



Bridging Refugee Youth & Children's Services

# Refugee Children in U.S. Schools: *A Toolkit for Teachers and School Personnel*



## Tool 6: Enrolling Refugee Children in U.S. Schools

BRYCS is a project of USCCB/MRS and is supported by the U.S. Department of Health and Human Services, Administration for Children and Families, Office of Refugee Resettlement.

## Enrolling Refugee Children in U.S. Schools

*“He doesn’t have a birth certificate.”*

*“You have only lived in the U.S. for a couple of months.”*

*“She is not the child’s legal guardian.”*

*“They don’t have any previous educational documents.”*

For migrant families and children, one of the greatest challenges in the U.S. can be enrolling children into the local public school system. They may have trouble gathering the requested documentation, may be discouraged from enrolling due to language barriers or their age, or may be denied enrollment if their caregiver is not a parent or legal guardian. Fortunately, there are some protections for migrant children attempting to enroll in school.

All children are entitled to enroll in public schools regardless of their national origin, citizenship, or immigration status. A [Dear Colleague Letter](#) from the US Department of Education regarding school enrollment (May 8, 2014) lays out the following:

- School districts cannot ask a student or family about their immigration status, as it is unnecessary to establish residency in a school district.
- School districts may require proof of residency in the district, such as utility bills, lease agreements, or an affidavit, but cannot require documents that would unlawfully bar or discourage an undocumented student or a student with undocumented parents.
- School districts may not bar a student from enrolling if they lack a birth certificate.
- Providing a social security number is voluntary.
- Homeless children do not have to provide proof of residency; school districts must immediately enroll the child even if she or he doesn’t have the documents usually required.



Courtesy of Catholic Charities of Tennessee

In some cases, migrant children may be living with caregivers other than their parents. Seventeen states have consent laws which allow relative caregivers to enroll children in school. Other states do not have these laws but allow enrollment by caregivers. However, some school districts may ask for proof of guardianship or legal custody, which can have the effect of blocking a child from enrolling in school. In these situations, caregivers may work with schools to determine whether the school would accept an affidavit or other assurance of the relationship between child and caregiver. For children released from federal immigration custody, the Office of Refugee Resettlement, Division of Children’s Services (ORR/DCS) provides a Verification of Release form which includes language from the U.S. Department of Education regarding the child’s right to enroll in a public school. In some locations, the Verification of Release and ORR/DCS’s Sponsor Care Agreement may be acceptable substitutes for formal guardianship paperwork. Children and their caregivers can also be referred to their country’s nearest consular office to request assistance in obtaining documentation from their country of origin to validate identity or relationship.

In some instances, older children face an additional hurdle. Some school districts may refuse to enroll older teens or push them to adult education or GED programs. Often school districts, and sometimes even caregivers or the youth themselves, may believe that older children with limited English or prior schooling may not be able to catch up. These youths can receive, however, academic as well as non-



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academic benefits from being enrolled in full-time schooling: more structured and supervised hours in the classroom, tutoring help, free or reduced lunch, socialization with peers, mentoring, etc. State laws vary regarding the ages of children guaranteed schooling. The Education Commission of the States provides a [state by state breakdown](#) on age requirements as outlined in state codes. Older teens may benefit from being connected with advocates to overcome some of the barriers to school enrollment for those who are eligible based on age.

For students who arrive with incomplete or missing transcripts, policies vary greatly among states and even school districts with respect to awarding credits. Some school districts have developed forms to help “rebuild” the transcripts of foreign-born students who come without transcripts, while others will not award credits based on a student’s report of previous classes. It is best for individuals to consult with their state Department of Education if their school district does not have a policy already in place.

Below are two useful legal tools when assisting migrant families to enroll their child(ren) into a public school.

### ***Plyler v. Doe (1982)***

- Holds that States may not deny access to a basic public education to any child residing in the State, whether they are present in the in US legally or otherwise.

### ***McKinney-Vento Act***

Ensures educational rights and protections for children and youth experiencing homelessness, and applied to all school aged children and youth.

