



Undocumented Students and Families: The Facts

Student Rights

What rights do undocumented students have?

Undocumented students between the ages of 6-18 not only have a right to attend school in California, but are mandated to attend school pursuant to the compulsory attendance laws. (Educ. Code § 48200.) The U.S. Supreme Court has held that no state may deny access to a basic public education to any child residing within the state, whether residing in the U.S. legally or not. (*Plyler v. Doe*, 457 U.S. 202 (1982).) Further, all students have a right to be in a public school learning environment free from discrimination, harassment, bullying, violence, and intimidation. (Educ. Code §§ 220, 234 *et seq.*)

What student information do schools currently collect, and would it provide insight into immigration status?

School districts are not required to collect information regarding a student's immigration or legal status, aside from the statuses of nonimmigrant, international students enrolled in an educational program under an F-1 or M-1 visa. Schools are only required to collect information to satisfy certain admission requirements, such as proof of residency, none which require the provision of proof of legal immigration status or social security numbers. (Educ. Code § 48204.1.) In addition, CDE collects information from school districts regarding their students' country of birth through CALPADS in order to calculate the number of immigrant and English learner students in the state and to ensure compliance with the Title III provisions of the federal Every Student Succeeds Act. (Educ. Code § 60900.)

If we receive a PRA request for student data, what information are we obligated to share and protect?

FERPA supersedes the PRA and requires that the school district maintain the confidentiality of all personally identifiable information in education records related to students. (20 U.S.C. §1232g; 34 CFR § Part 99.) Any and all records, including emails, student files, and personnel information, are generally exempt from disclosure. All student records, including emails and cumulative student files, are generally exempt from disclosure or subject to redaction to prevent disclosure of personally identifiable information.

Parent Rights

All parents, irrespective of their legal status, have a right to participate in their children's education and are encouraged to do so. Proof of legal residency is not a prerequisite to the enrollment of their children in school.

Are undocumented parents required to undergo fingerprinting in order to volunteer at school?

School districts may vary in their fingerprinting policies for volunteers. Some require that all volunteers undergo fingerprinting, while others only require the fingerprinting of parent volunteers where the volunteer is not under the direct supervision of a District staff member. Parents should be reassured that the purpose of the fingerprinting requirement is confidential, solely for the use of the District to ensure the safety of students and staff (i.e. that the volunteer has not been convicted of a sex or drug offense with a minor).

If a parent is in custody as the result of an immigration enforcement, are districts required to release the student to ICE or other immigration officials?

No. School districts are not required to release students into the custody of ICE if their parent is in custody as the result of an immigration enforcement action. Parents with such concerns should make advance arrangements with relatives or friends to ensure that their children are released to an authorized caregiver or adult, and should ensure that school districts are aware of this arrangement in the emergency information card submitted to schools.