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Immigrant Students' Rights to Attend Public Schools

School Opening Alert and Resources



August 15, 2018 - 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. See our new bilingual [infographic: Welcoming Immigrant Students in School](#).

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.

Welcoming Immigrant Students in School

Immigrant students are guaranteed access to free public education by the U.S. Supreme Court.

Certain procedures must be followed when registering undocumented immigrant children (and those whose parents are undocumented) in school to avoid violation of their civil rights as outlined in the *Plyler vs. Doe* decision.

- Public schools cannot deny admission to a student on the basis of undocumented status.
- Public schools cannot require students or parents to disclose their immigration status.
- Public schools cannot ask students or parents questions intended to expose their undocumented status.
- Public schools cannot require social security numbers from students or parents.
- Public schools cannot demand that parents produce driver's licenses or other identification documents that are not required.
- Public schools cannot engage in any practices that "chill" or hinder the right of access to school.

All children are **required** under state laws to attend school until they reach a mandated age.

School personnel have no legal obligation to enforce U.S. immigration laws.

U.S. Immigration and Customs Enforcement (ICE) agents are to refrain from enforcement actions at certain sensitive locations, which include schools, as detailed in ICE's own policies.

The Family Education Rights and Privacy Act prohibits schools from providing any outside agency (including ICE) 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.

What schools can do...

- Focus on teaching all students.
- Pro-actively show parents that their children are welcome.
- Ensure teachers and staff are properly trained about protecting the rights of children and on culturally competency.
- Communicate with parents in their language.
- Share information about resources for students, families and educators in English and other languages at the school.

Review all of your enrollment and registration documents (including forms, websites, and communications with parents) to be clear that the provision of the child's social security number, birth certificate, etc., is voluntary, and that not providing such information will not bar a child's enrollment.

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.

Get more info and resources, including IDRA's School Opening Alert Flier & eBook. <https://www.idra.org/IDRAImmigEd>

www.idra.org [facebook.com/IDRAImmigEd](https://www.facebook.com/IDRAImmigEd)

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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.

***...hurt 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.**

Visit IDRA's [Education of Immigrant Children webpage](#) for lots of resources, including a copy of the letter from the U.S. Department of Justice and the U.S. Department of Education (May 2014) and state-level information on student enrollment in the states served by the IDRA EAC-South.

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New Infographic



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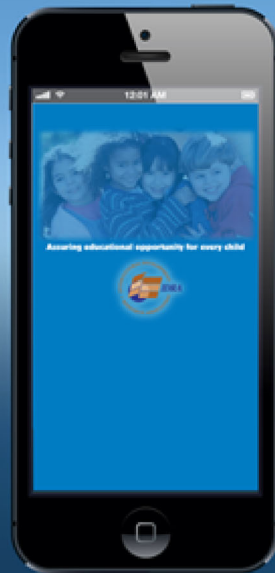
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School Districts Resolutions on Responding to ICE

School districts across the country have issued resolutions and updated their policies to protect students' rights in light of uncertainty regarding federal immigration enforcement activities in their schools. Many of these statements affirm the districts' mission to ensure all students have a safe and positive learning environment, and they outline guidance to school



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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.