



CESA 2 Information Brief, 5.2011

Information on the Rights of All Children to Enroll In School

U.S. Department of Education – Office of Civil Rights

All children in the United States are entitled to a basic public elementary and secondary education regardless of their race, color, national origin, citizenship, immigration status, or the status of their parents/guardians. School districts that either prohibit or discourage children from enrolling in schools because they or their parents are not U.S. citizens or are undocumented may be in violation of Federal law.

Below are some examples of acceptable enrollment policies – including proof of residency in the school district – as well as policies that may not be used by schools to deny enrollment to your child.

Proof of Residency in the School District

- School officials may require you to provide proof that you live within the boundaries of the school district. Copies of phone and water bills, lease agreements, or other documents may be requested for this purpose. A school district's requirements to establish residency must be applied in the same way for all children.
- A school district may not ask about your or your child's citizenship or immigration status to establish residency within the district, nor may a school district deny a homeless child (including a homeless child who is undocumented) enrollment because he or she cannot provide the required documents to establish residency.

Birth Certificates

- In order to show that a student falls within the school district's minimum and maximum age requirements, school officials may request a copy of your child's birth certificate.

- A school district may not prevent your child from enrolling in school because he or she has a foreign birth certificate.

Social Security Numbers

- Some school district request a student's social security number during enrollment in order to use it as a student identification number. A school district may request a student's social security number, but only if it (1) informs the student and parent that providing it is voluntary and (2) explains for what purpose the number will be used.
- A school district may not prevent your child from enrolling in school if you choose not to provide a social security number.

Race or Ethnicity Data

- School district have some Federal and state obligations to report race and ethnicity data about the students in their schools. A school district may request that you provide your child's race or ethnicity for this purpose.
- A school district may not bar your child from enrolling if you choose not to provide your

Resources

- **Department of Justice, Civil Rights Division, Educational Opportunities Section,**
Phone: 1.877.292.3804 (toll-free)
Fax: 1.202.514.8337
Email: education@usdoj.gov
- **Department of Education, Office of Civil Rights**
Phone: 1.800.421.3481
Email: ocr@ed.gov
- **Online Complaints – Department of Education,**
<http://www2.ed.gov/about/offices/list/ocr/complaintsintro.html>

child's race or ethnicity.

Federal Law References

1964 – Civil Rights Act and Title IV and VI

Title IV prohibits discrimination on the basis of race, or national origin, among other factors, by public elementary and secondary schools.

Title VI prohibits discrimination by recipients of Federal Financial assistance on the basis of race, color, or national origin. Title VI further prohibits districts from unjustifiably utilizing criteria or methods of administration that have the effect of subjecting individuals to discrimination because of their race, color, or national origin, or have the effect of defeating or substantially impairing accomplishment of the objectives of a program for individuals of a particular race, color or national origin.

Plyler v. Doe, 457 U.S. 202 (1982)

A state may not deny access to a basic public education to any child residing in the state, whether present in the United States, legally or otherwise. Denying “innocent children” access to a public education, the court explained, “imposes a lifetime of hardship on a discrete class of children not accountable for their disabling status.... By denying these children a basic education, we deny them the ability to live within the structure of our civic institutions, and foreclose any realistic possibility that they will contribute in even the smallest way to the progress of our nation.

Plyler makes clear the undocumented or non-citizen status of a student (or his parent or guardian) is irrelevant to that student's entitlement to an elementary and secondary public education.

Martinez v. Bynum, 461 U.S. 321, 328 (1983)

Ensures educational services are enjoyed only by residents of a district, a district may require students or their parents to provide *proof of residency* within a district. For example, a district may require copies of phone and water bills or lease agreements to establish residency. While a district may restrict attendance to district residents, inquiring into students' citizenship or immigration status, or that of their parents or guardians would not be relevant to establishing residency within the district.

A school district may require a *birth certificate* to ensure that a student falls within district-mandated minimum and maximum age requirements; however a district may not bar a student from enrolling in its schools based on a foreign birth certificate.

While the Department of Education requires districts to collect and report race and ethnicity data, districts cannot use the acquired data to discriminate against students; nor should a parent's or guardian's refusal to respond to a request for this data lead to the denial of his or her child's enrollment.

A district may not deny enrollment to a student if he or she (or his or her parent or guardian) chooses not to provide a social security number. If a district chooses to use a social security number the district shall inform the individual that disclosure is voluntary. In all instances of information collection and review it is essential that any be uniformly applied to all students and not applied in a selective manner to specific groups of students.

Brown v. Board of Education, 347, 1954

It is doubtful that any child may reasonably be expected to succeed in life if he [or she] is denied the opportunity of an education.

Both the U. S. Department of Justice and the U. S. Department of Education are committed to vigorously enforcing the Federal civil rights laws and providing any technical assistance that may be needed so that all students are afforded equal educational opportunities.

Resources

- **Department of Justice, Civil Rights Division, Educational Opportunities Section,**
Phone: 1.877.292.3804 (toll-free)
Fax: 1.202.514.8337
Email: education@usdoj.gov
- **Department of Education, Office of Civil Rights**
Phone: 1.800.421.3481
Email: ocr@ed.gov.
- **Equal Access to Public Education**
<http://www.justice.gov/crt/edo>