

Welcoming Immigrant Children to School: A Report of North Carolina School Districts

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**Children's
Law Clinic**

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focused on protecting children

BACKGROUND

Immigrant children who live in the United States, even those who are undocumented, have a constitutional right to enroll in public school. Furthermore, the federal government has forbidden the denial of education on the basis of immigration status and has prohibited school districts from chilling a child's access to public education. This report examines how well North Carolina school districts comply with their obligation to enroll immigrant children.

- North Carolina is home to about 800,000 immigrants.¹ Of the 1.45 million children in North Carolina public schools, roughly 55,000 are immigrants.²
- Roughly 33,000 school-aged, undocumented immigrant children live in North Carolina.³ Additionally, approximately 170,000 U.S. citizen children live in North Carolina in the care of at least one undocumented parent.⁴
- The U.S. Supreme Court, in *Plyler v. Doe*, held that it is unconstitutional for school districts to deny children enrollment in public schools because of their immigration status.⁵
- The U.S. Departments of Justice and Education have issued further guidance on this Supreme Court ruling. While school districts are permitted to ensure that students are residents of the districts, they may not require a social security number or discriminate on the basis of a foreign birth certificate.⁶
- North Carolina school districts are required to collect a certificate of immunization, a health assessment, and proof of age from children seeking to enroll.⁷ Many districts, however, require documentation in addition to what is required by state law, or are inflexible about what proofs of residence or age are required, creating significant challenges for immigrants seeking to enroll.⁸

This brief summarizes key features of a longer report that presents a comprehensive picture of the enrollment practices of North Carolina school districts and how they affect immigrant children and families.

KEY FINDINGS

1. About 60% of North Carolina public school districts inhibit enrollment for immigrant children in at least one way.
2. Nearly one-third of districts require two or more documents to prove residency in a district, which can burden immigrant families who do not have documents in their name tied to their residence.
3. Roughly one quarter of districts accept only a "certified birth certificate" as proof of age, which can hinder enrollment of immigrant children who may come from countries with a poor record of registering births.
4. Nearly one quarter of districts request a social security number without indicating that the request is optional or voluntary, discouraging enrollment of immigrant children.
5. Fewer than one-fifth of school districts post a Spanish version of their enrollment form on the district website.

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Proof of Residency

Under North Carolina law, children seeking to enroll in a particular school district must reside within that district’s boundaries.⁹ Each school district can determine what will constitute proof of residency. Districts may allow a wide range of documents to prove residency, making it simpler to enroll, or they may impose stricter requirements on the type of documents they will accept. It is much easier for immigrants to prove residency in a district when a wide range of documents are allowed as proof. On the other hand, when the district limits proof of residency to a specific type of document, that practice can dramatically inhibit the enrollment of immigrants. Similarly, when a district requires multiple documents to show residency, enrollment becomes more difficult.

For some immigrant families, leases, mortgage statements, or utility bills may not exist because the families are transitory or live in unconventional living arrangements, such as being “doubled-up” with extended families or friends. Accepting a cell phone bill with an address within the district reflects flexibility that accommodates the unique living arrangements of some immigrant families. A cell phone bill may be the only bill that an immigrant family has in its own name. Of the 115 school districts in North Carolina, 92% accept either a lease or mortgage or utility bill for proof of residency. In contrast, only 20% of the districts allow the use of a cell phone bill for proof of residency.

North Carolina school districts likewise vary with regard to how many documents are required to prove residency. Again, because immigrant families may be more likely to be in a less conventional living arrangement, particularly with families sharing space and bills, a requirement to produce multiple residency documents may be especially challenging for an immigrant family. Thus, this report classifies districts that require more than one residency document as inhibiting enrollment. **Figure 1** displays the number of documents required by North Carolina school districts for proof of residency. While 69% of districts require only one document for proof of residency, more than a quarter of districts require two or more.

