

Why IDRA Prints the “School Opening Alert” Every Year

Many educators are not aware that the education of undocumented students is guaranteed by the *Plyler vs. Doe* decision or that certain procedures must be followed when registering immigrant children in school to avoid violating restrictions on obtaining personal information without obtaining prior parental consent.

In *Plyler vs. Doe*, the U.S. Supreme Court ruled that children of undocumented workers have the same right to attend public primary and secondary schools as do U.S. citizens and permanent residents. Like other students, children of undocumented workers in fact are required under state law to attend school until they reach a mandated age. As a result of the *Plyler* ruling, public schools may not deny admission to a student on the basis of undocumented status, treat a student differently to determine residency, or require students or parents to disclose or document their immigration status.

The Supreme Court arrived at this decision because such practices:

- **Victimize innocent children** – Children of undocumented workers do not choose the conditions under which they enter the United States. They should not be punished for circumstances they do not control. Children have the right to learn and be useful members of society.
- **Hurt more than they claim to help** – Denying children access to education will not eliminate illegal immigration. Instead, it ensures the creation of an underclass. Without public education for children, illiteracy rates will increase, and opportunities for workforce and community participation will decrease. Research has proven that for every \$1 spent on the education of children, at least \$9 is returned.
- **Turn public school teachers and officials into INS agents** – Rather than teaching students, school officials could spend their time asking our 49.6 million school children about their citizenship status. States would be forced to spend millions of dollars to do the work of the INS.
- **Promote misinformation** – Incorrect assumptions and inappropriate figures have been used to blame immigrants and their children for economic problems.
- **Support racism and discrimination** – Historically, financially troubled times breed increased racism. Children of undocumented workers should not be the scapegoats.

At IDRA, we are working to create schools that work for all children, families and communities. Help us make this goal a reality for every child; we simply cannot afford the alternatives. Denying children of undocumented workers access to an education is unconstitutional and against the law.

Excerpted in part from: *Lessons Learned, Lessons Shared: Texas Immigrant Education Collaborative* (San Antonio, Texas: Intercultural Development Research Association, December 1998).

Immigrant Students' Rights to Attend Public Schools

The National Coalition of Advocates for Students (NCAS) launched its annual School Opening Alert campaign to reaffirm the legal rights of all children who reside in the United States to attend public schools, regardless of immigration status. These fliers provide information for immigrant parents about the rights of their children to attend local public schools this fall. Though NCAS has closed, IDRA continues to make this alert available. The copy of the alert below and on the following page may be reproduced and distributed as well.

School Opening Alert

In 1982, the U.S. Supreme Court ruled in *Plyler vs. Doe* [457 U.S. 202 (1982)] that children of undocumented workers have the same right to attend public primary and secondary schools as do U.S. citizens and permanent residents. Like other students, children of undocumented workers are required under state laws to attend school until they reach a legally mandated age.

As a result of the *Plyler* ruling, public schools may not:

- deny admission to a student during initial enrollment or at any other time on the basis of undocumented status;
- treat a student differently to determine residency;
- engage in any practices to “chill” the right of access to school;
- require students or parents to disclose or document their immigration status;
- make inquiries of students or parents that may expose their undocumented status; or
- require social security numbers from all students, as this may expose undocumented status.

Students without social security numbers should be assigned a number generated by the school. Adults

without social security numbers who are applying for a free lunch and/or breakfast program for a student need only state on the application that they do not have a social security number.

Recent changes in the F-1 (student) Visa Program do not change the *Plyler* rights of undocumented children. These changes apply only to students who apply for a student visa from outside the United States and are currently in the United States on an F-1 visa.

Also, the *Family Education Rights and Privacy Act* prohibits schools from providing any outside agency—including the Immigration and Naturalization Service—with any information from a child’s school file that would expose the student’s undocumented status without first getting permission from the student’s parents. The only exception is if an agency gets a court order (subpoena) that parents can then challenge. Schools should note that even requesting such permission from parents might act to “chill” a student’s *Plyler* rights.

