



FACT SHEET II: Additional Questions & Answers on 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

A1. 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.

A2. 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.

A3. 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

B1. 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](#).

B2. 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.

B3. 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

C1. 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. 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.

C2. 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](#).
- For information about advocacy for minors with disabilities available through the National Disability Rights Network, please visit [here](#).

For an electronic version of this factsheet, please visit:
www.ed.gov/unaccompaniedchildren

Unaccompanied Children and Health Care

AUGUST 18, 2014

Recently, the U.S. Dept. of Homeland Security (DHS) reported that U.S. Customs and Border Protection (CBP) has apprehended nearly 63,000 unaccompanied children at the border since October 2013.¹ The vast majority of the children are nationals of El Salvador, Guatemala, and Honduras, and are fleeing violence and poverty in their home countries. Most have been apprehended in Texas's Rio Grande Valley and transferred to a number of temporary and permanent detention centers and housing facilities, primarily in the South and Southwest.²

Who is considered an "unaccompanied alien child" (UAC)?

An "unaccompanied alien child" is defined by statute as a child who has no lawful immigration status in the U.S.; who has not attained 18 years of age; and who has no parent or legal guardian in the U.S., or for whom no parent or legal guardian in the U.S. is available to provide care and physical custody.³

Where are unaccompanied children being housed?

Unaccompanied children who are apprehended at the border or who turn themselves in to CBP agents are taken into custody by CBP and placed in short-term facilities. By law, unaccompanied children who are not nationals of Mexico or Canada must be transferred to the custody of the Office of Refugee Resettlement (ORR), a division of the U.S. Dept. of Health and Human Services, no later than 72 hours after the child was apprehended.⁴ ORR then houses the children until they are able to place them in the care of a parent, legal guardian, close friend, or foster care.

Because of the overwhelming number of recent arrivals, ORR opened temporary facilities for unaccompanied children in U.S. Dept. of Defense military facilities, including Lackland Air Force Base in Texas, Fort Sill in Oklahoma, and Port Hueneme Naval Base in California. However, all these temporary facilities have since been closed.⁵

What kinds of health care issues are affecting unaccompanied children?

A majority of recently arrived unaccompanied children are fleeing violent conditions in their home countries. The trauma they experienced there is compounded by the profound mental and physical stress of the dangerous journey to the U.S. Along the way, they are extremely vulnerable to being physically and sexually abused, as well as trafficked.⁶

In addition, being locked up in a detention facility can negatively affect the mental and physical health of both children and adults, causing profound trauma and stress.⁷ And, once released into the community, these children often face a difficult transition into a new family setting, a new culture, and a new language. Given these experiences, many unaccompanied children may suffer from post-traumatic stress disorder (PTSD), depression, and other psychological and psychosocial issues.

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Protesters in some cities, have voiced concerns about the health of children who were to be temporarily housed in those cities. Health-care experts have said that these fears are unfounded.⁸ Moreover, access to health care in many Latin American countries is comparable to that in the U.S. For example, the vaccination rate in the U.S. is 92 percent. The rate is actually higher in many Central American countries (93 percent), and, in Guatemala, where universal health care is the norm, vaccinations are fully funded by the government.⁹

Reports show that cases of infectious diseases among these children are rare. They are more likely to suffer from ailments such as dehydration, heat exhaustion, scabies, lice, and foot and ankle injuries—all treatable conditions—as result of their arduous trip to the U.S.¹⁰

What health care services are available to unaccompanied children who are in immigration detention or being housed by ORR?

Upon first being detained by CBP, unaccompanied children are given a basic medical screening. Before being transferred to a facility away from the border, all children are given a “fit to travel” health screening.¹¹ Once the children are in the custody of ORR, they receive a second medical screening for physical and psychological issues. According to the U.S. Centers for Disease Control and Prevention, the children are vaccinated and given a mental health exam, and are also screened for tuberculosis.¹²

What kinds of services are available to them after they are released?

ORR houses unaccompanied children in approximately 100 short-term shelters or residential facilities across the country, but the agency will not reveal these facilities’ names and locations. Thus, it is difficult to coordinate provision of services to children who are subsequently released to their parents or legal guardians throughout the U.S. Because provision of health care and mental health services to the children is primarily a local issue, advocates have recommended that ORR work with local child welfare experts to coordinate post-release caseworker services, including access to health care.¹³

Health care services available to unaccompanied children vary from state to state and locality to locality. As a group, the children are not eligible to access a particular health care coverage program, such as Refugee Medical Assistance or the Children’s Health Insurance Program, once they are released from government custody.