Number of Documents Required for Proof of Residency

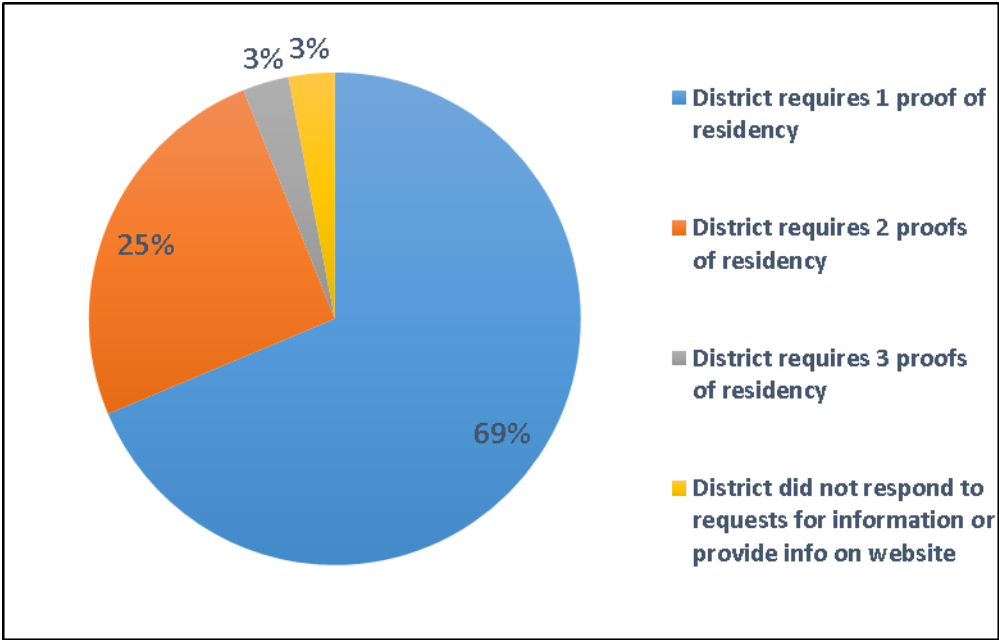


Figure 1. The number of required proof of residency documents for North Carolina school districts.

2 Proof of Age

Flexibility — or lack thereof — with regard to proof of age often affects the ease with which immigrant children can be enrolled. Under North Carolina law, a student seeking enrollment in a public school must be between the ages of five and 21. The law also requires that a parent seeking to enroll his or her child in public school for the first time provide evidence of the child’s date of birth.¹⁰ Districts may accept any evidence that is “competent and verifiable” proof of age, meaning that a district is permitted to accept a wide range of evidence¹¹. This range may include, but is not limited to, medical documents or religious documentation demonstrating a child’s age.

Immigrants may face challenges in acquiring proof of age. This may be especially difficult for children born in the developing world, as an estimated 41% of births in a given year will go “unregistered” in these countries.¹² Remarkably, the inability to acquire a birth certificate is not exclusive to the developing world; even in the United States, immigrant parents along the southern Texas border have been denied birth certificates for *U.S.-born children* since 2013.¹³ Thus, a strict demand of a birth certificate can create a barrier for student enrollment. Consequently, districts that accept various types of proof of age were considered to be facilitating enrollment, while those that are restrictive about acceptable proof were considered to be creating an enrollment barrier.

Figure 2 illustrates the types of documentation allowed by North Carolina school districts. While almost half of the districts accept any type of birth certificate, 23% strictly require a “certified birth certificate.” Another 23% of districts accept a wide range of proofs of age.

