

# Immigration Q&A for Minnesota Educators

## 1. Do undocumented students have a right to receive a free public education?

Yes. In *Plyler v. Doe* (1982), the U.S. Supreme Court held that it is unconstitutional for a state or local school district to deny enrollment to a student because of their immigration status. This requirement also applies to extra-curricular activities. Undocumented students are entitled to receive the benefits of public education and extra-curricular activities.

## 2. Do schools or educators have any obligation to report undocumented students to immigration authorities?

No. *Plyler* and subsequent cases prohibit schools from engaging in actions that might discourage undocumented individuals from enrolling in public schools. Reporting undocumented students to immigration authorities could easily discourage undocumented families from enrolling their children in school and would be prohibited by *Plyler*.

## 3. Is it legal for school districts to inquire about a student or family's immigration status?

No, school districts cannot require proof citizenship or immigration documentation. Schools districts may ask families to prove residency within the district, or to provide verification of a student's age. Some families may produce a birth certificate to verify age, but a student may not be denied enrollment solely because the family produces a birth certificate or passport from another country.

## 4. May a school district require a family to provide a social security or visa number?

Some school districts currently require or ask for a social security or Visa number, but school districts may not deny a student enrollment if they refuse or fail to provide one. 5 U.S.C. § 552a. A school should be willing to accept proof of residency and of age from documents that do not include a social security or visa number.

## 5. What should an educator do if an agent from Immigration and Customs Enforcement (ICE) or local law enforcement comes to my school and asks me for information about a particular student?

Schools should follow the same procedure they would for any visitor, such as requiring valid identification, signing the agent in. After that occurs the agent can be sent to the administrator's office. Schools should have a policy requiring a warrant from the agent. If the agent does not have a warrant or subpoena, the administrator should decline entry. Schools should contact an attorney for the District if they are contacted or visited by an immigration agent. As Education Minnesota represents members and locals, we would not be the appropriate resources for a District interacting with ICE.

## 6. If an educator happens to know that a student is undocumented, is that information that an educator may legally share with others?

No. This information is likely protected under FERPA and/or the Minnesota Data Practices Act. An Educator should only disclose this information if they get specific permission from a parent to share information with other staff (admin, school counselor, social worker).



## **7. May educators provide information to students and parents about how to navigate the immigration system?**

Educators should not be giving any type of legal advice to students or families, but they can provide legal information prepared by attorneys, such as a “Know Your Rights” guide or a list of local immigration attorneys. Some school social workers keep this information in their offices. An educator can tell students or parents that they cannot give legal advice but they can give them resources.

## **8. What is the sensitive locations policy and is it still in place?**

Under current ICE policies, certain places are deemed “sensitive locations” where enforcement activities, such as surveillance, interviews, searches, and arrests are prohibited unless there is an emergency or prior approval from high-level leadership. Schools are considered sensitive locations, but as that is an internal ICE policy that could change at any time.

## **9. What is a rapid response team and what are some key elements that schools should have in place?**

Schools should have a response team in place in the event that parents of students are detained, or if a student is detained. That team would ideally include an administrator, a counselor or social worker, the District attorney, and other interested parties. It is important for the team to include someone who either has knowledge of immigration law or can access that knowledge quickly. The team should have a plan in place for how they proceed if they know a student’s parents have been detained, such as a designated staff member to immediately call the student’s emergency contacts. If the parents of multiple students are detained the school should be prepared to designate the building as an emergency shelter for students.

## **10. Are undocumented students in Minnesota eligible for financial aid from college?**

Yes, students are eligible for private financial aid under the Minnesota Dream Act. Undocumented students are not eligible for federal financial aid, but in Minnesota, they are eligible for state financial aid. Minnesota also extends resident tuition to undocumented students who otherwise meet Minnesota residency requirements.

## **11. Is bullying of undocumented or immigrant students prohibited in Minnesota?**

Yes, bullying on the basis of immigration status is prohibited in Minnesota Schools. Such behavior would almost certainly violate anti-bullying policy required by Safe and Supportive Schools Act, the Minnesota Human Rights Act, and Title VI of the Civil Rights Act. School Districts may be liable for failing to stop bullying under these laws and policies.

## **12. What is the new “public charge rule” and does it affect any of the benefits or services that non-citizens or their children receive at school?**

If authorities determine that an individual is “likely to become a public charge,” (ie dependent on public benefits) they may deny that person’s application for permanent residency or entry into the country. Certain immigrants, including refugees and asylees and other humanitarian immigrants, are exempt from public charge determinations under law.

Previously, the federal government specified that it would not consider use of Medicaid, the Children’s Health Insurance Program (CHIP), or other non-cash programs in public charge determinations. However, the new public charge rule has been expanded to include Medicaid, SNAP, and other housing programs.

It is important to note, however, that the rule does not include CHIP or subsidies for Affordable Care Act Marketplace coverage as public benefits. Public charge determinations will only consider use of benefits by the individual and will not take into account benefits used by other family members, including children, of the person for whom officials are making the determination. For educators, it is important to know that this expanded rule does not affect special education services or free and reduced lunches. Undocumented students are entitled to both those things if they are in need of them.

### **13. Where can I find resources to teach students about immigration issues at an age-appropriate level?**

Education Minnesota, NEA, and AFT have all compiled resources to help educators support immigrant students and address immigration topics with their students. These resources are available at the following links:

- <https://www.educationminnesota.org/resources/in-the-classroom/student-safety>
- <https://neaedjustice.org/social-justice-issues/immigration>
- <https://sharemylesson.com/immigration>