

# FACT SHEET: UNDOCUMENTED STUDENTS (MINNESOTA)



## UNDOCUMENTED IMMIGRANTS NATIONALLY AND IN MINNESOTA

- As of March 2005, the Pew Hispanic Center estimated the current number of undocumented immigrants in the U.S. to be 11 million, of which 6 million are from Mexico.<sup>1</sup>
- The number of undocumented people residing in Minnesota is difficult to estimate. Pew Hispanic Research estimates the unauthorized immigrants to Minnesota to be between 55,000-85,000.<sup>2</sup>

## UNDOCUMENTED STUDENTS

- In the U.S. there are 1.7 million undocumented youth under age 18,<sup>3</sup> with approximately 1.3 million having lived in the US for 5 years or more and enrolled in K-12 schools in the year 2002.<sup>4</sup>
- 1.5% of all children PK-5<sup>th</sup> are undocumented, and 3% of youth grades 6-12 do not have legal status.<sup>5</sup>
- About 80,000 undocumented immigrants turn 18 each year, but 16-20% of them fail to complete high school.<sup>6</sup>
- Only 1 out of every 20 (5%) of undocumented high school seniors attends college.<sup>7</sup>
- Of undocumented high school graduates who have lived in the U.S. for at least 5 years, only 20% enroll in post-secondary education.<sup>8</sup>
- Even those who graduate from college cannot work legally in the U.S.<sup>9</sup>

## HIGHER EDUCATION FOR UNDOCUMENTED STUDENTS

- Federal law does not prevent admission of undocumented students, nor does it require proof of citizenship or immigration status for enrollment.<sup>10</sup>
- Section 505 of the Illegal Immigration Reform and Responsibility Act of 1996 prohibits states from giving in-state tuition to undocumented residents if they do not offer the same benefits to out-of-state citizens.<sup>11</sup>
- 10 states have passed legislation allowing undocumented graduates of state high schools to pay in-state tuition for colleges and universities. These states are Texas, California, Utah, Washington, New York, Oklahoma, Illinois, Kansas, Nebraska and New Mexico. Minnesota has considered such legislation in several legislative sessions including the 2007 legislative session. These states base eligibility on a combination of state K-12 school attendance, graduation or equivalency and not on residency.<sup>12</sup>
- The Kansas in-state tuition law was challenged in 2005 and upheld in federal district court.<sup>13</sup>
- In 2007 Governor Pawlenty signed the Higher Education Omnibus bill. This bill contains a flat-tuition proposal for 7 community and technical colleges. Also, the bill included language to make permanent a tuition-waiver-pilot-program at 11 other MnSCU colleges and universities. This means that by Minnesota law, undocumented students are guaranteed access to in-state tuition rates at 18 Minnesota colleges and universities.
- Federal law prohibits undocumented students from receiving federal loans and grants, including work-study jobs, nor are they eligible for state assistance in Minnesota.<sup>14</sup>
- If a citizen student has an undocumented parent without a valid social security number, they should use 0000-00-0000 on the FAFSA for financial aid.<sup>15</sup> (4% of students in grades 6 through 12 have an undocumented parent.)<sup>16</sup>
- Some Minnesota colleges and Universities are operating tuition-pilot programs that offer in-state tuition to all students, including the undocumented. Participating schools are: Minnesota State University Morehead, Southwest

State University and Northwest Technical College Bemidji, Central Lakes College, MN State Community and Technical College, MN State University Mankato, MN West College, Northeast Higher Education District, Northland College, Bemidji State University, Ridgewater College, South Central College, St. Cloud State University (Expected soon: Minneapolis Community Technical College)<sup>17</sup>

## **EDUCATIONAL RIGHTS OF UNDOCUMENTED STUDENTS**

- Plyler vs. Doe was a 1982 Supreme Court case that guaranteed the rights of undocumented students to attend K-12 public schools under equal protection provisions of the 14<sup>th</sup> Amendment.<sup>18</sup>

### **TO COMPLY WITH PLYER VS. DOE, SCHOOLS SHOULD:**

- Act to preserve the right of access to education.<sup>19</sup>
- Guard the confidentiality of immigration status under the Family Education and Privacy Act (FERPA).<sup>20</sup>
- Assign a school-generated I.D. number.<sup>21</sup>
- Be able to ask for immunization documentation (or exemption for medical or religious reasons).<sup>22</sup>
- Be able to ask for proof of residency and transcripts to verify age (birth certificates, hospital records or affidavits can verify age).<sup>23</sup>
- Allow participation in special programs including the Emergency Immigrant Education Program, Transitional Program for Refugee Children, Bilingual Education Program, Chapter I, Headstart, Special Education, and Free & Reduced Meal Programs.<sup>24</sup>
- In applying for Free and Reduced Meal Programs, communicate to parents that though a social security number is asked for, it is only used for federal funding and is not required. Undocumented parents need only indicate they do not have a social security number.<sup>25</sup>

