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Office of Refugee Resettlement

Information on the Rights of Unaccompanied Children to Enroll in School and Participate Meaningfully and Equally in Educational Programs

Consistent with section 462 of the Homeland Security Act of 2002 and section 235 of the William Wilberforce Trafficking Victims Protections Reauthorization Act of 2008, the U.S. Department of Health and Human Services (HHS), Office of Refugee Resettlement, releases **unaccompanied children*** from Federal custody to an appropriate sponsor – usually a parent, family member, or family friend – who can safely and appropriately care for them while their immigration cases proceed.

While residing with a sponsor, unaccompanied children, like other children, are required to attend school up to a certain age established under State law. Sponsors must help unaccompanied children to enroll in school immediately following family reunification.

In May 2014, the U.S. Departments of Education and Justice published a [joint guidance letter](#), a [fact sheet](#), and a set of [Questions and Answers](#) on Federal law requiring States and school districts to provide all children in the United States with equal access to a basic public education, regardless of their or their parents' actual or perceived race, color, national origin, citizenship, or immigration status. This includes children who are awaiting immigration proceedings while residing in local communities with a parent, family member, or other appropriate adult sponsor.

This document from U.S. Department of Health and Human Services (HHS), the U.S. Department of Education, and the U.S. Department of Justice provides additional clarification about public school enrollment and placement based on recurring questions and concerns that sponsors and local education agencies have shared with HHS. This joint document provides examples of acceptable enrollment policies, such as requesting proof of residency in a school district, as well as policies that **may not** be used by schools to deny or discourage a child's enrollment. The joint document also explains public schools' legal obligation to unaccompanied children who, once enrolled, may be entitled to services due to limited English proficiency or disability.

Enrolling Unaccompanied Children in Public School in the United States

Proof of Residency in the School District

- Under State or local law, school officials may request proof that the adult enrolling the child lives within the boundaries of the school district. School districts typically accept a variety of documents for this purpose, such as copies of phone and water bills, lease agreements, affidavits, or other documents. A school district's requirements to establish residency must be applied in the same way for all children, including unaccompanied children.

• The term unaccompanied child, which is used in this document, is interchangeable with the terms unaccompanied minor or unaccompanied alien child, which are also often used to refer to these children in other documents, reports, and publications.



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- A school district **may not** ask about citizenship or immigration status of the adult enrolling the child or of the child to establish residency within the district, nor may a school district deny a homeless child (including a homeless child who is also an unaccompanied child) enrollment because he or she cannot provide the required documents to establish residency.
- While under State or local law a school district may choose to include the State-issued identification or driver's license of the adult enrolling the child among the acceptable documents that can be used to establish residency, a school district **may not** require such documentation to establish residency or for other purposes where such a requirement would unlawfully bar a student whose sponsor is undocumented from enrolling in school.

Proof of Age

- Under State or local law, school officials may request documentation to show that a child falls within the school district's minimum and maximum age requirements. School districts typically accept a variety of documents for this purpose, such as a religious, hospital, or physician's certificate showing date of birth; an entry in a family bible; an adoption record; an affidavit from a parent; a birth certificate; or previously verified school records.
- Although a school district might request documents such as those listed above to verify a child's age, a school district **may not** prevent or discourage a child, including an unaccompanied child, from enrolling in or attending school because he or she lacks a birth certificate or has records that indicate a foreign place of birth, such as a foreign birth certificate.

Unique Documents That Unaccompanied Children and Their Sponsors May Present

HHS provides sponsors of unaccompanied children with several documents that schools could accept as proof of immunization, residency, and age for purposes of enrolling children if **voluntarily** presented by the sponsor.

