upon full-time instruction.¹ **Undocumented children, like U.S. citizen children, have the right to attend school full time as long as they meet the age and residency requirements established by state law.** Indeed, the U.S. S

disclosure may violate FERPA.⁶ FERPA generally prohibits school districts that receive federal funds from releasing personally identifiable information (“PII”) contained in a student’s education records without the consent of the parent or eligible student. FERPA permits such disclosure without consent only if the disclosure meets certain limited conditions set forth in the law’s implementing regulations. These limited conditions include requests made by specifically enumerated individuals of the federal government⁷. **However, a request from ICE or other federal immigration officials to access student PII from education records does not appear to satisfy any of the FERPA exceptions to the general rule that a parent or eligible student must consent to disclosures to third parties.**⁸

SED’s Office of P-12 Education Policy is also issuing guidance today to schools and districts regarding the Dignity for All Students Act (“DASA”) in light of reports involving incidents of harassment in schools across the country in recent weeks. That guidance will be available here: <http://www.p12.nysed.gov/dignityact/documents/dasa-guidance.pdf>.

