

## **FACT SHEET II:**

### **Additional Questions & Answers Enrolling New Immigrant Students**

This fact sheet supplements the previously released [Fact Sheet: Educational Services for Immigrant Students and Those Recently Arrived to the United States](#).

#### **A. GENERAL ENROLLMENT INFORMATION**

##### **A-1. What forms might unaccompanied children receive from HHS at their release and bring with them when they are living with a sponsor and seeking to enroll in a local school?**

Youth who have been released from HHS shelters to a sponsor receive certain paperwork and forms from HHS at the time of their release. For example, youth may have copies of a “Verification of Release” form which shows their name and the name and address of the sponsor who is caring for the child. Such forms may indicate, either directly or indirectly, that a particular youth is involved in immigration proceedings. In addition, HHS requires that sponsors be provided with a copy of the child’s medical and immunization records compiled during their time in custody. Sponsors are made aware that they may be required to provide certain documents, including immunization records, to the school upon enrollment, depending on the local school district’s policies.

Although schools and/or school districts should not ask for HHS “Verification of Release” forms, some youth living with a sponsor may bring the HHS Verification of Release form along with their immunization records with them when they arrive at school to enroll. If voluntarily presented, the HHS Verification of Release form may be appropriate for schools to accept as proof of identity, residency, and age for purposes of enrolling these children.

##### **A-2. Do schools need to maintain any HHS forms or other documents presented by a child at enrollment?**

No. Generally, in order to enroll a student schools only need documentation necessary to establish the residency and age of a child, unless the child is eligible to enroll immediately in school without such documentation under the McKinney-Vento Act (see discussion of McKinney-Vento Act in [Fact Sheet: Educational Services for Immigrant Students and Those Recently Arrived to the United States](#)). Thus, unless the HHS forms presented by the child provide information necessary to assist with enrollment, e.g., information about a child’s identity, residency or age that is not otherwise available, schools need not maintain records of the HHS forms or other documents voluntarily presented by students. As discussed further in Questions B-1 through B-3 below, schools also need not maintain records of the HHS forms for purposes of determining eligibility for the immigrant program in Title III of the Elementary and Secondary Education Act of 1965, as amended (ESEA). The relevant information needed for those purposes may be obtained in other ways.

##### **A-3. Do all unaccompanied children meet the definition of “refugees” for purposes of the HHS Refugee School Impact program?**

No. U.S. law provides a specific definition of a “refugee” that does not necessarily apply to unaccompanied children who have been apprehended at the U.S. border. Although unaccompanied children may have forms showing that they were temporarily in the care and custody of HHS’s Office of Refugee Resettlement, they are not consequently considered “refugees” under U.S. law. Thus, the number of unaccompanied children is not itself considered in the formula used to distribute the [HHS Refugee School Impact program](#) funds to states.

## **B. TITLE III OF THE ESEA – ENGLISH LANGUAGE ACQUISITION AND IMMIGRANT STUDENTS**

### **B-1. Under ESEA Title III, what funds may be available that can help educate immigrant students?**

There are two programs under ESEA Title III that may be available to help educate immigrant students once they are enrolled in school. First, many school districts receive formula subgrants under Title III, Part A (English Language Acquisition and Language Enhancement) for helping limited English proficient students (also known as English Learners or ELs) attain English proficiency and develop high levels of academic attainment in English. The English Language Acquisition subgrants are used by school districts to supplement their basic services for English Learners. Basic services for English Learners are designed to meet the district's civil rights obligation to enable English Learners to meaningfully participate in the district's educational programs. Second, many school districts also receive Title III immigrant subgrants, which are described in further detail in the [\*Fact Sheet: Educational Services for Immigrant Students and Those Recently Arrived to the United States\*](#) under the heading "English Language Acquisition Programs." Additional information about Title III is available [here](#) and [here](#).

### **B-2. What information is needed to determine whether students are "immigrants" for purposes of the Title III immigrant children and youth program?**

Section 3301(6) of Title III of the ESEA defines immigrant children and youths as individuals who:

- are aged 3 through 21;
- were not born in any State (defined as each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico); and
- have not been attending one or more schools in any one or more States for more than 3 full academic years. The months need not be consecutive.

For example, if a student was enrolled in a school in the United States three years ago from January through April (four months), left school to return to his native country, returned two years later to attend a different school in the United States for one month, left school again, and has now returned, for Title III purposes the student would be deemed to have been enrolled in schools in the United States for a cumulative total of five months.

Thus, information about a student's date of birth, place of birth, and prior school enrollment would provide sufficient information to determine if a student meets the definition of immigrant children and youth under Title III.

### **B-3. How should districts collect data for purposes of determining Title III immigrant children and youth program eligibility and providing information for within-state allocations under Title III?**

To determine whether or not a student meets the Title III definition of an immigrant child and youth, a school and/or district should not ask about a student, parent, guardian, or sponsor's citizenship or immigration status or date of entry into the United States. Such information has no bearing on whether or not the student meets the definition of immigrant child or youth for Title III purposes, and may create a chilling effect that could discourage students and families from enrolling in school.

Rather, for purposes of determining if a student meets the definition of immigrant children and youth under Title III, a school should request only information about a student's date of birth, place of birth, and prior school enrollment.

- First, in seeking such information, the school and/or district should note in writing that providing the information is not required and that the requested information will only be used to determine whether the child may be eligible for programs offered in the district that provide enhanced instructional opportunities for immigrant children and youth.
- Second, the school and/or district should determine whether a student meets the first two criteria of the definition of immigrant child or youth (confirming age and birth outside the United States). In collecting such information, schools and/or districts should pose the same question of all students and ensure that the information is not used to discriminate against students in any way.
- Finally, only after determining that a student meets the initial criteria for Title III eligibility should the school and/or district then ask questions to determine the total cumulative number of months that the student has attended schools in the United States.

## C. ADDITIONAL INFORMATION AND TECHNICAL ASSISTANCE

### C-1. Is there a place to get more information or technical assistance about best practices and legal requirements on enrollment procedures?

Yes.

- For specific questions about ESEA Title III, LEAs should contact their State program office. SEAs should contact the program officer at the U.S. Department of Education who has been assigned as their state contact.
- For questions on research or approaches to support English Learners, please visit the Center for English Language Acquisition website [here](#).
- For additional technical assistance regarding guidance issued by the Departments of Justice and Education reminding school districts of the legal requirements to ensure that enrollment procedures do not discriminate based on race, color, national origin, immigration, or citizenship status ([DCL](#), [Fact Sheet](#), and [Questions and Answers](#)), you may contact the Department of Education Office for Civil Rights (OCR) at (800) 421-3481 or [ocr@ed.gov](mailto:ocr@ed.gov). You may also visit [here](#) for the OCR enforcement office that serves your area.
- For additional information about the HHS Refugee School Impact program, please contact HHS through [Rezene Hagos](#), State Analyst, Division of Refugee Assistance, Phone: 202-205-8051, online [here](#).
- For general information about equal access to public education, please visit OCR's website at [www.ed.gov/ocr](http://www.ed.gov/ocr).

### C-2. If a student or family requests help identifying legal services, are there available resources that can be shared?

Yes.

- For information about the U.S. Department of Justice's (DOJ) Legal Orientation Program for Custodians (LOPC) of Unaccompanied Minors, please see:
  - [English Version](#).
  - [Spanish Version](#).

- For additional information about legal service organizations that provide free or low-cost immigration legal assistance and representation for non-detained children in immigration proceedings, please visit [here](#).
- For information from DOJ's Executive Office of Immigration Review about free legal service providers in 30 states, please visit [here](#).