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What rights do undocumented students have?

Undocumented students between the ages of 6-18 not only have a right to attend school in California, but are mandated to attend school pursuant to the compulsory attendance laws. (Educ. Code § 48200.) The U.S. Supreme Court has held that no state may deny access to a basic public education to any child residing within the state, whether residing in the U.S. legally or not. (*Plyler v. Doe*, 457 U.S. 202 (1982).) Further, all students have a right to be in a public school learning environment free from discrimination, harassment, bullying, violence, and intimidation. (Educ. Code §§ 220, 234 *et seq.*)

What student information do schools currently collect, and would it provide insight into immigration status?

School districts are not required to collect information regarding a student's immigration or legal status, aside from the statuses of nonimmigrant, international students enrolled in an educational program under an F-1 or M-1 visa. Schools are only required to collect information to satisfy certain admission requirements, such as proof of residency, none which require the provision of proof of legal immigration status or social security numbers. (Educ. Code § 48204.1.) In addition, CDE collects information from school districts regarding their students' country of birth through CALPADS in order to calculate the number of immigrant and English learner students in the state and to ensure compliance with the Title III provisions of the federal Every Student Succeeds Act. (Educ. Code § 60900.)

What student information do we collect on adult education students?

In particular cases, school districts are required to obtain information on their adult education students. For example, in counties where U.S. District Courts are located, the city or county superintendent of schools is required on a monthly basis to obtain the names of persons who have filed their intention to become citizens of the U.S. or their petitions for naturalization. (Educ. Code section § 52550.) The superintendent is then required to send notices to these individuals of the authorization the governing board has in providing classes in citizenship under particular circumstances. (Educ. Code § 52551 *et seq.*)

Are we required to allow ICE, police, or other government authorities to have access to student records?

Access to student records should only be allowed if the requesting agency has a valid court order or subpoena in compliance with FERPA or immigration laws or regulations. (8 U.S.C. § 1225; 34 CFR § 99.31(a)(9)(i); Educ. Code §§ 49076; 49077.) The school district, however, must make reasonable efforts to notify the parent or eligible student in advance of disclosing the documents so that the parent or eligible student may seek protective action, unless the court order or subpoena relates to a federal jury investigation or law enforcement purpose, or relating to domestic or international terrorism. (34 CFR § 99.31(a)(9)(ii); Educ. Code § 49077.)

In addition, the USA Patriot Act added an exception to FERPA to mandate the disclosure of educational records to a federal Attorney General or Assistant Attorney General through a judicial order based on an