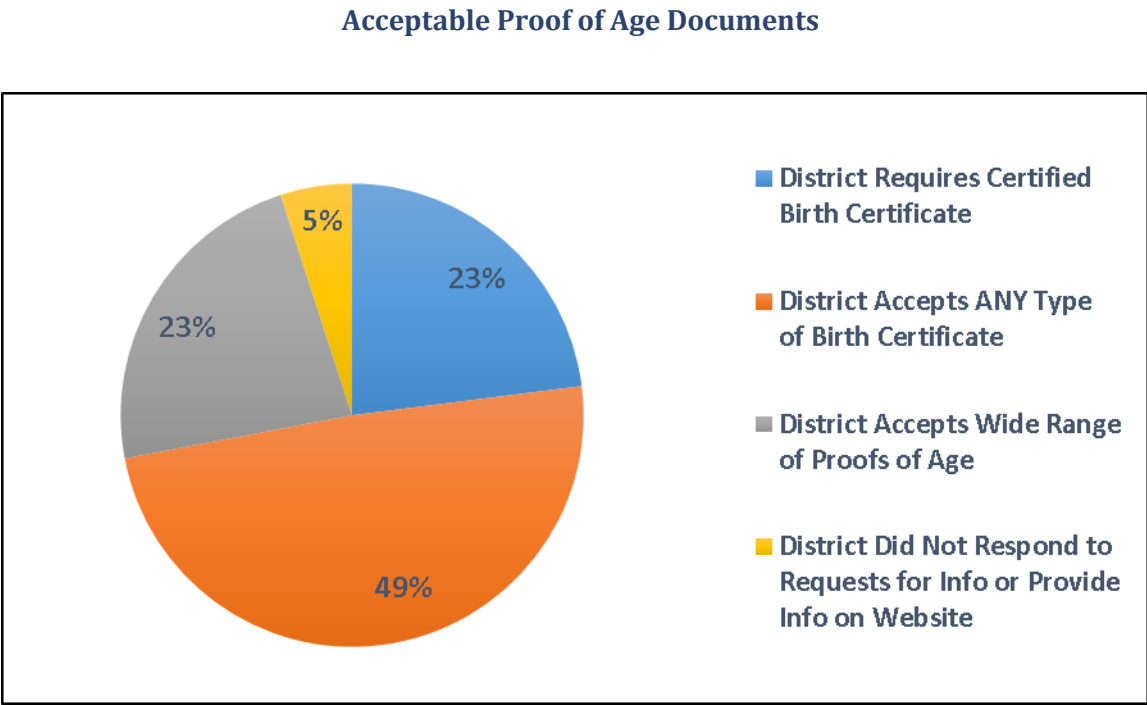


Figure 2. Almost half of schools accept any type of birth certificate.

3 Social Security Number

Federal law makes clear that school districts may not bar a child from school due to a lack of a social security number.¹⁴ Schools may request that a social security number be provided, but “[A]ny requests [for a social security number must] be uniformly applied to all students and not applied in a selective manner to specific groups of students.”¹⁵ Thus, no North Carolina public school district can require that parents produce their own or a child’s social security number as a condition of enrollment. However, districts may mislead parents by failing to note that providing a social security number is voluntary or optional, or by failing to note that enrollment cannot be denied because a social security number was not provided.

The request for a social security number is particularly troubling for immigrant families, as social security numbers are almost impossible to obtain for undocumented immigrants.¹⁶ This request can cause immigrant families to conclude that they cannot enroll their children in public school. Thus, districts that request a social security number, and especially those that fail to indicate that it is optional, are considered in this report to have created a barrier to enrollment.

This study found that of the 115 districts in North Carolina, just over a quarter (32 districts) request a social security number as part of the enrollment process. Only five districts indicate that provision of the number is voluntary or optional. Three districts request a social security number on their Spanish-language enrollment form but not on their English enrollment form.

Schools Requesting Social Security Number for Enrollment

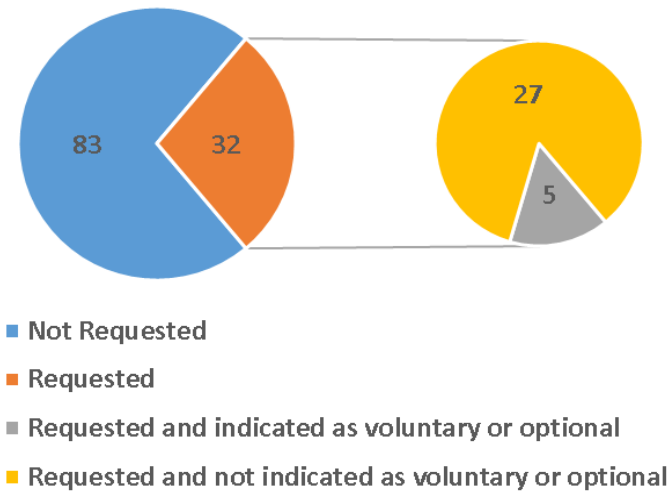
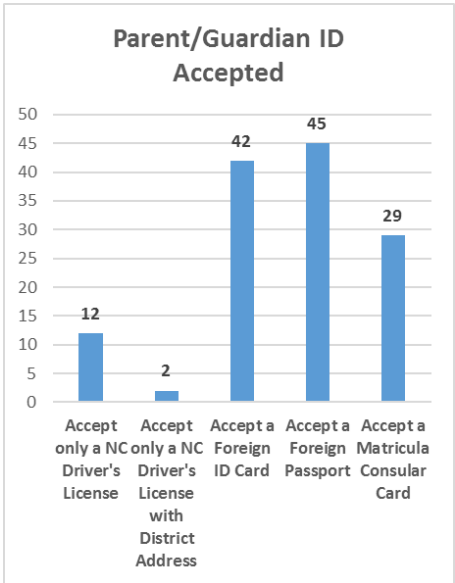


