

Memo to Schools on Undocumented Students and Social Security Numbers

GUIDELINES REGARDING THE USE OF SOCIAL SECURITY NUMBERS

AND

THE ATTENDANCE AT SCHOOL OF UNDOCUMENTED STUDENTS

(This memo was sent to all district superintendents in January, 1998)

The United States Supreme Court ruled in Plyler v. Doe,
457 U.S. 202, 102 S. Ct. 2382 (1982)

That a state may not deny undocumented school-aged children entry into the public school system of that state. <http://supreme.justia.com/cases/federal/us/457/202/>

The Supreme Court overturned a Texas state law denying state aid to school districts admitting undocumented children of parents coming into the country illegally.

For Missouri schools, this means that a district cannot deny admission to school or participation in any program based on a student's undocumented status. Any such discrimination would be a denial of the equal protection of the laws in violation of the Fourteenth Amendment of the United States Constitution.

Undocumented students are also protected under the federal law regarding student records.

The Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. § 1232g; 34 CFR Part 99)

<http://www.ed.gov/policy/gen/guid/fpco/ferpa/index.html> is a federal law that protects the privacy of student education records. The law applies to all schools that receive funds under an applicable program of the U.S. Department of Education. Generally, schools must have written permission from the parent or eligible student in order to release any information from a student's education record.

The following section originally was part of the Privacy Act but was not codified; it may be found at § 552a.

It states:

- Sec. 7 (a) (1) It shall be unlawful for any Federal, State or local government agency to deny to any individual any right, benefit, or privilege provided by law because of such individual's refusal to disclose his social security account number.
- (2) The provisions of paragraph (1) of this subsection shall not apply with respect to—
- (A) Any disclosure which is required by Federal statute, or
 - (B) Any disclosure of a social security number to any Federal, State, or local agency maintaining a system of records in existence and operating before January 1, 1975, if such disclosure was required under statute or regulation adopted prior to such date to verify the identity of an individual.
- (b) Any Federal, State or local government agency which requests an individual to disclose his social security account number shall inform that individual whether that disclosure is mandatory or voluntary, by what statutory or other authority such number is solicited, and what uses will be made of it.

If mandatory disclosure is not specifically authorized under the Privacy Act, then the disclosure is voluntary. A school district may not require disclosure of a social security number or use the refusal of a student to provide a social security number as a basis for denial of enrollment. Instead, districts should have in place a procedure for assigning a school-generated number to use in place of a social security number. Parents completing a free or reduced lunch application should be allowed to write "NONE" in the blank for their children's social security number.

Students enrolling in the Missouri public schools, including those with undocumented status, are exercising a right guaranteed under the laws of the State of Missouri. To deny enrollment based on undocumented status or based on a failure to disclose a social security number violates the equal protection clause of the Fourteenth Amendment and the federal statutes previously cited. School staff responsible for enrolling students must be aware of these requirements.