

FACT SHEET: UNDOCUMENTED STUDENTS (NATIONAL)



UNDOCUMENTED IMMIGRANTS NATIONALLY

- 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.¹

UNDOCUMENTED STUDENTS

- In the U.S. there are 1.7 million undocumented youth under age 18,² with approximately 1.3 million having lived in the US for 5 years or more and enrolled in K-12 schools in the year 2002.³
- 1.5% of all children PK-5th are undocumented, and 3% of youth grades 6-12 do not have legal status.⁴
- About 80,000 undocumented immigrants turn 18 each year, but 16-20% of them fail to complete high school.⁵
- Only 1 out of every 20 (5%) of undocumented high school seniors attends college.⁶
- Of undocumented high school graduates who have lived in the U.S. for at least 5 years, only 20% enroll in post-secondary education.⁷
- Even those who graduate from college cannot work legally in the U.S.⁸

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.⁹
- 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.¹⁰
- 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.¹¹
- These states base eligibility on a combination of state K-12 school attendance, graduation or equivalency and not on residency.¹²
- The Kansas in-state tuition law was challenged in 2005 and upheld in federal district court.¹³
- Federal law prohibits undocumented students from receiving federal loans and grants, including work-study jobs, nor are they eligible for state assistance in many states.¹⁴
- 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.¹⁵ (4% of students in grades 6 through 12 have an undocumented parent.)¹⁶

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 14th Amendment.¹⁷

TO COMPLY WITH PLYLER VS. DOE, SCHOOLS SHOULD:

- Act to preserve the right of access to education.¹⁸
- Guard the confidentiality of immigration status under the Family Education and Privacy Act (FERPA).¹⁹
- Assign a school-generated I.D. number.²⁰
- Be able to ask for immunization documentation (or exemption for medical or religious reasons).²¹
- Be able to ask for proof of residency, transcripts to verify age (birth certificates, hospital records or affidavits can verify age).²²
- 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.²³
- 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.²⁴

TO COMPLY WITH PLYLER VS. DOE, SCHOOLS MUST AVOID:

- Refusing enrollment for not providing a birth certificate or social security number.²⁵
- Asking about immigration status or for documentation.²⁶
- Treating students differently to determine residency or based on undocumented status.²⁷
- Questions that might expose the status of parents or students.²⁸
- Refusing participation in programs based on status.²⁹
- Engaging in practices to “chill” access to school (cause fear).³⁰
- Disparity – different rules according to individual / group characteristics.³¹
- Requiring application for a social security number.³²
- Contacting ICE (immigration enforcement) about an undocumented student or allowing ICE access to school without a warrant or subpoena.³³
- 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.³⁴



SOURCES FOR “UNDOCUMENTED STUDENTS”

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² Ibid.

³ 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.

⁴ 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.

⁵ 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.

⁶ Ibid.

⁷ Ibid.

⁸ “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.

⁹ Biswas, Radha Roy. “Access to Community College for Undocumented Immigrants: A Guide for State Policymakers.” Achieving the Dream. 2005. Accessed Feb. 06 from: <http://www.jff/PDFDocuments/AccessstoCCUndoc.pdf>.

¹⁰ “Financial Aid and Scholarships for Undocumented Students.” FinAid. Accessed Feb. 06 from: <http://www.finaid.org/otheraid/undocumented.phtml>.

¹¹ Ibid.

¹² Ibid.

¹³ “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.

¹⁴ “Financial Aid and Scholarships for Undocumented Students.” FinAid. Accessed Feb. 06 from: <http://www.finaid.org/otheraid/undocumented.phtml>.

¹⁵ Ibid.

¹⁶ 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.

¹⁷ Hunter, James and Howley, Craig B. “Undocumented Children in the Schools: Successful Strategies and Policies.” ERIC Digest. ED321962. 1990. Accessed Feb. 06 from: <http://www.ericdigests.org/pre-9217/children.htm>.

¹⁸ Ibid.

¹⁹ Ibid.

²⁰ “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>.

²¹ “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>.

²² Ibid.

²³ Hunter, James and Howley, Craig B. “Undocumented Children in the Schools: Successful Strategies and Policies.” ERIC Digest. ED321962. 1990. Accessed Feb. 06 from: <http://www.ericdigests.org/pre-9217/children.htm>.

²⁴ “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>.

²⁵ Hunter, James and Howley, Craig B. “Undocumented Children in the Schools: Successful Strategies and Policies.” ERIC Digest. ED321962. 1990. Accessed Feb. 06 from: <http://www.ericdigests.org/pre-9217/children.htm>.

²⁶ Ibid.

²⁷ Ibid.

²⁸ Ibid.

²⁹ Ibid.

³⁰ Morse, Susan and Ludovina, Frank. “Responding to Undocumented children in the Schools. ERIC Digest. 1999. Accessed Feb. 06 from: <http://www.ericdigests.org/2000-2/schools.htm>.

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³³ Ibid.

³⁴ “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>.