Figure 3. Roughly 28% of North Carolina school districts choose to request a social security number.

4 Parental Photo Identification

The requirement of parental photo identification for enrollment adds yet another barrier to an immigrant child’s access to education. As North Carolina state photo IDs and driver’s licenses are restricted to state residents who have a social security number or valid immigration status, most undocumented parents cannot get either type of identification.¹⁷ Therefore, districts that require parents to present a North Carolina photo ID during enrollment are considered to be inhibiting the enrollment of immigrant children.



Sixty-two percent of North Carolina districts require a parent/guardian to present a photo ID for enrollment. Twelve of the 115 districts strictly require a North Carolina driver’s license or state-issued ID card, while 42 districts accept a foreign ID card and 45 accept a foreign passport.

5 Accessibility of Enrollment Information

Just as enrollment requirements vary among school districts, availability of information regarding enrollment requirements was found to differ among districts. School districts can make it easy for parents to find the necessary information by posting the information online, posting in online in Spanish or in another language spoken in the district, and by answering a caller’s enrollment questions. These practices were all considered to enhance the ability of a family to enroll their children. A district was considered to be impeding enrollment if these practices were not maintained.

Of the 115 school districts in North Carolina, about 60% list at least a partial description of their enrollment requirements on their website. A little more than a quarter of the districts (32 districts) post their enrollment form or packet online, with 18 of the 32 districts also posting a Spanish version of the enrollment form online. Most of the districts (103 districts) responded to telephone requests for enrollment information in English, while only 32 districts responded to telephone requests for information in Spanish. Ten districts hung up the phone without any communication upon hearing a request in Spanish. Two districts (Surry County Schools and Clinton City Schools) do not post enrollment information on their websites and did not respond to telephone requests for enrollment information.

