

IMMIGRATION AND STUDENTS



MY SCHOOL MY RIGHTS KNOW YOUR RIGHTS

RIGHT TO AN EDUCATION

1. Do I have the right to a K-12 education as an undocumented student?

YES. Every child who lives in California has the right to a free public education regardless of the child or his/her family's race, nationality, sex, religion, whether they speak English or not, and immigration status. Every child in California, including non-citizens and undocumented students, has a right to attend a public school in the district where his or her parent reside or a charter school.

2. Do I have the right to an education at a charter school as an undocumented student?

YES. Charter schools may not deny you admission on the basis of your undocumented status. You can learn more about charter school admissions here: www.aclusocal.org/unequal-access/.

IMMIGRATION ENFORCEMENT ACTIONS ON SCHOOL CAMPUS

3. Will the U.S. government conduct immigration enforcement actions on my school campus?

USUALLY NO. The United States government has a policy that generally prohibits immigration enforcement actions on or directed towards school campuses. The types of schools covered by this policy include primary, secondary, and post-secondary schools such as colleges and universities as well as licensed daycare centers, pre-schools, school bus stops, and any school-related activity or event.

Right now students and parents should not fear encountering immigration officials at any of these locations. But this could change in the future so it is important to remain vigilant.

4. What do you mean by an “immigration enforcement action”?

Immigration enforcement actions are actions taken by U.S. Immigration Customs Enforcement (ICE), and U.S. Customs and Border Protection (CBP) officers. Examples of such actions include searches, interviews, surveillance for immigration purposes, and arrests.

5. What is a “safe haven” or “safe zone” school district policy?

Some school districts in California have declared that they are “safe zone” or “safe haven” school districts. This means that the district promises to resist efforts of immigration authorities to come on campus or use school records for immigration enforcement purposes.

6. Should I be worried if my school has not declared itself a “safe haven” or “safe zone” district?

NOT RIGHT NOW. Under current policy and practice, immigration enforcement actions are generally not allowed on school campus. But because some undocumented students and families are fearful that things will change in the future, some districts have declared themselves a “safe haven” or “safe zone” to reassure these students and families.

Although you are not at risk right now at school, you should still encourage your school district to adopt policies to protect immigrant students. The ACLU of California has a model school board policy that we think all school districts should adopt here:

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https://www.aclunc.org/docs/July_2017_FINAL_ACLU_Model_Sanctuary_School_Board_Policy.pdf.

SCHOOL REQUESTS FOR STUDENT DOCUMENTS

7. **Can my school district ask about my citizenship or immigration status for proof that I live in the school district?**

NO. School districts may NOT ask about a student's citizenship or immigration status as proof of a student's residency within a district. Schools may ask for phone bills, lease agreements, affidavits, or other documents to prove residency instead.

8. **Do I have the right to withhold information on my citizenship or immigration status from my school district?**

YES. You have the right to withhold information on your citizenship or immigration status from your school. Your school may NOT stop you from enrolling if you do not provide that information.

9. **Can my school district request my birth certificate as proof of my age?**

YES, but your school district may NOT stop you from enrolling in school because you lack a birth certificate or have a foreign place of birth.

10. **Do I have the right to refuse to provide my social security number to my school district?**

YES. Under a new law that went into effect on January 1, 2017, your school district may not ask for your Social Security Number unless it is required by state or federal law. Your school may NOT stop you from enrolling because you do not provide a Social Security Number.

11. **Does my parent have the right to refuse providing his or her social security number to my school?**

YES. Your parent or guardian can refuse to provide his or her social security number if asked by a school. Your school cannot stop you from enrolling because your parent or guardian refuses to provide their social security number.

PRIVACY OF STUDENT RECORDS

12. **Could immigration enforcement authorities get my student records from my school?**

MAYBE. It may be possible for immigration enforcement authorities to access your student records, including identifying information such as your place of birth and immigration status if you have provided it to your school. However, it is not current policy or practice. This could change in the future so it is important to be careful about what information you share.

13. **Can other federal agencies ask my school to turn over my student records without my permission?**

IT DEPENDS. The United States Department of Justice and Department of Education could ask your school to share your student records without your permission, but they may NOT ask for just any reason. The records they request must relate to a program at your school.

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If these agencies receive such information, there are rules that make it difficult for them to re-share the information with others such as immigration enforcement authorities.

14. If the United States Department of Justice or Department of Education asks for my student records, is my school required to provide those records?

NO. Your school has the right to refuse to provide such records, or parts of these records, to these federal agencies.

You should encourage your school to adopt a policy promising not to share any information on your undocumented status with federal agencies unless required to do so by a court order. Look here for a model policy:

https://www.aclunc.org/docs/July_2017_FINAL_ACLU_Model_Sanctuary_School_Board_Policy.pdf.

15. What happens if a court issues a subpoena to my school for my student records?

Your school must comply with an order it receives from a judge to turnover student records. It is important to be cautious about what information you share.

