



POSITION STATEMENT: UNDOCUMENTED STUDENTS



PURPOSE

To help school leaders comply with federal and state immigration laws and ensure that the undocumented students they serve have access to the same supports and educational opportunities as all students.

ISSUE

Although it is difficult to get an accurate picture of the immigrant population in the United States, researchers estimate that 1.09 million undocumented children and youth are now living in the country. In 1982, the U.S. Supreme Court found in *Plyer vs. Doe* that because undocumented children are illegally in the United States through no fault of their own, they are entitled to the same K-12 educational opportunities that states provide to children who are citizens or legal residents. For this reason, U.S. public schools may not deny or discourage enrollment to any school-age children, regardless of their immigration status. In addition, such students are eligible for free and reduced-price meals, special education services, and school-sponsored events and activities. Federal law does not require school districts or their employees to report undocumented students to immigration authorities. Doing so would constitute a violation of the Family Educational Rights and Privacy Act if information in a student's education records is disclosed without consent. School leaders face the sometimes challenging responsibility of ensuring student safety and protecting student privacy while complying with federal and state immigration laws.



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Undocumented students also face a variety of issues that play a factor in their capacity to learn that other students may not typically face. English proficiency can be a major barrier for these students, as 44 percent of undocumented students over the age of 5 speak English “not well” or “not at all.” Other factors that affect these students are fear and concern for them or their families due to a rise in anti-immigrant rhetoric. This rhetoric can often lead to increased bullying from inside the school as well.

The Impact of Immigration Enforcement on Children and Youth

States that are experiencing large increases in their immigrant populations also are experiencing increased law enforcement activities and worksite immigration raids. In 2018, the U.S. Immigration and Customs Enforcement (ICE) greatly increased the number of investigations opened and raids conducted, leading to a surge in arrest numbers by over 300 percent compared to 2017. The Urban Institute and the National Council of La Raza have conducted research in the communities where worksite raids, raids on immigrants’ homes, or operations by local police officers occurred in the past five years and found that on average, the number of children affected was about half the number of adults arrested. In some of the documented cases, school officials were given notification prior to the raids and were able to ensure that students whose parents were detained in the raids had a safe place to go after school. School leaders and teachers reported that they felt “a heavy burden” helping the students maintain a normal school routine while dealing with the aftermath of the raids. The fear created for immigrant parents and students resulted in symptoms of mental health problems that affected students’ academic performance. Months after the raids, however, students seemed to have benefited from normalized school routines and the support and services provided by their schools.

State Laws

In 2010, Arizona passed legislation making it a crime to be undocumented in the state and requiring law enforcement officials to inquire about an individual’s immigration status when they suspect that person may be undocumented. This legislation was later brought to court in *Arizona v. United States* and the Supreme Court eventually upheld the legality of the majority of the bill and it was enacted. Similar bills have also been introduced in South Carolina, Michigan, Illinois, Utah, Oklahoma, Texas, Nebraska, Mississippi, Tennessee, Kentucky, North Carolina, Florida, and Maine in past legislative sessions. While many bills were introduced following Arizona’s SB 1070, no others have passed and few realistic opportunities to pass such bills remain in other state legislatures.

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Access to Higher Education

According to the Migration Policy Institute’s most recent data, only 25 percent of undocumented citizens 25 years or older have received a high school equivalent degree. Those youth frequently encounter challenges when applying for college or employment. The College Board estimates that only 5 to 10 percent of undocumented students actually attend college. Although federal law does not prohibit undocumented students from attending U.S. colleges or universities, most states



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do not allow them to pay in-state tuition and they are not eligible for most federal loans, financial aid, and scholarships. Since 2017, there are 21 states or institutions that offer in-state tuition to undocumented students. According to the College Board, the investment in K–12 education for undocumented students “pays relatively few economic dividends as long as they are limited in their ability to continue on to college and obtain higher-skilled (and higher-paying) jobs that require more than a high school degree.”



