



LAWYERS' COMMITTEE FOR
CIVIL RIGHTS
UNDER LAW



Let Us Learn: Schools for Every Child

FAQs for Educators

How does a child's immigration status affect their enrollment in school?

What you need to know

Q: Do children who are undocumented, or whose parents are undocumented, have a right to K-12 public education?

A: Yes. All states and school districts must provide access to a basic public education to all children residing in the state regardless of immigration status. *Plyler v. Doe*, 457 U.S. 202 (1982).

Q: Can a school or district deny undocumented children access to extracurricular activities or free/reduced meals?

A: No. A school has to show that it has a "substantial interest" in denying certain students access to activities and services that the school provide to all students. To date, no school has been able to show that it has a substantial interest in excluding undocumented students from activities that are open to other students. This is a high bar of proof, and schools will probably not succeed in showing that they have a substantial interest in excluding undocumented children.



Support your students

Know the law

The law is clear – all children regardless of their immigration status – have a right to K-12 education. Schools cannot discourage children from enrolling by asking for citizenship papers or denying enrolment if the child has a foreign birth certificate.

Q: What types of information can a school not request during enrollment?

A: Schools may not prevent or discourage children from enrolling in K-12 public schools. *Plyler v. Doe*, 457 U.S. 202 (1982).

Schools should not ask about a child's immigration status, as this request is irrelevant to establishing residency and may discourage an undocumented student's access to K-12 education. Schools should avoid asking for social security numbers because it is irrelevant to determining a child's residency.

Schools can ask for documents establishing proof of residency and proof of age. But, **MUST** follow the general rule: schools cannot deny or discourage enrollment of students without legal status. *Plyler v. Doe*, 457 U.S. 202 (1982).



Resources

Fact Sheet: Information on the Rights of All Children to Enroll in School, U.S. Department of Justice, Civil Rights Division and U.S. Department of Education, Office for Civil Rights,

http://nche.ed.gov/downloads/used_fact_sheet_undoc.pdf.



Advocacy Tips for Educators

Embrace and value diversity

Withhold judgment and biases about immigration status

Establish safe spaces

Learn about the policies and laws affecting undocumented students' access to education

Share information with undocumented youth and families

Provide ongoing support



Resources for developing school policy

Work with parents, school administrators and other educators to develop a school policy for supporting undocumented, immigrant and other vulnerable youth at your school. The following resources should provide guidance.

1.

“[Resource Guide: Supporting Undocumented Youth](#).” U.S. Department of Education, 2015.

<https://www2.ed.gov/about/overview/focus/supporting-undocumented-youth.pdf>

2.

“[New Concepts for New Challenges: Professional Development for Teachers of Immigrant Youth](#).” Center for Applied Linguistics, 1997.

<http://files.eric.ed.gov/fulltext/ED421018.pdf>

3.

“[Top 10 Ways to Support Undocumented Students](#).” Educators for Fair Consideration, 2012.

http://www.e4fc.org/images/E4FC_EducatorTop10.pdf

Q: What types of information and/or documents can a school request during enrollment?

A. Proof of residency in the district:

The Department of Education recommends parents to establish residency in the school district by providing two of the following documents:

- Mortgage documents or property deed
- Apartment or home lease
- Utility bills
- Telephone bills
- Driver's license
- Voter precinct identification
- Automobile registration
- Affidavit and/or personal visit by a designated school district official
- Any other documentation that will objectively and unequivocally establish that the parent or guardian resides within the school district
- Documents showing proof of guardianship. This includes the petition for guardianship if it is still pending, and a final decree when the petition is granted



B. Proof of Age

Schools can ask for proof of age to ensure the enrolling child is within the appropriate age range to enroll in school. The school can ask for the following documents (which do not need to be in English):

- A certified birth certificate
- A duly attested transcript of a certificate of baptism showing the date of birth and place of baptism of the child, accompanied by an affidavit sworn to by a parent, grandparent or custodian
- An insurance policy on the child's life which has been in force for at least two (2) years
- A bona fide contemporary Bible record of the child's birth accompanied by an affidavit sworn to by the parent, grandparent or custodian
- A passport or certificate of arrival in the United States showing the age of the child
- A transcript of record of age shown in the child's school record of at least four (4) years prior to application, stating date of birth



Let them learn by

- Building Capacity and Knowledge
- Sharing Information and Resources
- Providing Services and Resources
- Creating Open, Welcoming Environments

It is important that all students know they are in a safe space. As an educator, take a stance. Support your vulnerable students by talking with them, sharing resources and working with your school to help them enroll and stay in school.



Let Us Learn: Schools for Every Child



LAWYERS' COMMITTEE FOR
CIVIL RIGHTS
U N D E R L A W

Questions?

visit www.lawyerscommittee.org/letuslearn
or e-mail letuslearn@lawyerscommittee.org