- **Proof of Immunization:** While in HHS custody, children receive vaccinations in accordance with [the Advisory Committee on Immunization Practices \(ACIP\) catch-up schedule](#) and consistent with the medical needs of each child. When a child is released from HHS custody to a sponsor, the sponsor is given a copy of the child's medical and immunization records compiled during their time in custody. If a sponsor does not have a copy of the child's medical or immunization records, the sponsor can request a new copy from HHS via e-mail at Requests.DUCS@acf.hhs.gov.
- **Proof of Residency and Age:** Sponsors are also provided a HHS "Verification of Release" form, which shows the name, birth date, and often includes an image of the unaccompanied child and the name and address of the sponsor. If **voluntarily** presented, schools are encouraged to accept the Verification of Release form as one appropriate means for establishing proof of residency and/or age for purposes of enrolling these children. School officials **should not** ask for the Verification of Release form, because it may indicate, either directly or indirectly, that a particular child is involved in immigration proceedings. However some sponsors may choose to voluntarily present the form because they have no other proof of residency or age of the child.



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- Schools need not maintain records of the HHS form or other documents voluntarily presented by the sponsor unless the HHS form provides the only proof of information necessary to enroll the child – e.g., information about a child’s residency or age that is not otherwise available from any other source.

If an Unaccompanied Child is Homeless, the Child May be Eligible for Protections and Supports Under the McKinney-Vento Education for Homeless Children and Youth Program

- The Education for Homeless Children and Youth program, authorized under Title VII-B of the McKinney-Vento Homeless Assistance Act (the Act), sets forth educational rights and supports for children and youth experiencing homelessness. McKinney-Vento is designed to facilitate the enrollment, attendance, and success in school of homeless children and youth (homeless children).
- To be eligible for protections and supports under the Act, the unaccompanied child must meet the Act’s definition of homelessness. The Act defines “homeless children and youths” as “individuals who lack a fixed, regular, and adequate nighttime residence.” This includes children and youth who are sharing the housing of other persons due to the loss of housing, economic hardship, or a similar reason (sometimes referred to as “doubled-up”).
- HHS does **not** release unaccompanied children to homeless sponsors. However, an unaccompanied child may experience homelessness and meet the Act’s definition of homeless child *after* they are released to a sponsor.
- The Act requires schools to immediately enroll homeless children, even in the absence of records normally required for enrollment. If a dispute arises over school selection or placement, the school district must admit a homeless child to the school in which enrollment is sought, pending resolution of the dispute.
- Under the Act, each school district must designate a local liaison for homeless children. The local liaison must ensure, among other things, that (1) eligible homeless children are identified; (2) that they immediately enroll in, and have a full and equal opportunity to succeed in, the schools of the district, and (3) they receive educational and support services for which they are eligible, and referrals to health, dental, and other appropriate services.
- If eligible, the local liaison will assist sponsors and unaccompanied children in enrolling in school, obtaining immunizations or medical records, and coordinating transportation services, as appropriate.

Additional Information Often Requested at Time of Enrollment

- Schools and school districts typically use standardized forms at enrollment that include requests for information beyond the minimal information required to enroll a child. Most of this information is optional and/or can be provided after enrollment, although schools may strongly encourage providing such information as it can be relevant to ascertaining eligibility for a wide variety of educational programs and services.



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- School districts have some Federal and State obligations to report race and ethnicity data about the students in their schools. A school district typically will request that the adult enrolling a child provide the child's race and ethnicity for this purpose. However, a school district **may not** bar a child from enrolling if the adult chooses not to provide the child's race or ethnicity.
- Some school districts request a student's social security number during enrollment to use as a student identification number. If a school district requests a student's social security number, it must:
(1) inform the adult enrolling the child and the child that providing it is voluntary and that refusing to provide it will not bar the child from enrolling in or attending school, and (2) explain for what purpose the number will be used.
 - A school district **may not** prevent a child, including an unaccompanied child, from enrolling in or attending school if the adult enrolling the child chooses not to provide the child's social security number.
 - A school district **may not** require the adult enrolling the child to provide his or her own social security number in order for the child to enroll in or attend school.