GUIDING PRINCIPLE

- NASSP believes that each child is entitled to an excellent public school education regardless of their immigration status.
- NASSP believes that all students should graduate from high school with the skills to help them succeed in postsecondary education and the workplace.
- NASSP’s Building Ranks: A Comprehensive Framework for Effective School Leaders provides school leaders with an approach to improving the performance of each student by engaging in best practices in collaborative leadership, personalization of the environment; and curriculum, instruction, and assessment.



RECOMMENDATIONS FOR FEDERAL POLICYMAKERS

- Require immigration agents and local law enforcement agencies to collaborate with school officials to mitigate the negative impact of impending immigration raids and small-scale enforcement activities on students.
- Clarify federal policy regarding undocumented students’ attendance at U.S. colleges and universities.
- Encourage states to charge in-state tuition for undocumented students.
- Enact legislation to help young undocumented immigrants—who were brought to the country illegally by their parents—attain U.S. citizenship and encourage them to do so.
- Increase federal support for programs that provide benefits to undocumented students’ learning capacity, such as English Language Learner initiatives.
- Oppose harmful federal policies or rules that place unnecessary burdens on undocumented students or their families that can affect a student’s ability to focus and learn.

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RECOMMENDATIONS FOR STATE LEADERS

- Establish guidelines for district policy regarding what is acceptable and required as evidence that a student resides in a district and is therefore eligible for public school enrollment.
- Charge in-state tuition for postsecondary institutions for undocumented students.
- Encourage districts to enact policies that promote positive interaction between undocumented immigrants and law enforcement, while also protecting the status of said immigrants from persecution.
- Implement safe-zone policies at schools.



RECOMMENDATIONS FOR DISTRICT LEADERS

- Provide school personnel with information and training on the rights of students who are undocumented and other immigration-related issues and policies.
- Set clear policies concerning the individuals who are allowed to be on school grounds and under what circumstances.
- Establish policies and operating procedures to protect the safety of students and the information contained in their education records, including immigration status or place of birth.
- Respond to immigration agents' request for data from a student's education records by requiring a subpoena or warrant and consulting the school district's attorney before releasing any information.
- Collect information about all parents' and guardians' employers so that school leaders are able to share information with children in case their parent or guardian is affected at the site of immigration raids or in the case of other emergencies.
- In the event of a workplace immigration raid in the district, implement a plan to protect the safety of all immigrant students and brief principals and other school staff about their role in ensuring child well-being, coordinate with churches and community organizations to ensure that each student has adult supervision at home, and assure parents that schools will be a safe haven for their children.
- Develop operational procedures to protect the safety of students, collaborating with community agencies and organizations to ensure that schools will be safe haven for their children.
- Provide school faculty with information and guidance on any changes to state immigration law that could impact undocumented students.

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RECOMMENDATIONS FOR STATE LEADERS

- Stay abreast of and comply with your state's laws on undocumented students and related changes to state or district policies.
- Require students seeking enrollment to provide no more than the requisite documentation to support public school enrollment.
- If an undocumented student discloses their immigration status, encourage the student to seek legal assistance immediately and connect the student with a reputable legal service agency if requested.
- Assist undocumented youth as they navigate the immigration process by helping them prepare the appropriate documents and supporting their attendance at immigration-related appointments.
- When faced with a legal request by an immigration agent to interview a student, seek guidance from the school district's attorney and officials, remind the student being interviewed that they are free to refuse to answer questions, and follow standard procedures and policy regarding notification of the student's parent or guardian.
- In the event of student displacement as a result of an immigration raid, ensure that each child knows what to do and whom to call if there is no adult supervision at home and communicate directly with families to assure them that their children will continue to be safe at school, during off-campus school activities, and on school buses.
- Offer school counseling and mental health services to children of parents who have been detained or deported in an immigration raid.
- Provide mental health and counseling supports in schools for students that are emotionally or mentally impacted by immigration raids.
- Ensure that students are exposed to learning experiences that focus on developing college aspirations and preparing students for entry into higher education to help all students have access to higher education.
- Provide information about scholarships and other financial aid that may be available to undocumented students.
- Conduct training for staff to notice signs of bullying targeting undocumented students and provide supports for students who have been the victims of harassment.

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