Unaccompanied children also are ineligible for health care coverage under the Affordable Care Act unless they have an eligible immigration status—for example, unless they have applied for asylum or special immigrant juvenile status. Instead, each child’s access to health care depends on his or her particular immigration circumstances and the health care eligibility rules for programs that are available where the child is released. But even in states whose eligibility rules for children’s health coverage are expansive, many unaccompanied children may still not qualify because, for example, the federal government is contemplating removing them from the country.

More information about unaccompanied children is available at
www.nilc.org/unaccompaniedkids.html

¹ “Southwest Border Unaccompanied Alien Children” (U.S. Customs and Border Protection webpage, undated), www.cbp.gov/newsroom/stats/southwest-border-unaccompanied-children (last visited Aug. 13, 2014).

² Cindy Carcamo, “Immigrant Youths Captured at Border Now at 63,000 in Last Nine Months,” *Los Angeles Times*, www.latimes.com/nation/nationnow/la-na-nn-immigration-minors-update-20140807-story.html (last visited Aug. 13, 2014).

³ 6 U.S.C. § 279(g)(2).

⁴ William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008, 8 U.S.C. § 1232.

⁵ Jon Herskovitz, “U.S. to Close Three Shelters as Flow of Migrant Children Wanes,” *Reuters*, www.reuters.com/article/2014/08/05/us-usa-immigration-shelters-idUSKBN0G521020140805 (last visited Aug. 13, 2014).

⁶ Pam Fessler, “Trauma Plagues Many Immigrant Kids in U.S. Illegally,” *National Public Radio*, <http://www.kunc.org/post/trauma-plagues-many-immigrant-kids-us-illegally> (last visited Aug. 13, 2014).

⁷ *Children in Danger: A Guide to the Humanitarian Challenge at the Border* (American Immigration Council, July 2014), www.immigrationpolicy.org/special-reports/children-danger-guide-humanitarian-challenge-border.

⁸ Mariana Dale, “As Final Migrant Kids Leave Nogales, Officials Say They Are in Good Health,” *Arizona Republic*, July 19, 2014, www.azcentral.com/story/news/politics/immigration/2014/07/18/final-migrant-kids-leave-nogales-officials-say-good-health/12874059/ (last visited Aug. 13, 2014).

⁹ Rachel Pearson, “Disease Threat from Immigrant Children Wildly Overstated,” *Texas Observer*, July 10, 2014, www.texasobserver.org/disease-threat-immigrant-children-wildly-overstated/ (last visited Aug. 13, 2014).

¹⁰ Linda Poon, “The Unaccompanied Immigrant Minors Have Health Issues — but Not the Ones You'd Think,” *National Public Radio*, www.scpr.org/news/2014/07/22/45496/the-unaccompanied-immigrant-minors-have-health-iss/ (last visited Aug. 13, 2014).

¹¹ “Unaccompanied Children Frequently Asked Questions” (Administration for Children and Families, U.S. Dept. of Health and Human Services webpage, undated), www.acf.hhs.gov/unaccompanied-children-frequently-asked-questions (last visited Aug. 13, 2014).

¹² *Id.*

¹³ *Children in Danger*, *supra* note 7.

**Unaccompanied Immigrant Children
Education and Homelessness
November 2014**

NAEHCY offers this short document to assist our members in providing appropriate educational services to unaccompanied immigrant children¹ who may be arriving in their communities. Please note that this document provides only an over-simplified snapshot of immigration law and policy as it affects unaccompanied immigrant children. It is designed to assist McKinney-Vento and other education staff to provide appropriate services to these children. More detailed information, including an August, 2014 fact sheet from the US Department of Education, is available at the websites listed at the end of the document.

Background

Significant numbers of unaccompanied immigrant children from El Salvador, Guatemala and Honduras have been arriving to the US since at least 2007. However, as gang violence and sexual assaults in those countries have increased, this immigration also has increased, particularly from Honduras. In FY 2009, 3,304 unaccompanied children were apprehended in the US (including 968 from Honduras); by May 31 of FY 2014, the number had risen more than tenfold to 34,611 (including 13,282 from Honduras).