Some schools ask for information such as place of birth and how many months (cumulative, not consecutive) the child has been enrolled in schools in the United States. This information is optional, but can be used to determine eligibility for services for immigrant children and youth as authorized under Title III of the Elementary and Secondary Education Act (ESEA) that provide for enhanced instructional opportunities for immigrant children and youth, and/or for exemption from the student's first administration of the English or language arts assessment for Title I purposes, which is available to recently-arrived English Learners (ELs). For more information about eligibility and services for immigrant children and youth, or for recently-arrived ELs, see the Fact Sheet available at <http://www2.ed.gov/policy/rights/guid/unaccompanied-children-2.pdf>. For more information about assessments for Title I see 34 CFR §200.6 (b)(4) available at http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=1&SID=9d5e3891063a5fdc5e97928da10450df&ty=HTML&h=L&mc=true&r=SECTION&n=se34.1.200_16.

- To determine whether or not a student meets the ESEA definition of an immigrant child and youth, or of a recently arrived EL, a school and/or district **should not** ask about a student, parent, guardian, or sponsor's citizenship or immigration status or date of entry into the United States. Such information has no bearing on whether or not the student meets the definition of immigrant child or youth, or recently-arrived EL, for ESEA purposes, and may create a chilling effect that could discourage students and families from enrolling in school.
- Rather, for purposes of determining if a student meets the definition of immigrant children and youth, or recently-arrived EL under ESEA, a school should request only information about a student's date of birth, place of birth, and prior school enrollment.



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Ensuring Unaccompanied Children Who are English Learner Students Can Participate Meaningfully and Equally in Educational Programs

Once any child is enrolled in public school, a school district's obligations to English Learner (EL) students, including **unaccompanied children**, include:

Identifying and Assessing All Potential EL Unaccompanied Children

- Once enrolled, a school **may not** delay identifying whether the student is eligible for English language services because he or she is an unaccompanied child.
- School districts must have procedures in place to accurately and timely identify potential EL students, including unaccompanied children (e.g., a home language survey at the time of enrollment).
- School districts must then determine if potential EL unaccompanied children are in fact EL through a valid and reliable test that assesses English language proficiency in speaking, listening, reading and writing.
- If identified as an English learner, the school must notify the parent or sponsor in writing, within 30 days of the school year starting, with information about the unaccompanied child's English language proficiency level, programs and services available to meet the child's educational needs, and the adult's right to opt the child out of a program or particular services for ELs.

Providing Language Assistance to EL Unaccompanied Children

- School districts must provide appropriate language assistance services to enable EL students, including unaccompanied children who are ELs, to become proficient in English and to participate equally in the standard instructional program within a reasonable period of time.
- To meet this obligation, school districts can choose among programs designed for instructing EL students provided the program is educationally sound in theory and effective in practice.
- Each unaccompanied child's English proficiency level, grade level, and educational background, as well as language background for bilingual programs, must be considered to determine which EL program services are appropriate for EL unaccompanied children. For example, some districts have designed programs to meet the unique needs of EL students whose formal education has been interrupted due to dislocation, war, famine, or other situations resulting in missed educational instruction.

Providing Meaningful Access to All Curricular and Extracurricular Programs

- School districts must provide EL students, including EL unaccompanied children, with an equal opportunity to participate in all programs, including pre-kindergarten, magnet, gifted and talented, career and technical education, arts, and athletics programs; Advanced Placement (AP) and International Baccalaureate (IB) courses; clubs; and honor societies.



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- School districts must ensure that EL unaccompanied children have access to their grade-level curricula so that they can meet promotion and graduation requirements.
- Students with interrupted formal education (SIFE students), including those that are unaccompanied children, especially in the higher grades, may be below grade level in some or all subjects when they enter a school district, and some school districts provide specialized programs to meet their needs. Such programs should be age-appropriate, include instructional content that relates to the core curriculum and is credit-bearing toward graduation or promotion requirements, and should ensure that SIFE students have the opportunity to meet grade-level standards within a reasonable period of time.
- School districts **may not** place high school-aged SIFE students in middle or elementary school campus programs because this would not permit SIFE students to meet high school grade-level standards and graduation requirements within a reasonable amount of time and the placements would not be age appropriate.

