



MEMO: OCA Review of Districts' School Registration Requirement

August, 2016

Purpose: In April, 2016 OCA undertook a review of school districts' school registration requirements in response to concerns raised with OCA regarding onerous criteria that made school enrollment difficult for certain at-risk or vulnerable children. Specifically OCA was concerned about access to school for homeless youth, undocumented children, and children involved with the Department of Children of Families.

The Law: In 2014, the United States Department of Justice issued updated guidance to states regarding lawful school enrollment practices. The Department of Justice [guidance](#) emphasizes that all children have the right to a basic public education, and the D.O.J. highlighted a seminal U.S. Supreme Court case, *Plyer v. Doe*, 457 U.S. 202 (1982), holding that denying "innocent children" access to a public education "imposes a lifelong hardship ... [and that] By denying children a basic education we deny them the ability to live within the structure of our civic institutions, and foreclose any realistic possibility that they will contribute in even the smallest way to the progress of our Nation." *Plyer*, 457 U.S. at 223.

Per federal law, the undocumented or non-citizen status of a student is irrelevant to that student's entitlement to a public education. Federal law also protects the right of homeless youth to enroll in school and D.O.J. guidance emphasizes that a "school district may not deny a homeless child (including a homeless child who is undocumented) enrollment because he or she cannot provide the required documents to establish residency."

Findings: OCA sampled eighteen (18) different school districts' registration criteria to compare requirements. OCA found that many school districts utilize criteria that the U.S.D.O.J. has found potentially unlawful and that may have the impact of discouraging enrollment of undocumented or homeless youth in public school. Problematic criteria include the following:

- 1) *Requiring* parents to supply a child's birth certificate: while a birth certificate may be requested by a school district for the purpose of demonstrating a child's age, D.O.J. states that districts must accept a variety of documents for this purpose and a "school district may not bar a student from enrolling in its schools because he or she lacks a birth certificate or has records that indicate a foreign place of birth, such as a foreign birth certificate."
- 2) *Requiring* submission of documents that would "bar or discourage a student who is undocumented or whose parents are undocumented from

enrolling in or attending school.” D.O.J. guidelines provide that a “district may not require a [state-issued identification or driver’s license] to establish residency or for other purposes where such a requirement would unlawfully bar a student whose parents are undocumented from enrolling in school.”

- 3) *Requiring* a social security number. D.O.J. guidance provides that although a district may “request a student’s social security number at enrollment for use as a student identification number [], [a] district may not *deny enrollment* to a student if he or she (or his parent or guardian) chooses not to provide a social security number. If a district chooses to request a social security number, it shall inform the individual that the disclosure is voluntary, provide the statutory or other basis upon which it is seeking the number, and explain what uses will be made of it.”

The majority of school districts OCA reviewed utilized some or all of the above criteria and information posted on districts’ websites typically stated that production of documents such as long form birth certificates, driver’s licenses or passports are “mandatory” or “required.”

Additionally, OCA did not see clear information on the registration web pages about exceptions for homeless students, or (*with the notable exception of one urban public school*) information that emphasize the ability of undocumented families to enroll their children in school.

The urban public school’s registration page included the following language:

“All children living in the US have the right to a free K-12 public education. Immigrant children do not need a green card, visa, passport, alien registration number, or social security number to register for school.”

Remedies: In May, 2016, the OCA alerted the State Department of Education to the findings from this review. SDE responded quickly to OCA’s memo and immediately disseminated the Department of Justice’s 2014 Guidance to school districts. CSDE has subsequently reported to OCA that it will work to develop guidance for school districts regarding federal civil rights requirements governing the student registration process, and in particular how a district may establish age and residency requirements in a manner that complies with federal law. CSDE has also committed to developing a model registration policy. OCA is recommending that the state continue to monitor the development and implementation of updated school registration policies over the next twelve (12) months.