

STUDENTS IN WYOMING

**KNOW YOUR
RIGHTS**

ACLU Wyoming



Please advise: This document introduces important information for students in Wyoming public schools. Please note that this isn't intended as strict legal advice, but a guide to knowing what rights you are afforded while attending public school and how you can exercise them.

Email us at acluwy@aclu.org with any questions or call 307-637-4565 anytime.



DO I HAVE THE RIGHT TO A K-12 EDUCATION AS AN UNDOCUMENTED STUDENT?

YES. Every child who lives in Wyoming has the right to a free public education regardless of the child or their family's race, nationality, sex, religion, whether they speak English or not, and immigration status. Every child in Wyoming, including non-citizens and undocumented students, has a right to attend a public school in the district where their parent resides or a charter school.

You have the right to receive an education that is free from discrimination based on real or perceived immigration status.

You have the right to access free or reduced-price school meals, special education, and all school activities.

NOTE: Free and reduced-price meals have no effect on a "public charge" determination for immigration purposes.

Your parents have the right to receive information about evaluations, support services, and Individualized Education Programs (IEPs) in their native language.

You have the right to meaningfully participate in your education. This includes the right to access English language development classes.



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IMMIGRATION ENFORCEMENT ACTIONS ON SCHOOL CAMPUSES

Will the U.S. government conduct immigration enforcement actions on my school campus?

- USUALLY NO. The United States government has a policy that generally prohibits immigration enforcement actions on or directed towards school campuses. The types of schools covered by this policy include primary, secondary, and post-secondary schools such as colleges and universities, as well as licensed daycare centers, pre-schools, school bus stops, and any school-related activity or event.
- Right now, students and parents should not fear encountering immigration officials at any of these locations. But this could change in the future, so it is important to remain vigilant.

What do you mean by an “immigration enforcement action”?

- Immigration enforcement actions are actions taken by U.S. Immigration Customs Enforcement (ICE), and U.S. Customs and Border Protection (CBP) officers. Examples of such actions include searches, interviews, surveillance for immigration purposes, and arrests.

SCHOOL REQUESTS FOR STUDENT DOCUMENTS



Can my school district ask about my citizenship or immigration status for proof that I live in the school district?

- NO. School districts may NOT ask about a student's citizenship or immigration status as proof of a student's residency within a district. Schools may ask for phone bills, lease agreements, affidavits, or other documents to prove residency instead.

Do I have the right to withhold information on my citizenship or immigration status from my school districts?

- YES. You have the right to withhold information on your citizenship or immigration status from your school. Your school MAY NOT stop you from enrolling if you do not provide that information.

Can my school district request my birth certificate as proof of my age?

- YES, HOWEVER your school district may NOT stop you from enrolling in school because you lack a birth certificate or have a foreign place of birth.

Do I have the right to refuse to provide my social security number to my school district?

- YES. 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 you and your parent that providing it is voluntary and that refusing to provide it will not bar you from enrolling in or attending school, and (2) explain for what purpose the number will be used.
- A school district MAY NOT prevent you from enrolling in or attending school if you choose not to provide your social security number.

Does my parent have the right to refuse to provide their social security number to my school?

- YES. Your parent or guardian can refuse to provide their social security number if asked by a school. Your school cannot stop you from enrolling because your parent or guardian refuses to provide their social security number.

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PRIVACY OF STUDENT RECORDS

Could immigration enforcement authorities get my student records from my school?

- MAYBE. It may be possible for immigration enforcement authorities to access your student records, including identifying information such as your place of birth and immigration status if you have provided it to your school. However, it is not current policy or practice to do so. This could change in the future, so it is important to be careful about what information you share.

More details about the government's ability to obtain your student records are provided below.

Do I have the right to control who sees the student records held by my school?

- GENERALLY, YES. However, there are exceptions. A law called the Family Educational Rights and Privacy Act (also known as "FERPA") requires that your school ask for your permission before it discloses information from your student records. But there are some times when your school can share your student records without your permission, as described more below.

Could my school give my personal information, including my immigration status, to the federal government without my permission?

- YES. Although FERPA and state law protects the privacy of your student records generally, there are circumstances when your school must share such information without your permission to the federal government. For example, your school must share your records without your permission if a court issues a subpoena or court order.

What happens if a court issues a subpoena to my school for my student records?

- Your school must comply with any order it receives from a judge to turn over student records. Therefore, it is important to be cautious about what information you share.

Can my school share my place of birth with immigration enforcement authorities without my permission?

- YES. FERPA allows your school to share some of your student information, including your place of birth, email address, telephone number, and address, without your permission. However, your school can refuse to share this information. You should ask your school district to promise not to share such information.

Can other federal agencies ask my school to turn over my student records without my permission?

