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South Carolina Appleseed Legal Justice Center is dedicated to advocacy for low-income people in South Carolina to effect systemic change by acting in or through the courts, legislature, administrative agencies, community and the media, and helping others do the same through education, training, and co-counseling.

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# Immigrants and Education

What are your rights?



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*This brochure is for immigrants who want to know about their right to a free public education.*

## **1. Can immigrant children go to public school?**

Yes. Both documented and undocumented children have the right to go to public school for free. Schools cannot turn children away because they are undocumented. Schools cannot stop parents from putting their children in school.

It is the law that students must go to school until they are 17.

## **2. Can public schools make parents or children tell their immigration status?**

No. Schools cannot make parents or children tell if they are undocumented. Schools cannot ask any questions about immigration status. They also cannot make students or parents tell their Social Security numbers.

## **3. If a school knows a child is undocumented, can it tell other agencies?**

No. Schools cannot give any information from a student's file that shows

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a child is undocumented, unless the parents say they can. This includes immigration officials at the United States Citizenship and Immigration Services (USCIS, this was INS). School workers, like teachers and principals, have no duty to report undocumented children or their parents to the USCIS.

#### **4. What paperwork do students need to get in school?**

South Carolina schools will ask for

- an immunization (“shots”) form and
- a birth certificate or some paperwork that proves the child’s age.

Some schools also want proof that a child lives in South Carolina. You can prove this

- by showing you have paid rent in South Carolina;
- by showing you have paid utility bills in South Carolina; or
- with a statement from the people you live with if you do not pay where you live.

#### **5. What if a child does not speak or understand English very well?**

Students who do not speak, read, write, or understand English well are called Limited English Proficient (LEP). When children come to school, the school will ask if they speak a different language than English at home. If they do, they will take a test to see how good their English is. Then, LEP children must be put into a program that fits their skills. At first, they should be put into a class with kids the same age.

#### **6. What kind of program will LEP children be put into?**

There is no set program for LEP children. Schools do not have to teach children in the language they speak best. But, schools must have a program that will work to teach LEP children. The schools also must make sure that teachers are trained and books are at the LEP child’s level.

#### **7. What about Special Education and Gifted/Talent programs?**

Schools cannot put LEP children in special education programs only because they have trouble reading, speaking, or understanding English. Also, schools

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cannot turn away LEP students from gifted/talented programs only because they are LEP.

#### **8. Can undocumented children get school breakfast and lunch?**

South Carolina public schools provide healthy meals at school for free or a small price. If a family has a very low income, the children can get breakfast and lunch at school. Parents must fill out a special form. The form will ask for a Social Security Number. If parents do not have a Social Security number, they can say on the form that they do not have one. The school will not report them to the USCIS.

#### **9. What if parents are LEP?**

Schools must send LEP parents letters and all school information in a language the parents will understand. For example, if the parents only speak Spanish, the school must to send them school information in Spanish. It is important to tell the school what language is spoken at home.

#### **10. What if a school will not let an undocumented child enroll?**

First, remind the school that undocumented children have the right to go to public school **for free**. If the school employee will not listen, ask to speak to the principal. If the school will not listen, talk to an attorney where you live. You can also contact the Office of Civil Rights in Atlanta at (404) 562-6350.

#### **11. Can undocumented students get financial or in-state tuition for college?**

No. Right now, undocumented students cannot get financial aid or in-state tuition. There is a bill called the DREAM Act that may change this in the future. The DREAM Act is the Development, Relief, and Education for Alien Minors Act. If it becomes law, state colleges will be allowed to give in-state tuition to undocumented students. Undocumented students would also have a way to stay in the United States legally.