The basic process an unaccompanied immigrant child goes through upon being apprehended is as follows: Initial detention leads to temporary shelter, often on a military base (average length of stay is 35 days), and ultimately a longer-term placement, most often with individuals (87% of children placed with sponsors are placed with individuals, which may include a parent, relative, family friend/acquaintance, or legal guardian). The states receiving the most children placed with sponsors are California, Florida, Maryland, New York, Texas and Virginia.

Education

While children are in detention and temporary shelter, the Department of Health and Human Services (DHHS) has the legal obligation to meet their basic needs, including shelter, food, health care and education. Education services generally are provided on-site, include English language classes and other activities, and may be provided by a non-profit organization, contractor, or in partnership with the local school district.

All children receive a health screening and all needed immunizations. The Centers for Disease Control and Prevention (CDC) believes that the children arriving at U.S. borders pose little risk of spreading infectious diseases to the general public.²

¹ In immigration law, children who arrive on their own from other countries without previous legal immigration status are known as “unaccompanied alien children.” In this document, we refer to them as unaccompanied immigrant children. This term has no relation to the McKinney-Vento Act term “unaccompanied youth” or “unaccompanied homeless youth.”

² More information clarifying the negligible health risk posed by immigrant children is available at www.acf.hhs.gov/unaccompanied-children-frequently-asked-questions.

Once children have been placed in longer-term accommodations, whether in a group home, shelter, foster family or with another individual, their education becomes the responsibility of the local school district. Undocumented students have the same right to public education as U.S. citizens.³ In addition, school districts are required to identify students who need language services and provide programs that meet their linguistic, cultural and academic needs, while not segregating them unnecessarily from English-speaking peers. On May 8, 2014, the Departments of Education and Justice once again issued a Dear Colleague Letter, fact sheet and frequently asked questions document, reminding states and school districts of these rights.⁴

Unaccompanied immigrant children in the community must be provided with educational services as would any other resident of the school district. School districts have been enrolling and serving these children for many years, often using federal Title III funds to assist. However, as more immigrant children arrive in particular school districts, some districts are approaching their State Educational Agencies to seek additional Title III funds. Under federal law, states may set aside as much as 15 percent of their Title III funds for districts to use specifically for providing services to recently-arrived immigrants.

Homelessness

Eligibility for services under the McKinney-Vento Act's Education of Homeless Children and Youth program always requires a case-by-case analysis of a child's actual living situation, to determine whether it meets the Act's definition of "homeless."⁵ McKinney-Vento liaisons have the legal responsibility and authority to make that determination.⁶ Some unaccompanied immigrant children will be considered homeless under the McKinney-Vento Act, while others will not.

Case-by-case determinations remain essential in the context of unaccompanied immigrant children. However, unaccompanied immigrant children also exist in a complex legal limbo that affects their housing status. From their initial apprehension to their transfer to temporary DHHS custody awaiting longer-term placement, they are essentially in federal custody. Generally, children in this status are not eligible for McKinney-Vento services, because they would not be considered "homeless." They may be incarcerated or in a short-term placement under DHHS care, such as on a military base. During this time, DHHS has the legal responsibility to provide for their education.

According to DHHS, children's average stay in temporary placement is 35 days, until they are moved to a longer-term placement in the community. Once children are placed in the community, they are more likely to be eligible for McKinney-Vento services. Again, case-by-case determinations are essential, guided by the following principles:

- Eligibility hinges upon the child's living situation: Is the living situation fixed, regular, and adequate for the child? The sponsor's housing status is not relevant, unless the sponsor is homeless (in which case the child living with the sponsor necessarily also would be homeless).

³ *Plyler v. Doe*, 457 U.S. 202 (1982). This right includes the right to receive appropriate educational services, including, where indicated, special education and related services and gifted and talented services. Immigrant students also have the right to apply for free school meals without providing a social security number.

⁴ <http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201405.pdf>

⁵ 42 U.S.C. §11434A.

⁶ 42 U.S.C. §11432(g)(1)(J)(ii).

- The brief “Determining Eligibility for Rights and Services Under the McKinney-Vento Act” provides tools and guidance for evaluating each child’s living situation.⁷
- It is a good practice to provide McKinney-Vento Act information in Spanish⁸ to unaccompanied immigrant children enrolling in the district. This information will help them identify themselves to the liaison if they are homeless or become homeless later.

The companion “Unaccompanied Immigrant Children and the McKinney-Vento Act” flowchart provides general information that may assist liaisons in their analysis.

