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Immigrant Students' Rights to Attend Public Schools

School Opening Alert – and Resources for Serving New Arrivals

August 21, 2014 – As a new school year begins, this alert is a reminder that public schools, by law, must serve all children.

Get our [printable School Opening Alert](#) (in English-Spanish) for details and share it with others.

The education of undocumented students is guaranteed by the *Plyler vs. Doe* decision, and certain procedures must be followed when registering immigrant children in school to avoid violation of their civil rights.



The U.S. Department of Justice and the U.S. Department of Education published in May 2014 a letter advising school officials that activities that deny or discourage students to attend school are unlawful. The letter begins, "Under federal law, state and local educational agencies are required to provide all children with equal access to public education at the elementary and secondary level."

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 laws to attend school until they reach a mandated age.

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.

Practices that deny or discourage immigrant children and families from public schooling also:

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.

Are counterproductive for the country – Denying children access to education does 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.

Waste valuable time while losing sight of principal goals of public education – Rather than teaching students, school officials would spend their time asking our millions of school children about their citizenship status. States would be forced to spend millions of dollars to do the work of the U.S. Immigration and Customs Enforcement (ICE) agency.

Promote misinformation – Incorrect assumptions and inappropriate figures have been used to blame immigrants and their children for economic problems.

Encourage racism and discrimination – In turbulent, financially troubled times, immigration often becomes a focal point of public discourse. Many consider a preoccupation with the immigration status of children of undocumented workers to be a form of discrimination and racism.

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 intended to expose their undocumented status; or
- require social security numbers from all students, as this may expose undocumented status.

Students without a social security number 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.

The *Family Education Rights and Privacy Act* prohibits schools from providing any outside agency – including the ICE agency – with any information from a child’s school file that would expose the student’s undocumented status. 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.

Note as well that schools may not indicate Social Security cards and birth certificates are required before a family can register their child for school. Such practices are in direct violation of *Plyler vs. Doe*. Rather, it should be clear from the beginning that students without a Social Security number should be assigned a number generated by the school. [Get more information](#).

At IDRA, we are working to strengthen schools to 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.

Serving Unaccompanied Immigrant Children

The number of unaccompanied immigrant children arriving from Central America has caused a flurry of media attention, protests, calls for assistance, and political posturing. Unfortunately, much of the attention has been driven by misinformation and rumor. One fact is certain, as stated in the school opening alert, all school-age immigrant children must have access to educational services as required under *Plyler vs. Doe*. And all means all – regardless of immigration, refugee or asylum status. – [Read more](#)

Resources

See the [letter](#) from the U.S. Department of Justice and the U.S. Department of Education (May 2014) advising school officials that activities that deny or discourage students to attend school are unlawful.

The Texas Education Agency issued official guidance in an [August 2014 letter](#).

Educational Services for Immigrant Children and Those Recently Arrived to the United States, U.S. Department of Education [guidance, resources and frequently asked questions](#)

[Legal Issues for School Districts Related to the Education of Undocumented Children](#), by the National School Boards Association & NEA, 2009

Listen to IDRA’s Classnotes [Podcast episode on “Immigrant Children’s Rights to Attend Public Schools.”](#)

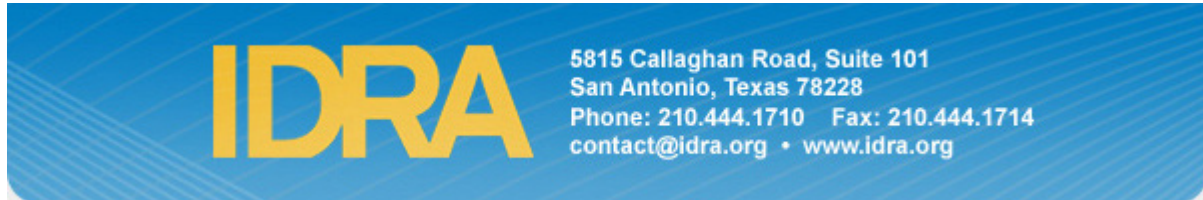


See IDRA's webpage on serving immigrant students for [education resources for elementary and secondary school-aged students and their families](#).

The **Intercultural Development Research Association** is an independent private non-profit organization dedicated to realizing the right of every child to a quality education. IDRA strengthens and transforms public education by providing dynamic training; useful research, evaluation, and frameworks for action; timely policy analyses; and innovative materials and programs.

IDRA works hand-in-hand with hundreds of thousands of educators and families each year in communities and classrooms around the country. All our work rests on an unwavering commitment to creating self-renewing schools that value and promote the success of students of all backgrounds.

We are a small organization with a powerful mission: to create schools that work for *all* children.



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