Finally, school personnel—especially building principals and those involved with student intake activities—should be aware that they have no legal obligation to enforce U.S. immigration laws.

For more information or to report incidents of school exclusion or delay, call:

META	Nationwide	(617) 628-2226 (English/Spanish)
NY Immigration Hotline	Nationwide	(212) 419-3737 (English/Spanish)
MALDEF – Los Angeles	Southwest/ Southeast	(213) 629-2512 (English/Spanish)
MALDEF – Chicago	Illinois	(312) 427-0701 (English/Spanish)
MALDEF – San Antonio	Southwest	(210) 224-5476 (English/Spanish)
MALDEF – Washington D.C.	Nationwide	(202) 293-2828 (English/Spanish)

Please copy and distribute this flier.

Llamada Urgente al Comienzo del Curso Escolar

En 1982, El Tribunal Supremo de los Estados Unidos dictaminó en el caso *Plyler vs. Doe* [457 U.S. 202] que los niños de padres indocumentados tienen el mismo derecho de asistir a las escuelas públicas primarias y secundarias que tienen sus contrapartes de nacionalidad estadounidense. Al igual que los demás niños, los estudiantes indocumentados están obligados a asistir a la escuela hasta que llegan a la edad exigida por la ley.

A raíz de la decisión *Plyler*, las escuelas públicas no pueden:

- negarle la matrícula a un estudiante basándose en su situación legal y/o inmigratoria, ya sea a principios del curso o durante cualquier otro momento del año escolar;
- tratar a un estudiante en forma desigual para verificar su situación de residencia;
- efectuar prácticas cuyo resultado sea obstruir el derecho de acceso a los servicios escolares;
- requerir que un estudiante o sus padres revelen o documenten su situación inmigratoria;
- hacer interrogatorios a estudiantes o padres que pudieran revelar su situación de indocumentados;
- exigir que un estudiante obtenga un número de seguro social como requisito de admisión a la escuela.

La escuela debe de asignar un número de identificación a los estudiantes que no tienen tarjeta de seguro social. Los adultos sin números de seguro

social quienes están solicitando que a un estudiante lo admitan a un programa de almuerzo y/o desayuno gratis, sólo tienen que indicar que no tienen seguro social en el formulario.

Los últimos cambios del Programa de Visado F-1 (de estudiantes) no cambiarán las obligaciones antedichas en cuanto a los niños indocumentados. Se aplican sólo a los estudiantes que solicitan del extranjero un visado de estudiantes y que están actualmente en los Estados Unidos en un Visado F-1.

Además, el Acta Familiar de Derechos y Privacidad Escolar (*Family Education Rights and Privacy Act*) le prohíbe a las escuelas proveerle a cualquier agencia externa – incluyendo el Servicio de Inmigración y Naturalización (Immigration and Naturalization Service – INS) – cualquier información del archivo personal de un estudiante que pudiera revelar su estado legal sin haber obtenido permiso de los padres del estudiante. La única excepción es si una agencia obtiene una orden judicial – conocida como una citación o subpoena – que los padres pueden retar. Los oficiales escolares deben estar conscientes de que el mero hecho de pedirle tal permiso a los padres podría impedir los derechos *Plyler* de un estudiante.

Finalmente, el personal escolar – especialmente los directores y otros administradores o personal docente – deben saber que no están bajo ninguna obligación legal de poner en vigor las leyes de inmigración de los EEUU.

Para más información, o para denunciar incidentes de exclusión escolar o retraso en la admisión a clases, favor de llamar a:

META	Nacional	(617) 628-2226	(Inglés/Español)
NY Línea de Urgencia de Inmigración	Nacional	(212) 419-3737	(Inglés/Español)
MALDEF – Los Angeles	Sudoeste/ Sudeste	(213) 629-2512	(Inglés/Español)
MALDEF – Chicago	Illinois	(312) 427-0701	(Inglés/Español)
MALDEF – San Antonio	Suroeste	(210) 224-5476	(Inglés/Español)
MALDEF – Washington D.C.	Nacional	(202) 293-2828	(Inglés/Español)

Favor de copiar y distribuir esta hoja informativa.