16. Do I have the right to control who sees the student records held by my school?

GENERALLY YES, but there are exceptions. A law called the Family Educational Rights and Privacy Act (also known as “FERPA”) requires that your school ask for your permission before it discloses information in your student record. But there are some times when your school can share your student records without your permission, as described more below.

17. Could my school give my personal information, including my undocumented status, to the federal government without my permission?

YES. Although FERPA and state law protects the privacy of your student records generally, there are circumstances when your school must share such information without your permission to the federal government. For example, your school must share your records without your permission if a court issues a subpoena or court order.

18. Can my school share my place of birth with immigration enforcement authorities without my permission?

YES. FERPA allows your school to share some of your student information including your place of birth, email address, telephone number, and address without your permission. However, your school can refuse to share this information. You should ask your school district to promise not to share such information.

HIGHER EDUCATION

19. What rights do I have to higher education (community colleges, trade schools, colleges, or universities) as an undocumented student?

As an undocumented student you do not have a right to receive a higher education. However, all California public universities and many other private colleges and universities admit undocumented students. Check the requirements of institutions you want to attend to see if your undocumented status prohibits you from attending.

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20. As an undocumented or non-citizen student am I eligible for financial aid to attend college?

NO. Unfortunately, as an undocumented student you cannot receive federal financial aid. However, here in California a law called AB 540 allows you to apply for in-state tuition at California colleges. Learn more about AB 540 here: http://ab540.com/What_Is_AB540_.html

21. I am an undocumented student who applied for in-state tuition through AB 540. Could immigration enforcement authorities learn of my undocumented status through my AB 540 application?

POSSIBLY, BUT IT IS UNLIKELY. The CSU, UC, and California community college systems publicly stated that they will refuse to share immigration-related information and do whatever they can to protect AB 540 applicant information from immigration enforcement authorities.

PRIVACY OF FEDERAL STUDENT AID RECORDS

22. In my application for federal student aid through FAFSA, I revealed that my parents are undocumented by filling in “0s” for their social security number as asked in the FAFSA form. Could immigration enforcement authorities access this information from my FAFSA records?

YES. There is some risk involved in submitting a FAFSA form that reveals an undocumented parent because the U.S. Department of Education can share FAFSA application information with law enforcement agencies. Immigration enforcement authorities have never requested student FAFSA information in the past, but that could change in the future.

Each student should make the decision that is best for them in light of this risk and the important decision to attend college.

PREPARING FOR THE POSSIBILITY OF A PARENT’S ARREST OR REMOVAL

23. What should I do if my undocumented parent or guardian is detained by immigration enforcement authorities?

It is important to have a plan in place if your parent or guardian is detained by immigration enforcement authorities. We recommend that the “emergency contact” in your student file at school include information of a relative or friend who has legal status who can be available to care for you.

24. What else can I do to make sure that I am safe if my parent or guardian is detained by immigration enforcement authorities?

Urge your school to adopt a policy that it will return any student to a family member or emergency contact listed in your student file rather than to state protective services if a parent or guardian is detained by immigration enforcement authorities. Your school should only call state protective services as a last resort. Your school should never contact immigration enforcement authorities.

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ADDITIONAL RESOURCES

25. If I want to learn more about my rights for myself and my family, where should I go?

National Immigration Law Center: <https://www.ilrc.org/immigrant-youth>

Immigration Law Resource Center-Immigration Youth: <https://www.ilrc.org/immigrant-youth>

ACLU Know Your Rights: Immigrants' Rights: <https://www.aclu.org/know-your-rights/what-do-if-questioned-about-your-immigration-status>

26. If I want to learn more about how the Deferred Action for Childhood Arrivals (DACA) program is ending or how it will affect DACA recipients or current applicants, where should I go?

US Department of Homeland Security's September 5, 2017 Memo on the Rescission of Deferred Action for Childhood Arrivals (DACA), <https://www.dhs.gov/news/2017/09/05/memorandum-rescission-daca>. This is the federal government's memo explaining the end of the DACA program. The memo also identifies which types of DACA applications can be processed as of September 5th and which types of applications will be accepted between September 5 and October 5, 2017.

Immigrant Legal Resource Center's community advisory on "What Do I Need to Know About the End of DACA? (September 5, 2017)", <https://www.ilrc.org/what-do-i-need-know-about-end-daca-community-advisory-september-5-2017>. This advisory provides information to DACA recipients or applicants on work permits, how social security numbers can be used after work permits expire, and on traveling with advance parole in light of the government's September 5th announcement.

We Are Here to Stay's Resources, <http://weareheretostay.org/resources/>. This webpage contains resources on various topics including "DACA Termination Frequently Asked Questions," "FAQs: Workplace Rights after DACA Rescission," and a "Mental Health Emergency Toolkit."

ACLU of Southern California's "Resources for DACA Renewal Applications," <https://www.aclusocal.org/en/resources-daca-renewal-applications>. This webpage contains information on free DACA application renewal services, financial aid resources to file DACA renewal applications, and other resources for DACA recipients.

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