It is important to note that unaccompanied immigrant children’s living situations tend to be extremely unstable. A child who may not be McKinney-Vento eligible upon arrival in the school district very well may become homeless shortly thereafter. This is particularly true if the child is placed with an adult other than a parent. Consider:

- Immigrant children placed with family members often have never met, or cannot remember, the adults with whom they are placed. Essentially, the adults are foster parents, but without financial or service coordination support and with the added challenges of managing the children’s legal proceedings, English language limitations, and the extent of integration.
- Children placed with family friends or acquaintances (27% of unaccompanied immigrant children) commonly have no relationship whatsoever with that adult and are at a particularly high risk of labor and sex trafficking. There have been multiple reports of children placed with supposed acquaintances only to be sold to sex or labor traffickers within days of placement. The children are afraid to inform authorities that they do not know these supposed acquaintances.
- According to children’s advocates and McKinney-Vento liaisons, many unaccompanied immigrant children are forced out of their sponsor’s home or leave after experiencing abuse or exploitation.
- Sponsors sign an agreement stating they will care for the child placed with them. However, there is little, if any, monitoring of compliance with this agreement.⁹
- Sponsor agreements do not grant any kind of legal guardianship, leaving the children with no one legally empowered to get them medical care, enroll them in school, or take other actions on their behalf that would require legal guardianship.

The result of these factors is a high rate of homelessness among unaccompanied immigrant children over time. For example, the liaison for Fairfax County Public Schools, Virginia reported that in the 2013-2014 school year, 131 unaccompanied immigrant children qualified as McKinney-Vento unaccompanied homeless youth.

⁷ http://center.serve.org/NCHE/downloads/briefs/det_elig.pdf

⁸ Spanish posters and brochures are available at no cost from the National Center for Homeless Education: http://center.serve.org/nche/downloads/parentbrochure_sp.pdf; http://center.serve.org/nche/downloads/youthposter_sp_color.pdf.

⁹ DHHS maintains that once a child is released from the agency’s care, its statutory mandate to the child ends. It is not clear which government agency is responsible for ensuring the safety of children once they are released to sponsors or for ensuring their compliance with the signed ORR agreement.

Websites for more information

- Catholic Legal Immigration Network, Inc.
<https://cliniclegal.org/>
- Kids in Need of Defense
<http://www.supportkind.org>
- National Association for the Education of Homeless Children and Youth, “Immigration and Schools: Supporting Success for Undocumented and Unaccompanied Homeless Youth.”
<http://www.naehcy.org/sites/default/files/images/dl/immig.pdf>
- National Center for Homeless Education, Immigrant and Refugee Resources.
http://center.serve.org/nche/ibt/sc_imm.php
- Office of Refugee Resettlement
<http://www.acf.hhs.gov/programs/orr/programs/ucs/about>
- US Conference of Catholic Bishops (USCCB), “The Changing Face of the Unaccompanied Alien Child: A Portrait of Foreign-Born Children in Federal Foster Care and How to Best Meet Their Needs.”
http://www.usccb.org/about/children-and-migration/unaccompanied-refugee-minor-program/upload/A-Portrait-of-Foreign-Born-Children-in-Federal-Foster-Care-and-How-to-Best-Meet-Their-Needs_USCCB-December-2012.pdf
- USCCB and Lutheran Immigration and Refugee Service, “Post-Release Services: Family Preservation Services for Immigrant Children Released from Federal Custody.”
<http://www.rcusa.org/uploads/pdfs/LIRS-and-USCCB-Post-Release-Services-FAQs-Final.pdf>
- US Department of Education, “Educational Services for Immigrant Children and Those Recently Arrived to the United States.”
<http://www2.ed.gov/policy/rights/guid/unaccompanied-children.html>
- Vera Institute of Justice, “The Flow of Unaccompanied Children Through the Immigration System.”
<http://www.vera.org/sites/default/files/resources/downloads/the-flow-of-unaccompanied-children-through-the-immigration-system.pdf>
- Education Week articles
<http://www.edweek.org/ew/articles/2014/06/27/36unaccompanied.h33.html>
http://blogs.edweek.org/edweek/learning-the-language/2014/06/surge_of_unaccompanied_minors.html
http://blogs.edweek.org/edweek/learning-the-language/2014/07/for_districts_bracing_for_infl.html