- The term “homeless children and youth” is defined as individuals who lack a fixed, regular, and adequate nighttime residence and can include
  - children and youths who are sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason; are living in motels, hotels, trailer parks, or camping grounds due to the lack of alternative adequate accommodations; are living in emergency or transitional shelters; are abandoned in hospitals; or are awaiting foster care placement;
  - children and youths who have a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings...
  - children and youths who are living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings; and
  - migratory children who qualify as homeless for because the children are living in circumstances described above.
- Defines an “unaccompanied youth” as a student who is not in the physical custody of a parent or guardian.
- **Some migrant children, such as those released from federal custody to a relative, may qualify for recognition under this act if they are living "doubled up" with relatives or friends. These children may benefit from recognition of their rights under this act.**



BRYCS Photo, Claudia Gilmore

The McKinney-Vento Act states that those who have been identified as “homeless children and youth” have a right to the following:

- Immediate enrollment, even if they don't have all of their paperwork - for example, medical/health records, proof of residency, former school records, immunization records, birth certificates, proof of guardianship. The student can be enrolled in school while these records are being obtained.
- If a student needs to obtain immunizations or medical records, a homeless liaison should assist the student with obtaining them, and while immunizations or records are being obtained, the student should be enrolled in school.
- Access to all of the school's programs and services on the same basis as all other students, including special education, school nutrition programs, extracurricular activities, etc.

**Tips:**

1. While legal protections exist to ensure all children, regardless of immigration status, receive an education, often migrant children and their parent/guardian need someone advocating on their behalf to ensure they are able to enroll in their local public school.
2. Contact the homeless liaison in your school district, if you are having trouble enrolling a child or youth who falls under the McKinney-Vento definition of a “homeless child or youth” or an “unaccompanied youth.” Every school district should have a homeless liaison who should be available to assist.
3. The McKinney-Vento law applies to all school-aged children and youth, and does not specify an age range; therefore, if a school allows all children between the ages of 5 and 21 the right to attend school, a child identified as a “homeless child or youth” or an “unaccompanied youth” have the right to attend school up until the age stated in the law.
4. Encourage and advocate for parents, guardians, and sponsors to request and have school meetings in their preferred language.



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- BRYCS. Guardianship Toolkit. <http://www.brycs.org/guardianship/>
  - BRYCS. Highlighted Resources on Foreign Transcript Evaluation. <http://brycs.org/clearinghouse/Highlighted-Resources-Foreign-Transcript-Evaluation.cfm>
  - Education Commission of the States. School Attendance Age Limits. (April 2013). <http://www.ecs.org/clearinghouse/01/07/04/10704.pdf>
  - Grandfamilies.org. Education - Summary and Analysis. [Includes a listing of states with educational consent laws] <http://www2.granfamilies.org/Education/EducationSummaryAnalysis.aspx>
  - Intercultural Development Research Association. Immigrant Students' Rights to Attend Public Schools. [http://www.idra.org/images/stories/eBook\\_Immigrant\\_Students\\_Rights\\_to\\_Attend\\_Public\\_Schools.pdf](http://www.idra.org/images/stories/eBook_Immigrant_Students_Rights_to_Attend_Public_Schools.pdf)
  - National Center for Homeless Education. Enrolling Children and Youth Experiencing Homelessness (Summer 2014). <http://center.serve.org/nche/downloads/briefs/enrollment.pdf>
  - U.S. Department of Education. Dear Colleague Letter: Guidance for School Districts to Ensure Equal Access for All Children to Public Schools Regardless of Immigration Status. (May 8, 2014). <http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201405.pdf>
  - Information on the Rights of All Children to Enroll in School: Questions and Answers for States, School Districts and Parents <http://www2.ed.gov/about/offices/list/ocr/docs/ga-201405.pdf>
  - Fact Sheet: Information on the Rights of All Children to Enroll in School <http://www2.ed.gov/about/offices/list/ocr/docs/dcl-factsheet-201405.pdf>
  - U.S. Department of Education. Resource Guide: Supporting Undocumented Youth. A Guide for Success in Secondary and Postsecondary Settings. (October 2015). <http://www2.ed.gov/about/overview/focus/supporting-undocumented-youth.pdf>