

# Educational Rights of Immigrant Children now that DACA Is Rescinded



## **❗ Does the elimination of DACA (the Deferred Action for Childhood Arrivals program) impact children's access to a K-12 education in the United States?**

**No, it does not.** Attorney General Jeff Sessions announcement does not change the fact that **all children in this country, including undocumented, refugee and unaccompanied children, have a right to a free public education.**

Undocumented children are afforded protections under Plyler v. Doe, the Family Educational Rights and Privacy Act (FERPA) and the McKinney-Vento Homeless Assistance Act.

The 1982 U.S. Supreme Court case Plyler v. Doe ruled that undocumented children have a constitutional right to receive a free public K-12 education. All children, regardless of their citizenship or residency status, are entitled to attend school. School districts that either prohibit or discourage children from enrolling in schools because they or their parents are undocumented immigrants may be in violation of federal law and the Equal Protection Clause of the U.S. Constitution.

## **❗ What does the law say about schools sharing student information with immigration authorities?**

Under FERPA, schools are prohibited, without parental consent, from providing information from a student's file to federal immigration agents if the information would potentially expose a student's immigration status. For more on FERPA, see <http://familypolicy.ed.gov/ferpa-parents-students>.

## **❗ How does the McKinney-Vento Homeless Assistance Act apply?**

Immigrant children are covered under the McKinney-Vento Homeless Assistance Act of 1987, which provides educational rights and support for children and youth experiencing homelessness, including guaranteeing immediate access to a free public education.

Increased enforcement actions and U.S. Immigration and Customs Enforcement (ICE) raids have forced parents to make alternative living arrangements, placing children with a family member, guardian and/or sponsor. These children can enroll in school immediately without being required to provide documentation.

Schools can not bar a student from enrolling because the student lacks a birth certificate or Social Security number or has a record that indicates a foreign place of birth.

## **❗ What should you do if a child's educational rights are violated?**

If you believe that a school district is violating federal law, contact the AFT human rights department at [afthumanrights@aft.org](mailto:afthumanrights@aft.org) or call the Parental Readiness and Empowerment Program at the Lawyers' Committee for Civil Rights Under Law at 844-773-7487 (toll-free).

### **i What's the federal guidance regarding ICE's presence in schools?**

According to internal ICE guidance that remains in place, ICE officers and agents are to refrain from enforcement actions at least at the following locations and events:

- schools (including licensed daycares, preschools and other early learning programs, primary schools, secondary schools, colleges and universities, and other institutions of learning, such as vocational and trade schools), as well as scholastic or education-related activities or events and school bus stops;
- hospitals;
- churches, synagogues, mosques and other institutions of worship, such as buildings rented for the purpose of religious services;
- funerals, weddings and other public religious ceremonies; and
- public demonstrations, such as marches, rallies and parades.

### **i Schools Must Continue to Be Safe Havens**

Raids take an emotional, psychological and physical toll on children, youth and entire communities. They produce chronic fear, anxiety and stress that consume students and their families on a daily basis. Educators know that circumstances outside the classroom and school grounds have a huge impact on the educational success of students. They see the impact of these out-of-school factors in homework assignments, grades, interactions in class and extracurricular activities.

Schools must be safe havens and sanctuary places of learning, free from racism, discrimination, ICE and the threat of deportation.

Under federal law, school districts must protect all children from harassment and discrimination based on race, color, religion, sex, national origin and disability. School districts are responsible for ensuring the safety and well-being of all their students.

Educators and school support staff play a critical role in helping to end the criminalization, detention and deportation of immigrant students and families. Educators can work with community allies to reaffirm that their schools and campuses are ICE-free safe zones.

For sample resolutions and know-your-rights materials to help support undocumented students and families under the threat of deportation, visit [www.aft.org/immigration](http://www.aft.org/immigration).