Enrollment Information Accessibility

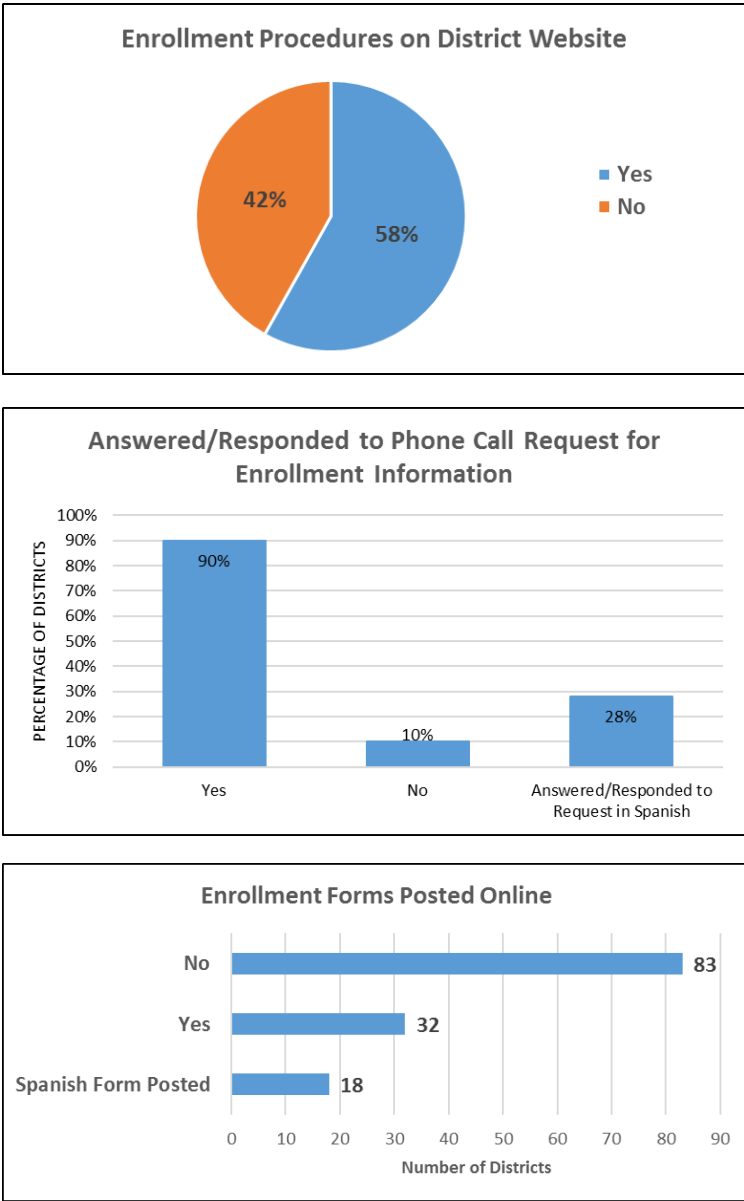


Figure 4. While the majority of school districts list at least a partial description of enrollment procedures on their websites, only slightly more than a quarter of schools posted enrollment forms online.

Fewer than one-fifth of North Carolina school districts made Spanish-language versions of enrollment forms and materials available on their district websites.

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Recommendations

In order to create an immigrant-friendly educational environment, North Carolina school districts and charter schools should do the following:

- Make information about enrollment requirements easy to obtain and access. Each school district's website, as well as each school's website, should include an easy-to-locate link to the enrollment requirements and to any forms that need to be completed. Both the requirements and forms should be available in, at least, English and Spanish.
- Be flexible with regard to what evidence will be accepted to prove residency in the district.
- Be flexible with regard to what evidence will be accepted to prove age. Districts should accept a wide variety of documents to establish a child's date of birth and/or age, including religious documents and informal family records.
- Refrain from requesting a social security number for a student or parent/guardian.
- Refrain from requiring a parental photo identification as part of the enrollment process.
- Be alert to children covered by the McKinney-Vento Homeless Assistance Act and assure they are enrolled in compliance with the law. Children of migrant workers, children whose parents have been deported, and immigrant children in "doubled-up" housing should all be considered homeless children and receive the enrollment protections of the McKinney-Vento law.
- Be flexible and helpful when caretaker adults who are not the child's parents seek to enroll a child.

The full version of this report can be found at https://law.duke.edu/childlaw/docs/Immigration_Report_NC.pdf

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Conclusion

In the United States, all children, regardless of immigration status, race, ethnic background, or native language, are guaranteed equal access to public education. However, across North Carolina, numerous public school districts have implemented policies and practices that discourage, and sometimes entirely prevent, the enrollment of immigrant children.

These measures violate the Constitution, federal law, and state law. As a result, these districts should amend their policies and practices to ensure that all students are allowed their right to enroll in public school and are welcomed there.