Evaluating EL Unaccompanied Children for Special Education and Providing Dual Services

- School districts must provide EL unaccompanied children with disabilities with *both* the language assistance and disability-related services to which they are entitled under Federal law.
- School districts must ensure that EL unaccompanied children who may have a disability, as with all other students who may have a disability and may require services under the Individuals with Disabilities Education Act (IDEA) or Section 504 of the Rehabilitation Act of 1973, are located, identified and evaluated for special education and disability-related services in a timely manner.
- School districts **may not** have a formal or informal policy of “no dual services,” i.e., a policy of allowing unaccompanied children to receive either EL services or special education services, but not both.
- School districts **may not** delay disability evaluations of EL unaccompanied children for special education and related services for a specified period of time based on their EL status.
- School districts **may not** place EL unaccompanied children who were not identified as having a disability in special education classes instead of placing them in appropriate language development classes.

Avoiding Unnecessary Segregation of EL Unaccompanied Children

- School districts generally **may not** segregate students on the basis of national origin or EL status. Although certain EL programs may be designed to require that EL students receive separate instruction for a limited portion of the day or period of time, school districts and states are expected to carry out their chosen program in the least segregative manner consistent with achieving the program’s stated educational goals.
- School districts operating newcomer programs or schools should take particular care to avoid unnecessary segregation. Placing EL students in more segregated newcomer programs due to perceived behavior problems or perceived special needs have raised compliance concerns.



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Ensuring Meaningful Communication with Limited English Proficient Sponsors or Parents

- School districts must ensure meaningful communication with limited English proficient sponsors or parents in a language they can understand, such as by offering translated materials or a language interpreter, and must adequately notify limited English proficient sponsors or parents about any program, service, or activity that is called to the attention of non-limited English proficient parents. Language assistance must be free and provided by appropriate and competent staff, or through appropriate and competent outside resources.
- School districts **may not** rely on students, siblings, friends or untrained school staff to translate or interpret for limited English proficient sponsors or parents.

Identifying Limited English Proficient Sponsors or Parents

- School districts must develop and implement a process for determining whether sponsors or parents are limited English proficient and identifying their language needs.
- The process should be designed to identify all limited English proficient sponsors or parents, including those whose primary language is not common in the district or whose children are proficient in English.
- School districts **may not** deny language assistance to a limited English proficient sponsor or parent because the sponsor or parent's native language is uncommon (e.g., Mayan languages such as Mam, Quiche, Kanjobal, Acateco, Ixil, Chuj, and Popti).

If you have questions, want additional information, or believe that a school is violating Federal law:

- You may find more information about HHS' role in caring for unaccompanied children at <http://www.acf.hhs.gov/programs/orr/programs/ucs>.
- You may visit <http://www.ed.gov/unaccompaniedchildren> for more information on educational services for unaccompanied children.
- You may visit the website of ED's Office for Civil Rights (OCR) at www.ed.gov/ocr or contact OCR at (800) 421-3481 (TDD: 800-877-8339) or at ocr@ed.gov. For more information about filing a complaint, visit www.ed.gov/ocr/complaintintro.html.
- You may visit DOJ's Civil Rights Division, Educational Opportunities Section, website at www.justice.gov/crt/about/edu/ or contact DOJ (877) 292-3804 or education@usdoj.gov. For more information about filing a complaint, visit www.justice.gov/crt/complaint/#three.
- For more information about school districts' obligations to English learner students and limited English proficient parents, additional OCR guidance is available at <http://www.ed.gov/ocr/ellresources.html>.



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- For tools and resources to support school districts' obligations to English learner students and limited English proficient parents, visit <http://www2.ed.gov/about/offices/list/oela/english-learner-toolkit/index.html>
- Translated versions of OCR policy guidance and other documents in several common languages can be found at <http://www.ed.gov/ocr/docs/howto-index.html> and requests for language assistance can be made, free of charge, by calling 1-800-USA-LEARN (1-800-872-5327) (TTY: 1-800-877-8339), or emailing us at: Ed.Language.Assistance@ed.gov.