

1/28/2025

Victor J. Pratt

Hempstead Union Free School District Board President

185 Peninsula Boulevard,

Hempstead, NY 11550

We write with great concern over your recent statements reported in a *Newsday* article, where you suggested that the Hempstead Union Free School District (“School District”) would allow federal immigration agents into Hempstead public schools for the purpose of engaging in immigration enforcement.¹ We respectfully write to remind you and your fellow Hempstead School Board members of your legal obligations under federal and state law to provide students of every race, ethnic group, religion, color, and creed a safe, stable, and non-discriminatory learning environment.

According to New York State Education Department data,² the Hempstead Union Free School District is 21% Black or African American and 77% Latino, making it among one of the most diverse school districts in the nation. Per the same data, 70% of its students are economically disadvantaged and 45% are English language learners.³ Considering the multi-cultural diverse racial and ethnic composition of its student population, it is imperative that the School District avoid policies, practices, procedures, or actions including foolhardy public comments that will lead to discriminatory conduct and subject your student population emotional, physical, and psychological harm.

Please be reminded that pursuant to the seminal U.S. Supreme Court decision in *Plyler v. Doe*,⁴ **all students K-12 regardless of immigration status enjoy the right to a free public education** and to attend school full-time as long as they meet the age and residency requirements established by state law.⁵ This right is clear and unequivocal, and not subject to interpretation.

Addressing your public comments on the School District’s purported obligation to enforce federal law, please be reminded that the 10th Amendment of the United States Constitution limits the federal government’s ability to mandate a particular action by states and localities, including in the area of federal immigration law enforcement.⁶ The school district is obligated to make informed reasonable decisions about what is in the best interest of its student body and should be cognizant that facilitating and assisting ICE immigration law enforcement actions will significantly threaten the safety and wellbeing of its student body. Such facilitation and co-operation also raises the risk of potential liability for violations of the 4th Amendment of

¹ Darwin Yanes, *New ICE Directive Sparks Concern, Caution for LI Educators*, NEWSDAY (Jan. 22, 2025), https://www.newsday.com/long-island/education/ice-directive-schools-ix7y6ced?utm_medium=web_share_api&utm_campaign=web_share_api.

² See *Hempstead UFSD Enrollment 2023-2024*, DATA.NYSED.GOV, <https://data.nysed.gov/enrollment.php?year=2024&instid=800000049875>.

³ *Id.*

⁴ See *Plyler v. Doe*, 457 U.S. 202 (1982).

⁵ *Id.* at 240 n.4 (Powell, J., concurring).

⁶ N.Y. STATE OFF. OF THE ATT’Y GEN., GUIDANCE CONCERNING LOCAL AUTHORITIES’ PARTICIPATION IN IMMIGRATION ENFORCEMENT AND MODEL PROVISIONS 2 (2017).



the United States Constitution, which prohibits illegal search and seizure, and of state law that bars state and local law enforcement officers from arresting and detaining individuals solely on the basis of civil immigration violations, even if ICE has issued a detainer request or administrative immigration warrant which do not grant ICE agents lawful authority to enter private local school buildings and facilities.⁷ You and your fellow school board members need to carefully review any potential legal liability for any violations against these sacred constitutional rights, and must prohibit schools from granting federal immigration officials any form of access or entrance unless the immigration enforcement officials have a duly signed federal court order or search warrant granting them the authority to enter the building.⁸

In addition, New York State and federal law are quite clear that every educational administrative body must protect the information of its students from disclosure to any law enforcement officials, with narrow exceptions.⁹ It has long been the policy of the New York State Education Department that law enforcement officials may not remove a student from school property or interrogate a student without the consent of the student's parent or person in parental relation, except in very limited situations (e.g., when law enforcement officers have a valid warrant or when a crime has been committed on school property).¹⁰ With regard to any request for information or access to student education records, the state has opined that compliance with a request from immigration officials to access student education records may violate the Family Educational Rights and Privacy Act ("FERPA") which 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.¹¹ Importantly, the state has noted that 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 before disclosures can be made to third parties.¹² Lastly, the school district must also comply with state law which also prevents the disclosure of any personally identifiable information of students in the state.¹³

The school district also has an obligation under New York's Dignity Act to provide students with a safe and supportive environment free from discrimination, harassment, and bullying on school property.¹⁴ Any action taken by the Hempstead School District that seeks to contravene a parent's or a child's rights secured by state and federal law will be in contravention of the law and will result in immediate legal action.

The undersigned remain committed to the parents and students of the Hempstead School district. We are ready to act should the Hempstead School District expose its student body to unnecessary risks and harm in contravention of state and federal law. We urge the Hempstead

⁷ *Id.*

⁸ *See New York State Guidance on Safeguarding the Rights of Immigrant Students*, OFF. OF THE N.Y. STATE ATT'Y GEN., <https://ag.ny.gov/education-students/safeguarding-rights-immigrant-students> (last updated Jan. 2024).

⁹ *Id.*

¹⁰ *Id.* at 3.

¹¹ *Id.* at 2–3 (citing 20 U.S.C. § 1232g).

¹² *Id.* at 3 (citing 34 C.F.R. § 99.31(a)(3), which allows disclosures to be made, subject to the requirements of 34 C.F.R. § 99.35, to authorized representatives of the U.S. Comptroller General, the U.S. Attorney General, the Secretary of the U.S. Department of Education, or state and local educational authorities).

¹³ N.Y. Educ. Law § 2-d.

¹⁴ N.Y. Educ. Law § 12.



School District to heed our caution or risk facing potential liability that may result in costly and unnecessary litigation that would detract local resources from its students.

Respectfully submitted,

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