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Immigrant Students' Rights to Attend Public Schools

School Opening Alert and Resources



August 28, 2017 - As a new school year begins, this alert is a reminder that public schools, by law, must

serve all children.

See IDRA's eBook on [Supporting Immigrant Students' Rights to Attend Public Schools](#) (in English-Spanish) and [our one-page bilingual flier](#) and share them with others.



This alert is a reminder that public schools, by law, must serve all children. 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.

In *Plyler vs. Doe*, the U.S. Supreme Court ruled that children of undocumented workers and children who themselves are undocumented 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 principals and those involved with student registration and enrollment - should be aware that they have no legal obligation to enforce U.S. immigration laws.

This decision is vital because **practices that deny or discourage immigrant children and families from public schooling do the following...**

***...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 principle 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.

Schools should not use Social Security numbers for identification or registration purposes. For those schools that do, it should be clear from the beginning that students who do not present a Social Security number will be assigned a number generated by the school. While schools may request a birth certificate, they may not bar students from enrolling if they do not have a birth certificate. 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.

The U.S. Department of Justice and the U.S. Department of Education in 2014 clarified the intent of the *Plyler* ruling in 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."

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.**

You can also visit IDRA's website for a printable flier in English and Spanish as well as a copy of the letter from the U.S. Department of Justice and the U.S. Department of Education (May 2014). The site also has links to sample resolutions by school districts across the country that are issuing and updating policies to protect students' rights in light of uncertainty regarding federal immigration enforcement activities in their schools.

Resources

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

See our [eBook on Supporting Immigrant Students' Rights to Attend Public Schools](#)

See our [story with samples: School Districts Pass Resolutions on Responding to ICE](#)

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

See our [Alert for Registering Students for School and Resources](#), including state-level information on student enrollment in the states served by the IDRA EAC- South ...

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

Immigrant Students' Rights to Attend Public Schools

This infographic details the rights of immigrant children to attend public schools in the United States. It covers federal laws, state-level implementation, and provides a list of states where these rights are currently being challenged or are unclear. The text is organized into sections such as 'Federal law', 'State-level information', 'Immigrant children's rights to attend public schools', and 'More information'.

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We are committed to the IDRA valuing philosophy, respecting the knowledge and skills of the individuals we work with and build on the strengths of the students and parents in their schools.