



Regardless of immigration status.

Federal Legislation Affecting Education

ScholarshipsA-Z works to provide access to education for all students, regardless of immigration status. This includes students who are often defined as *undocumented* because they do not possess documentation to be considered a Citizen or Legal Permanent Resident of the United States. The information below is particular to students who identify as *undocumented*.

1974: THE FAMILY EDUCATIONAL RIGHTS AND PRIVACY ACT

(FERPA) (link to <http://www2.ed.gov/policy/gen/reg/ferpa/index.html>)

The FERPA is a federal law that protects the privacy of student educational records. The law applies to all schools that receive funds under an applicable program of the U.S. Department of Education. FERPA gives parents certain rights with respect to their children's educational records. These rights transfer to the student when he or she reaches the age of 18 or attends a school beyond the high school level. Any information that a student shares with a college or university is protected by this Act.

1982: PLYLER V. DOE (link to

<http://caselaw.lp.findlaw.com/scripts/getcase.pl?court=us&vol=457&invol=202>)

The U.S. Supreme Court invalidated a Texas law authorizing school districts to bar undocumented students from public elementary and secondary schools. The court noted that the statute imposed a "lifetime hardship on a discrete class of children not accountable for their disabling status." The case did not explicitly address the question of postsecondary education; however, Legislative Counsel has suggested that Plyler v. Doe would not apply to postsecondary education. Elementary and secondary education (K -12) is a fundamental and protected right. All children, including undocumented children, can attend any public elementary and secondary school free of charge.



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**1996: ILLEGAL IMMIGRATION REFORM AND IMMIGRANT
RESPONSIBILITY ACT (IIRIRA)** (link to

<http://www.visalaw.com/96nov/3nov96.html>)

(§§ 505-507) IIRIRA prohibits undocumented immigrants from accessing any postsecondary education benefits unless a U.S. citizen or national is eligible for the same benefit. For example, any state that provides in-state tuition to undocumented students must also provide in-state tuition to out-of-state residents (both permanent residents and citizens).

DREAM Act: Development, Relief, & Education for Alien Minors Act

(link to <http://www.nilc.org/immlawpolicy/dream/index.htm>)

The Development, Relief, and Education for Alien Minors or DREAM Act has been proposed in federal and state government multiple times. While there have been several variations of the law, the goal of the DREAM Act has been to increase higher education opportunities for undocumented students. Versions of the law have proposed allowing a path to legal residency based on students' enrollment in college, the military, or community service work and making financial aid programs (such as loans and limited work study) available to undocumented students.