- IT DEPENDS. The United States Department of Justice and Department of Education could ask your school to share your student records without your permission, but they may NOT ask for just any reason. The records they request must relate to a program at your school.
- If these agencies receive such information, there are rules that make it difficult for them to re-share the information with others, such as immigration enforcement authorities.

If the United States Department of Justice or Department of Education asks for my student records, is my school required to provide those records?

- NO. Unless there is a court order to do so, your school has the right to refuse to provide such records, or parts of these records, to these federal agencies.
- You should encourage your school to adopt a policy promising not to share any information on your undocumented status with federal agencies unless required to do so by a court order.

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HIGHER EDUCATION



What rights do I have to higher education (community colleges, trade schools, colleges, or universities) as an undocumented student?

- There is no federal or state law prohibiting undocumented students from accessing higher education in the United States. Some individual schools, however, may have admissions policies that prohibit undocumented students from attending or treat undocumented students as foreign students, who must pay much higher tuition rates than in-state residents.

As an undocumented student am I eligible for federal financial aid to attend college?

- NO. Unfortunately, as an undocumented student you cannot receive federal financial aid. In Wyoming, undocumented students are also ineligible for Hathaway Scholarships. However, you may be eligible for other forms of aid such as state scholarships (outside of Wyoming), private scholarships, or university-specific programs.

If I am eligible for federal student aid but have an undocumented parent, can I complete the Free Application for Federal Student Aid (FAFSA)?

- YES. The FAFSA form does not ask about your parents' immigration status directly, and having an undocumented parent does not disqualify you from receiving federal student aid. The FAFSA form does ask for your parents' social security numbers, however. Undocumented parents should enter all 0's instead of a social security number, which will indicate that the parent is in the U.S. without authorization. There could be some risk associated with revealing an undocumented parent on your FAFSA application, which is discussed below.

Keep in mind: Never enter an ITIN or false SSN on this or any other government applications.

It's unlikely, but some students around the country have been denied financial aid because of their parents' immigration status. If that happens, you should reach out to the nearest ACLU office, because that could constitute discrimination.

Email us at acluwy@aclu.org anytime.

Many colleges and universities have resources available to help students who have undocumented parents. Contact your school's financial aid office and ask about options.

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PRIVACY OF FEDERAL STUDENT AID RECORDS

In my application for federal student aid through FAFSA, I revealed that my parents are undocumented by filling in “Os” for their social security number as asked in the FAFSA form. Could immigration enforcement authorities access this information from my FAFSA records?

- YES. There is some risk involved in submitting a FAFSA form that reveals an undocumented parent because the U.S. Department of Education can share FAFSA application information with law enforcement agencies. Immigration enforcement authorities have never requested student FAFSA information in the past, but that could change in the future.
- The Department of Education says it does not investigate parents' immigration status or use information about parents' immigration status to make any decisions about a student's eligibility for financial aid. Their website says, “When the FAFSA form is processed, only the student's citizenship/eligible noncitizen eligibility is verified.”
- Each student should make the decision that is best for them in light of this risk and the important decision to attend college.

PREPARING FOR THE POSSIBILITY OF A PARENT'S ARREST OR REMOVAL

What should I do if my undocumented parent or guardian is detained by immigration enforcement authorities?

- It is important to have a plan in place if your parent or guardian is detained by immigration enforcement authorities. We recommend that the “emergency contact” in your student file at school include information of a relative or friend who has legal status who can be available to care for you.
- It may be a good idea for your parent(s) to fill out a Custodial Power of Attorney form. This document gives another person temporary power to make decisions for your children. You can get a copy of this form, and more details regarding it, by emailing acluwy@aclu.org.

What else can I do to make sure that I am safe if my parent or guardian is detained by immigration enforcement authorities?

- Urge your school to adopt a policy that it will return any student to a family member or emergency contact listed in your student file, rather than to state protective services, if a parent or guardian is detained by immigration enforcement authorities. Your school should only call state protective services as a last resort. Your school should never contact immigration enforcement authorities.

ADDITIONAL RESOURCES

Immigration Law Resource Center-Immigration Youth:
ilrc.org/immigrant-youth

ACLU National Know Your Rights: Immigrants' Rights:
aclu.org/know-your-rights

GENERAL INFORMATION ON DACA

On June 15, 2012, the U.S. Department of Homeland Security (DHS) announced that it would not deport certain undocumented individuals who came to the United States as children. Under a directive from the DHS Secretary, these individuals may be granted a type of temporary permission to stay in the U.S. called "deferred action." The Obama administration called this program Deferred Action for Childhood Arrivals, or DACA. On September 5, 2017, DHS issued a memo reversing this policy. The reversal has since been challenged in court and the ultimate outcome is still uncertain. For more information about the current status of the DACA program visit: **nilc.org/issues/daca/**

Please keep in mind, new initial DACA applications are not currently being processed, but existing DACA holders are eligible to renew their DACA grants every two years.