



FOUNDATION

P.O. Box 32159
Newark, NJ 07102
Tel: 973 642 2086
Fax: 973 642 6523
info@aclu-nj.org
www.aclu-nj.org

ELLEN SAMUEL
President
DEBORAH JACOBS
Executive Director
EDWARD BAROCAS
Legal Director
THOMAS S. HARRIS
Development Director

Legal Backgrounder on Equal Access to Education in New Jersey

The ACLU-NJ found in a survey of school districts in every New Jersey county that schools were breaking the law by requesting information for registration that would reveal the immigration status of children seeking to enroll. This list explains what schools can and cannot do under the law.

Children's rights under the law:

- Public schools may not exclude any student from enrollment based on immigration status, as decided in the U.S. Supreme Court decision, *Plyler v. Doe*, 457 US 202 (1982).
- New Jersey law prohibits keeping students from public elementary and secondary schools on the basis of immigration/visa status, except for F1 (student) visas. N.J.A.C. 6A:22-3.4(d) and N.J.A.C. 6A:22-3.3(b).
- Children between ages 5 and 20 in a school district are entitled to an education regardless of immigration status. N.J.S.A. 18A:38-1.

What public schools cannot ask regarding your child:

- Your child's immigration status
- Documents proving the type of immigration status your child may have, including a visa, passport or employment authorization card
 - Any kind of document proving immigration status of the child's parent
 - Income tax returns
 - Social Security numbers
 - A United States birth certificate
 - Documentation or information relating to compliance with local housing ordinances or conditions of tenancy

What public schools can ask regarding your child:

- Birth certificates (a certified copy is acceptable). If not available at registration it must be provided to the school within 30 days.
- Immunization records
- Transfer card and transcripts
- A current report card if transferring from another state or district
- Proof of residency in the school district
- Proof of guardianship or natural parent

August 29, 2008