

Protections for Undocumented Children Fact Sheet

ALL CHILDREN HAVE A RIGHT TO ATTEND SCHOOL!

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 based on 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, which may expose undocumented status.



Students without social security numbers should be assigned a number the school generates. 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.

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 parental permission might “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

NY Immigration Hotline (Nationwide) 212-419-3737

MALDEF (Washington, D.C.) 202-293-2828

Additional information can be found on the website of the NJ Immigration policy network (<https://www.njimmigrantjustice.org>). The booklet explains families' language access rights and their children's education rights. It is available in English, Spanish, Haitian Creole, Arabic, and other languages. The federal laws apply to all states. The booklet on this site is to educate immigrant parents about state and federal laws guaranteeing them access to public school services and materials in their home languages. Excerpts from these laws are quoted in the first section and are helpful summaries of what this legal terminology means for parents. Some of the laws described are not directly related to language access but contain important information that immigrant parents need to know.

WHY IS THIS INFORMATION IMPORTANT FOR ME?

Children of immigrants face a unique set of challenges in the public school system, many of which stem from cultural and language differences. As they get older, some immigrant children carry a higher risk of dropping out of school, becoming involved in criminal activities and/or the criminal justice system, and facing unemployment. One of the best ways to break this cycle is for parents to *get involved*. Schools where parents actively engage in leadership and decision-making result in happier, healthier, and more prosperous communities.