



STATE OF NEW JERSEY DEPARTMENT OF EDUCATION

A Memo from the New Jersey Department of Education

Date: September 28, 2022
To: Local Educational Agency Leads
Route To: Principals, School Nurses and Physicians, Staff Involved in the Student Enrollment Process
From: Kathy Ehling, Assistant Commissioner
Division of Educational Services

Enrollment of Students Based Upon Immigration Status

This memorandum is to ensure that school district personnel are aware of federal and state laws that prohibit denying the enrollment of students in public schools based on immigration status. In *Plyer v. Doe*, 457 US 202 (1982), the United States Supreme Court held that undocumented children living in the United States could not be excluded from public elementary and secondary schools based upon their immigration status. Accordingly, school districts are prohibited from requiring students to disclose or document their immigration status, making inquiries of students or parents that may expose their undocumented status, or engaging in any practices that hinder the right of access to public schools.

New Jersey Administrative Code ([N.J.A.C. 6A:22-3.3](#)) prohibits the barring of any student from public elementary and secondary schools based on immigration/visa status, except for students on F-1 visas. Districts should continue to enroll all students who are between the ages of 5 and 20 who are domiciled in the district or who are otherwise entitled to attend pursuant to *N.J.S.A. 18A:38.1*, and the implementing regulations, [N.J.A.C. 6A:22-3.2](#), *et. seq.*

Additionally, [N.J.A.C. 6A:22-3.4](#) prohibits school districts from making enrollment contingent upon the receipt of information or documentation. Such prohibited documents include, but are not limited to, power of attorney/guardianship documents, income tax returns, documentation or information relating to citizenship or immigration status, and social security cards. When enrolling students, a school district may request verification of residency; **however, the district cannot deny enrollment based on a failure to present a particular form.** Further, when requesting documentation of a student's age, school districts may not prohibit enrollment if the parent/guardian is unable to either present a birth certificate or presents a foreign birth certificate.

Immigrant vs. Migrant

Immigrant: Under Section 3201 of the Every Student Succeeds Act (ESSA), the term "immigrant children and youth" means individuals who: (a) are aged 3 through 21; (b) were not born in any State; and (C) have not been attending one or more schools in any one or more States for more than 3 full academic years.

Migrant: It is important to note that immigrant does not necessarily mean migrant. Migrant Status is an indication of whether a student is a migrant student. As defined under ESSA Section 1309 (2), a migrant student is:

- 21 years of age or younger; and
- Who is, or whose parent/guardian is, a migratory fisher, dairy worker, lumber or agricultural worker; and,
- Who in the preceding three years has moved from one school district to another in order for the worker to obtain temporary or seasonal employment in agricultural or fishing work.

A [National Certificate of Eligibility \(COE\)](#), which is an official record of eligibility determination for migrant students, must be on file in the district verifying the student's migrant status. A young adult may also qualify as a

migrant student if he/she has moved on his/her own for the same reasons. Any child or youth may be a migrant student independent of their nationality, ethnicity, or race.

Unaccompanied Immigrant Children

Children who enter the United States unaccompanied by a parent or guardian are placed in a short-term shelter operated by the Administration for Children and Families Office of Refugee Resettlement (ORR) in the U.S. Department of Health and Human Services (HHS). Written requests for a copy of a child's immunization record can be emailed to Requests.DUCS@acf.hhs.gov. For more information regarding immunization records for all students see the following: [N.J.A.C. 6A:16-2.2\(a\)](#), [N.J.A.C. 6A:16-2.3\(b\)3v](#), [N.J.A.C. 6A:16-2.2\(l\)4](#), [N.J.A.C. 6A:16-2.2\(g\)](#), [N.J.A.C. 8:57-4.1-24](#).

To assist school districts with serving unaccompanied minors, the NJDOE provides resources regarding [Unaccompanied Immigrant Children](#) on its website. Additionally, information regarding [New Jersey's Migrant Education Program](#) can also be found on the website.

For further information on the enrollment of immigrant students, contact your [Executive County Superintendent of Schools](#) or the Office of Supplemental Educational Programs at ELL@doe.nj.gov. For clarification on school health requirements, contact the Office of Student Support Services at healthyschools@doe.nj.gov.

c: Members, State Board of Education
NJDOE Staff
Statewide Parent Advocacy Network
Garden State Coalition of Schools
NJ LEE Group
NJTESOL-NJBE