### **TO COMPLY WITH PLYER VS. DOE, SCHOOLS MUST AVOID:**

- Refusing enrollment for not providing a birth certificate or social security number.<sup>26</sup>
- Asking about immigration status or for documentation.<sup>27</sup>
- Treating students differently to determine residency or based on undocumented status.<sup>28</sup>
- Questions that might expose the status of parents or students.<sup>29</sup>
- Refusing participation in programs based on status.<sup>30</sup>
- Engaging in practices to “chill” access to school (cause fear).<sup>31</sup>
- Disparity – different rules according to individual / group characteristics.<sup>32</sup>
- Requiring application for a social security number.<sup>33</sup>
- Contacting ICE (immigration enforcement) about an undocumented student or allowing ICE access to the school without a warrant or subpoena.<sup>34</sup>
- Mandating caretakers to establish legal guardianship for access to education in the district; a notarized affidavit to assure acceptance of responsibility for the child is sufficient.<sup>35</sup>



## SOURCES FOR “UNDOCUMENTED STUDENTS”

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- <sup>2</sup> Passell, Jeffery. Unauthorized Migrants: Numbers and Characteristics. Pew Hispanic Center. June 14, 2005. Accessed March 06 from: <http://pewhispanic.org/files/reports/46.pdf>.
- <sup>3</sup> Passel, Jeffrey. “Estimates of the Size and Characteristics of the Undocumented Population. Pew Hispanic Center. 2005. Accessed Feb. 06 from: <http://pewhispanic.org/files/reports/44.pdf>.
- <sup>4</sup> Protopsaltis, Spiros. “Undocumented Immigrant Students and Access to Higher Education: An Overview of Federal and State Policy.” The Bell Policy Center. 2005. Accessed Feb. 06 from: [http://www.thebell.org/pdf/UndocumentedStudents\\_HigherEd.pdf](http://www.thebell.org/pdf/UndocumentedStudents_HigherEd.pdf).
- <sup>5</sup> Caps, Randy and Fix, Randy et. al. “The New demography of America’s Schools: immigration and the No Child Left Behind Act.” 2005. Accessed Feb. 06 at [www.urban.org/uploadedPDF/311230\\_new\\_demography.pdf](http://www.urban.org/uploadedPDF/311230_new_demography.pdf).
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- <sup>7</sup> Ibid.
- <sup>8</sup> Ibid.
- <sup>9</sup> “Should Undocumented Immigrants Have Access to In-State Tuition?” American State Colleges and Universities Vol 2, No 6. June 2005. Accessed Feb. 06 from: [http://www.aascu.org/policy\\_matters/pdf/v2n6.pdf](http://www.aascu.org/policy_matters/pdf/v2n6.pdf).
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- <sup>11</sup> “Financial Aid and Scholarships for Undocumented Students.” FinAid. Accessed Feb. 06 from: <http://www.finaid.org/otheraid/undocumented.phtml>.
- <sup>12</sup> Ibid.
- <sup>13</sup> “Victory for Immigrant Students (and Kansas) in Day vs. Sebelius Case” El Centro’s Advocacy Update Vol. 3 No. 3. Aug., 2005. Accessed Feb 06 from: [http://www.elcentro.inc.com/english/special\\_initiatives/Advocacy%20Update%Final%20705.pdf](http://www.elcentro.inc.com/english/special_initiatives/Advocacy%20Update%Final%20705.pdf).
- <sup>14</sup> “Financial Aid and Scholarships for Undocumented Students.” FinAid. Accessed Feb. 06 from: <http://www.finaid.org/otheraid/undocumented.phtml>.
- <sup>15</sup> Ibid.
- <sup>16</sup> Caps, Randy and Fix, Randy et. al. “The New demography of America’s Schools: immigration and the No Child Left Behind Act.” 2005. Accessed Feb. 06 at [www.urban.org/uploadedPDF/311230\\_new\\_demography.pdf](http://www.urban.org/uploadedPDF/311230_new_demography.pdf).
- <sup>17</sup> “Board Resolution on Resident Tuition for Undocumented Students Living in Minnesota.” Minnesota State Colleges and Universities Board of Trustees. March 15, 2005. Accessed Feb. 06 from: <http://www.mnscu.edu/board/summary/2005-03-undocumented-residency.pdf>.
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- <sup>19</sup> Ibid.
- <sup>20</sup> Ibid.
- <sup>21</sup> “Students’ Rights to Equal Education (Clarified).” Illinois State Board of Education. Accessed Feb. 06 from: <http://www.isbe.state.il.us/bilingual/htmls/imfaqs.html>.
- <sup>22</sup> “Serving Undocumented English Language Learners” Missouri Department of Elementary and Secondary Education. Accessed Feb 06 from: <http://dese.mo.gov/divimprove/fedprog/discretionarygrants/bilingual-esol/svngundocell.pdf>.
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- <sup>28</sup> Ibid.
- <sup>29</sup> Ibid.
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<sup>35</sup> “Students’ Rights to Equal Education (Clarified).” Illinois State Board of Education. Accessed Feb. 06 from:  
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