ENDNOTES

- ¹ This is about 8% of the state's 10 million residents. Immigrants make up just over 10% of the state's workforce. Lucy Fyler, *North Carolina: A New Immigrant Destination*, NAT'L IMMIGRATION FORUM (Mar. 11, 2016), <http://immigrationforum.org/blog/north-carolina-a-new-immigrant-destination/>.
- ² U.S. Census Bureau, 2010-2014 American Community Survey 5-Year Estimates—North Carolina, Relevant Children – Enrolled Public, Place of Birth, Selected Social Characteristics of Children in the United States, tbl.CDP02. available at <https://nces.ed.gov/programs/edge/tables.aspx?ds=acsProfile&y=2014> (enter "State" then "North Carolina" then "Relevant Children – Enrolled Public" then "[CDP02] Selected Social Characteristics of Children in the United States" then "[CDP02.5] Place of Birth").
- ³ Profile of the Unauthorized Population: North Carolina, Migration Policy Institute, <http://www.migrationpolicy.org/data/unauthorized-immigrant-population/state/NC> (last visited April 16, 2017).
- ⁴ *How Does North Carolina's HB318 Impact Children?*, FIRST FOCUS (Nov. 23, 2015), <https://firstfocus.org/wp-content/uploads/2015/11/How-Does-North-Carolina%E2%80%99s-HB-318-Impact-Children.pdf>.
- ⁵ *Plyler v. Doe*, 457 U.S. 202 (1982).
- ⁶ See "Dear Colleague" Letter from Russlyn Ali, Assistant Sec'y, Office for Civil Rights, U.S. Dep't of Educ., Charles P. Rose, Gen. Counsel, U.S. Dep't of Educ., & Thomas E. Perez, Assistant Attorney Gen., Civil Rights Div., U.S. Dep't of Justice 1-2 (May 6, 2011), available at <http://www.ed.gov/about/offices/list/ocr/letters/colleague-201101.pdf>.
- ⁷ N.C. Gen. Stat. § 130A-109.
- ⁸ North Carolina law does not explicitly state that school districts are allowed to decide what documents and requirements are necessary for enrollment. However, according to the North Carolina Department of Public Instruction, "[e]nrollment is handled at the local level. Please contact your school district for further details." See *Common Questions: Enrollment/Moving to North Carolina*, PUBLIC SCHOOLS OF NORTH CAROLINA, <http://www.dpi.state.nc.us/questions/> (last visited Dec. 5, 2016).
- ⁹ See N.C. Gen. Stat. § 115C-366(a) (2011) ("All students under the age of 21 who are domiciled in a school administrative unit who have not been removed from school for cause, or who have not obtained a high school diploma, are entitled to all the privileges and advantages of the public schools to which they are assigned by the local boards of education.").
- ¹⁰ N.C. Gen. Stat. § 115C-364(c).
- ¹¹ N.C. Gen. Stat. § 130A-109.
- ¹² Karen Mercado Asencio, *The Under-Registration of Births in Mexico: Consequences for Children, Adults, and Migrants*, Migration Policy Institute (April 12, 2012), <http://www.migrationpolicy.org/article/under-registration-births-mexico-consequences-children-adults-and-migrants>.
- ¹³ Molly Hennessy-Fiske, *Immigrants sue Texas over state's denial of birth certificates for U.S. born children*, L.A. Times (July 18, 2015), <http://www.latimes.com/nation/immigration/la-na-texas-immigrant-birth-20150718-story.html>.
- ¹⁴ See "Dear Colleague" Letter from Russlyn Ali, Assistant Sec'y, Office for Civil Rights, U.S. Dep't of Educ., Charles P. Rose, Gen. Counsel, U.S. Dep't of Educ., & Thomas E. Perez, Assistant Attorney Gen., Civil Rights Div., U.S. Dep't of Justice 1-2 (May 6, 2011), available at <http://www.ed.gov/about/offices/list/ocr/letters/colleague-201101.pdf>.
- ¹⁵ *Id.*

ENDNOTES

¹⁶ Under the Deferred Action for Childhood Arrivals (DACA) Program certain undocumented immigrants who entered the United States as minors are eligible to apply for a social security number. See Social Sec. Admin., Social Security Number and Card – Deferred Action for Childhood Arrivals, https://www.ssa.gov/pubs/deferred_action.pdf (last visited April 16, 2017).

¹⁷ See N.C. Gen. Stat. § 20-7(b)(1) (“The Division shall not issue an identification card, learners permit, or driver’s license to an applicant who fails to provide an applicant’s valid social security number.”); N.C. Div. of Motor Vehicles, North Carolina Driver’s Handbook 18 (Jan. 1, 2016), https://www.ncdot.gov/download/dmv/handbooks_NCDL_English.pdf (“To obtain a driver license, learner’s permit, or ID card, you must provide a Social Security Number (SSN). If you are not eligible for a SSN, you must provide document(s) indicating your legal presence in the U.S.”).