

PROTECTING IMMIGRANT STUDENTS' RIGHTS TO A PUBLIC EDUCATION

A Pamphlet for Families & Advocates





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YOUR STUDENT'S RIGHT TO EDUCATION

In 1982, in the landmark decision in *Plyler v. Doe*, the U.S. Supreme Court upheld the right for all children in the United States to access public education, emphasizing that “education has a fundamental role in maintaining the fabric of our society.” Public elementary and secondary schools must register and enroll every child who lives in their geographic boundaries, regardless of the child’s or guardian’s citizenship, immigration status, or English language proficiency.

Thanks to the *Plyler* decision, the Equal Protection Clause of the 14th Amendment to the Constitution, and other federal laws, school districts are required to take measures to include students with disabilities, students experiencing homelessness, and English Language Learners (ELs or ELLs).

FEDERAL LAWS PROTECTING STUDENTS WITH DISABILITIES

The Individuals with Disabilities Education Act (IDEA), Section 504 of the Rehabilitation Act of 1973, and Title II of the Americans with Disabilities Act all presume that students with disabilities will be included in the regular public school environment along with their nondisabled peers.

FEDERAL LAWS PROTECTING STUDENTS EXPERIENCING HOMELESSNESS

The McKinney-Vento Homeless Assistance Act prohibits segregating students experiencing homelessness from their peers for any period during the school day (unless it is absolutely necessary for a health and safety emergency).

Under federal law, children are considered “homeless” if they live in a variety of housing situations including: sharing a home with others due to loss of housing; living in a hotel, shelter, or campground; living at a workplace or private place not designed for residential life; or living in cars, parks, or other public spaces.

FEDERAL LAWS PROTECTING EL STUDENTS & PARENTS

School districts must educate ELs in the regular public school environment—in the least segregated manner possible—in accordance with federal law. Federal law also mandates that school districts clearly communicate with students and their parents or guardians no matter the family’s home language.

1. The Equal Educational Opportunities Act (EEOA) of 1974 requires public school districts and

state education agencies to take “appropriate action to overcome language barriers that impede equal participation by students in [their] instructional programs.”

2. Title VI of the Civil Rights Act of 1964 prohibits discrimination based on national origin, among other categories, and requires public schools and state education agencies to take active steps to address language barriers so that EL students can participate meaningfully in public school programs. Title VI’s language protections also require schools to provide the parents or guardians of ELs with access to information in the language in which they are proficient. Further, Title VI offers strong protections for people who advocate for themselves and assert their rights.

In order to comply with their obligations to EL students and their caregivers, school districts must take a number of steps. They are required to:

- Identify ELs
- Provide language services to ensure students are able to access other core subjects besides English
- Dedicate staff and resources to implement EL programs effectively
- Monitor EL progress in language proficiency and academic knowledge
- Avoid unnecessary segregation of EL students
- Assess ELs like their non-EL peers for special education and other disability services



ENROLLMENT BASICS

Most school districts designate a central location to enroll students before the school year begins. However, public schools must allow students to enroll throughout the year. Enrollment information should be available in all students' home languages on the school district's website and upon request at the school district's central office.

During enrollment, school districts can require you to show proof of student age, residency within the school district, legal relationship between you and the student, and immunizations.

However, in accordance with *Plyler v. Doe* and the McKinney-Vento Homeless Assistance act, schools must accept an array of documents as proof so as not to exclude immigrant students or students experiencing homelessness. Schools may ask about a student's place of birth or the length of time they've resided in the U.S., but they cannot require answers to these questions.

What documents can my child's public school legally require for enrollment?

For proof of student age, schools must accept any of the following:

- Birth certificate (U.S. or non-U.S.)
- International driver's license (for students old enough to drive)
- Passport (U.S. or non-U.S.)
- Religious documentation of birth (e.g., baptism or bris certificate; entry in a family Bible)
- Hospital or other medical record of birth
- Adoption records (U.S. or non-U.S.)
- Previously verified school records (U.S. or non-U.S.)
- Parent/guardian affidavit (written statement of fact)

For proof of residency, schools must accept any of the following:

- Telephone, internet, or other utility bill
- Mortgage document
- Lease or sublease document
- Rent payment receipt
- Money order made for rent payment
- Employer letter
- Parent/guardian affidavit (written statement of fact)

For proof of legal relationship, schools must accept any of the following:

- Birth certificate from any country
- Parent ID document from any country (if parent shares last name with child)
- Legal guardianship documents (e.g., adoption or foster care records)
- Court orders (e.g., custody arrangements)
- Immigration documents (e.g., Office of Refugee Resettlement documents)

Tuition

While a school may charge small fees for components of its program (like participation in elective courses or extracurricular activities), it is against federal law for school districts to charge students tuition to attend public school.

Free and reduced lunch

Plyler protections extend to free and reduced lunch. All students, regardless of immigration status, are eligible to apply for and receive these services, and families are not obligated to disclose immigration status on applications for free and reduced lunch.

Who can help with enrollment issues?

Consult the staff directory, which can be found on the school district's website, and look for staff with the following titles:

- School counselor or guidance counselor
- Title III coordinator
- Family, parent, or guardian liaison
- Special education coordinator
- Administrative assistant
- Secretary
- Front desk staff
- McKinney-Vento liaison

The role of McKinney-Vento liaisons includes helping families experiencing homelessness obtain necessary documents for enrollment, signing up eligible students for status-related benefits (free/reduced meals, Medicaid, etc.), helping families obtain school uniforms, coordinating transportation to and from school, and getting children access to needed medical care such as immunizations.

TRANSLATION & INTERPRETATION SERVICES

School districts are required to provide translation and interpretation of essential information to EL parents and guardians. As a first step, always make sure to ask the school for translated written documents and for interpretation services during meetings.

Essential information includes, but is not limited to:

- Registration and enrollment information
- Student handbooks
- Disciplinary notices, policies and hearings
- Information about services (special education, disability, counseling, EL, etc.)
- Testing accommodation information
- Extracurricular activity information
- Report cards
- Parent/guardian permission forms
- Grievance procedures
- Bullying notices
- Nondiscrimination notices
- Schoolwide announcements
- Information regarding caregiver-teacher conferences, open houses and orientations
- Student/caregiver meetings
- Information about medical emergencies or nurse visits
- Documents about public health and safety
- Information about school closures and re-opening

PUSHING BACK WHEN ENCOUNTERING OBSTACLES

We know that not all school districts are in compliance with legal requirements. If your child's school isn't following the law, here's what you can do:

- Assert your rights! Set an appointment with an administrator and explain the problem. Bring this pamphlet with you and find additional tools on our webpage.
- Make sure to take notes during the meeting. If you don't get results, contact the administrator's superior.
- Write a letter to the school district superintendent and send a copy to the school district's attorney.
- Report the violation to the Title III coordinator of the school district or your state's department of education, which should have contact information posted on its website.

WHAT IF I ATTEMPT THESE STRATEGIES BUT MY RIGHTS ARE STILL BEING VIOLATED? WHAT IF I FACE RETALIATION FOR ADVOCATING FOR MY PLYLER AND LANGUAGE-ACCESS RIGHTS?

If your child's school or school district is withholding or denying you access to essential information, refusing to communicate with you in a language you can understand, or retaliating against you or your child for advocating for your rights, we want to hear from you! If you have tried to advocate for yourself and the school district continues to violate your rights, please give us a call or visit our webpage for more information.

Southern Poverty Law Center

Call us, toll free from 9 a.m. to 4 p.m.
Eastern time, Monday through Friday
at 1-800-591-3656 or visit us at
splcenter.org/Plyler



