

### Students Who Are Displaced Persons, Refugees, or Asylum Seekers

The United Nations (U.N.) Convention on the Rights of the Child (CRC) in 1989 asserted that in all actions pertaining to children, the primary concern should be the best interests of the child. The U.N. General Assembly and NASP have endorsed this commitment to child rights. As such, NASP supports upholding the rights of children and families who are displaced persons, refugees, or asylum seekers. Specifically, NASP recognizes that children and families often experience distress, economic hardship, and limited access to resources (including education and healthcare) as a result of fleeing their home country. Furthermore, they may endure ongoing challenges related to fleeing violence from their home country, integrating into a new and unfamiliar culture, undergoing family separation (at the border or as part of leaving their home country), and facing a constant threat of deportation of self or family members. These experiences can be traumatizing, significantly affecting children’s mental health, well-being, and overall development. School psychologists must advocate for local, state, and national policies that keep families together and enable children to remain in a culturally responsive, supportive, and safe environment.

NASP is committed to ensuring that all children and youth:

- live in communities free from violence and discrimination
- have access to mental and behavioral health services necessary to meet their needs
- are in safe, supportive, and welcoming school environments
- are protected from violence and exploitation
- have the right to survive and experience healthy development
- have access to high-quality, free, and appropriate public education

Recommendations within this document are based on research and content found in existing NASP position statements, resolutions, public statements, and best practice resources. These recommendations are also informed by federal law, the U.S. Department of Education, and other national organizations. It is important for school psychologists to be aware of the relevant legal and ethical matters outlined below in order to best support students who are displaced persons, refugees, or asylum seekers. Furthermore, school psychologists are encouraged to advocate for improved policies at the local, state, and national levels to protect the welfare of these students. It is important to note that referenced court rulings and federal guidance only apply to public school settings at this time.

In 1982, the U.S. Supreme Court found in *Plyer v. Doe* that because children who reside in the United States without legal paperwork or status do so through no fault of their own, they are entitled to the same K–12 educational opportunities that states provide to children who are citizens or legal residents. As such, U.S. public schools are obligated to provide all school-age youth with a public education, regardless of immigration status. Additionally, such students are eligible for free and reduced-price meals, special education services, 504 accommodations, and school-sponsored events and activities.

School psychologists should not disclose the immigration status of students or families in accordance with ethical (NASP, 2010) and legal guidelines. Federal law does not require school districts or their employees to report undocumented students to immigration authorities. Doing so would constitute a violation of the Family Educational Rights and Privacy Act (FERPA), which prohibits schools from providing certain types of personal information in a student's education records without consent. Other types of information that are protected by FERPA include the student's transcripts, grades, social security number, disability status, and certain evaluations.

According to guidance issued by the [Departments of Justice and Education in 2015](#), public schools may not:

- ask a child or family about their citizenship or immigration status to establish residency within the district;
- deny a homeless child (including a homeless child that is undocumented) enrollment because they cannot provide the required documents to establish residency;
- require a parent to supply a state-issued identification or driver's license to establish residency or for other purposes that would unlawfully bar a student whose parents are undocumented from enrolling in school;
- prevent or discourage a child from enrolling in or attending school because they lack a birth certificate or have records indicating a foreign place of birth;
- require parents to provide social security numbers for themselves or for their child for the purposes of enrolling or attending school;
- bar a child from enrolling in a school if a parent chooses not to provide race or ethnicity information.

Guidance from the American Civil Liberties Union (ACLU) outlines that U.S. Immigration and Customs Enforcement (ICE) and U.S. Customs and Border Protection (CBP) generally will not arrest, interview, search, or surveil a person for immigration enforcement purposes while at a school, a known school bus stop, or an education activity (unless there is prior approval by a supervisor or exigent circumstances). If an incident occurs, school staff should direct ICE/CBP agents to the superintendent (or equivalent administrator). They should share information with families who are displaced, refugees, or asylum seekers so that they are knowledgeable about their rights in the event they are approached by ICE or other agencies regarding their legal status.

NASP encourages school psychologists to advocate for federal and state policy and practices outlined below.

### **Federal Policy Recommendations**

- Require immigration agents and local law enforcement agencies to collaborate with school officials to mitigate the negative impact of impending immigration raids and small-scale enforcement activities on students.
- Enact legislation to allow undocumented students, who were brought to the country illegally by their parents, to remain in the country legally without fear of deportation.
- Oppose harmful federal policies or rules that place unnecessary burdens on undocumented students or their families that may affect a student's ability to benefit from a high-quality instructional environment, including fostering behavioral, social, and emotional well-being.
- End the use of child detention centers.

- Enact and enforce policy that allows families to remain together when they enter this country.
- Enact and enforce standards of care that ensure children and families have access to safe and sanitary conditions (including access to food, water, and medical and psychological care) if they are held in U.S. custody.
- Create and enforce policy that prioritizes placement of unaccompanied minors entering this country with relatives as soon as possible.

### **Recommendations for State/District Policy**

- Provide school personnel with information and training on the rights of students who are undocumented and on other immigration-related issues and policies.
- Establish policies and operating procedures to protect the safety of students and the information contained in their education records, including immigration status or place of birth.
- Develop operational procedures to protect the safety of students, collaborating with community agencies and organizations to ensure that schools will be a safe haven for children.

### **Related NASP Documents**

- [Position Statement: Students Who Are Displaced Persons, Refugees, or Asylum-Seekers](#)
- [Position Statement Practice Recommendations: Students Who Are Displaced Persons, Refugees, or Asylum-Seekers](#)
- [Position Statement: Child's Rights](#)
- [Press Release: NASP Calls for End to Policy Separating Families at the Border](#)
- [Press Release: NASP Calls for Immediate Improvement in the Conditions and Care Provided Children in U.S. Custody; Endorses Open School Psychology Letter](#)
- [NASP's Principles for Professional Ethics](#)

### **Other Resources**

- [Fact Sheet: Information on the Rights of All Children to Enroll in School](#)
- [FAQ for Educators on Immigrant Students in Public Schools](#)
- [Immigrant and Refugee Children: A Guide for Educators and School Support Staff](#)

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