

BULLETIN

Newsletter of the National Association for College Admission Counseling

Issue Focus: Considering Undocumented Students in American Schools

This article is the first in a series covering the issue of undocumented students in elementary/secondary and higher education.

Despite clear legal precedent on the status of undocumented children living in the United States, there is still confusion about providing them with access to public elementary and secondary education. Undocumented students are school-age children whose parents are in the U.S. without the legal permission of the federal government. Undocumented students may include, among others,

children of illegal immigrants, children of immigrant farm and manufacturing workers, and children of aliens whose legal immigration status has expired.

Regardless of their immigrant status, existing U.S. law is clear: undocumented students have the same right to attend public elementary and secondary schools as do U.S. citizens and legal permanent residents.

The Law

Current law governing undocumented students' access to public elementary and secondary education is founded
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Links to Organizations that Provide "Rights" Education to Students and Schools

- The Achievement Council, Inc.**
www.achievementcouncil.com
- Advocates for Children of New York, Inc.**
www.advocatesforchildren.org
- Arkansas Advocates for Children and Families**
www.aradvocates.org
- ASPIRA Association, Inc.**
www.aspira.org
- California Tomorrow**
www.californiatomorrow.org
- Center for Law and Education**
www.cleweb.org
- Children's Defense Fund**
www.childrensdefense.org
- Designs for Change**
www.dfcl.org
- Education Law Center, Inc.**
www.edlawcenter.org
- Intercultural Development Research Association**
www.idra.org
- National Coalition of Advocates for Students**
www.ncas1.org
- National Council of La Raza**
www.nclr.org
- Pennsylvania School Reform Network**
www.psrn.org
- Student Advocacy Center of Michigan**
(Web site currently unavailable)

A Decade of Admission Trends Surveys Track Factors Affecting Admission Decisions

While much has changed in higher education in the last decade—from an increase in the total number of applications at many institutions to the elimination of affirmative action at many others—it appears that the factors most influencing the admission selection process remain the same. According to an analysis of the NACAC Admission Trends Survey from 1989 to 2000, grades in college prep courses, admission test scores, grades in all subjects, and class rank top the list of factors that survey respondents deem "most important."

The Admission Trends Survey is administered in mid-to-late summer to all NACAC postsecondary member institutions in an effort to gauge application trends, admission practices, recruitment activities, and other issues relevant to the college admission process. The total number of postsecondary member institutions has grown from 1170 in 1989 to 1600 in 2000. The year 1991 saw the highest survey response rate of 59 percent

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Undocumented Students

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on the Supreme Court's 1982 decision in *Plyler v. Doe*. At issue in the case was a Texas statute, enacted to discourage illegal immigration in Texas, that barred undocumented children from public elementary and secondary education. The Court ruled that such a law was unconstitutional, stating, "children can neither affect their parents' conduct nor their own undocumented status." (457 U.S. 202)

The Court's justification was based on the Fourteenth Amendment to the Constitution, which states that equal protection must be guaranteed to all persons under the jurisdiction of the state. Because the Constitution does not limit these protections to citizens, the equal protection clause applies to all individuals residing within U.S. borders, regardless of citizenship status. The Court ruled that while the equal protection clause does not protect illegal immigrants from certain measures to discourage illegal immigration, like deportation, it does protect children of illegal immigrants, who are not responsible for their position or status, from measures that deprive them of basic rights. The Court further determined that the education of minor children was among the basic rights that could not be denied.

Challenges to Current Policy

The *Plyler v. Doe* decision was put to the test when, in 1994, Californians passed the ballot initiative Proposition 187. Proposition 187 denied a broad range of public services to illegal immigrants, including the right to free public education and health care services for undocumented children.

Congress also debated the issue, as Rep. Elton Gallegly (R-CA) offered an amendment to the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, that would have denied a free public education to undocumented students. However, Rep. Gallegly's amendment was not included in the final legislation.

Barriers to Education Struck Down

Proposition 187 was immediately challenged in court as unconstitutional. In a series of rulings (one each in 1995, 1997, 1998, and 1999), U.S. District Judge Mariana Pfaelzer of California struck down nearly all of the initiative's provisions. The ban on public education for undocumented students was among the first provisions to be struck down in Judge Pfaelzer's 1995 decision. Judge Pfaelzer cited the *Plyler v. Doe* case as providing definitive federal precedent.

As a result of the *Plyler* case's resiliency and strength, as exhibited in the legal battle over Proposition 187, its findings and precedent are now considered the standard federal policy on the public education of undocumented students.

Serving Undocumented Students Well

On the national level, the debate has turned to how to best serve undocumented students. Even though the legal issue has been settled, there are still a number of organizations that seek to: 1.) educate undocumented students and their families about their rights under U.S. law, and 2.) educate policymakers and educators about the legal status of undocumented students. In addition, there is a growing number of resources devoted to improving the quality of public education for undocumented students. Resources and links to these organizations and resources are included on the front page.

Rights Education

Of the organizations that deal with the issue of undocumented students, the National Coalition of Advocates for Students (NCAS) is a good place to start. NCAS (Web site: www.ncas1.org) provides a "School Opening Alert" flyer, which spells out the rights of undocumented students and the obligations of public school systems. Several links to other organizations providing "Rights Education" to students and schools are located on page 1.

Quality of Education

In addition, there are now significant resources devoted to providing a high-quality elementary and secondary education for migrant and/or undocumented students. For further research on the issue, the following articles from the ERIC (Educational Resources Information Center) Digest data base may provide a good starting point:

- "Responding to Undocumented Children in the Schools," EDO-RC-99-1, September 1999, by Susan C. Morse and Frank S. Ludovina
- "Undocumented Children in the Schools," ED321962, September 1990, by James Hunter and Craig Howley

These articles contain valuable references to other resources on undocumented students. In addition, the NCAS Web site contains information pertaining to the quality of education for these students, including its "ClearingHouse for Immigrant Education," or CHIME, and a document co-produced with the American School Counseling Association entitled, "School Counseling in Today's Real World," which focuses on strategies that infuse cross-cultural understanding into counseling programs. Information on these resources can be obtained by visiting the NCAS Web site.

For Future Reference

The next article in the series will cover issues facing undocumented students in their pursuit of higher education. If you have questions or additional resources to share on the rights of undocumented students, please contact David Hawkins (dhawkins@nacac.com), NACAC Director of Government Relations, or Zina Evans (zevans@nacac.com), NACAC Director of Research. They may both be reached by telephone at 703/836-2222.