



# EDUCATION NEWS

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## Student Enrollment Policies— Public Education for ALL

*In 1982, the U.S. Supreme Court ruling in Plyler v. Doe 457 U.S. 202 (1982) stated that all states are required to provide free public education to all students, regardless of their immigration status, as denial of a public education would “[impose] a lifetime hardship on a discrete class of children not accountable for their disabling status...”*



**B**y denying these children a basic education, we deny them the ability to live within the structure of our civic institutions, and foreclose any realistic possibility that they will contribute in even the smallest way to the progress of our Nation,” (Plyler v. Doe, 1982). This Supreme Court ruling *allows* districts and states to ask for certain types of identification documents (birth certificates, social security cards, etc.) but *clearly states that those documents cannot*

*be used to deny a student enrollment in a U.S. public school* nor can a school or district prevent a child from enrolling in school if a parent or guardian chooses not to provide a social security number or birth certificate.

While this U.S. Supreme Court ruling has stood the test of time, school districts and states have not always complied with its legal obligations through official state policies or district practices. State and district officials in New Jersey, New York, Oklahoma,

Arizona, and most recently Alabama, have all attempted to use questionable enrollment practices in recent years. Arizona lawmakers considered a bill that would require officials to determine the number of public school students that are unable to prove legal presence, Oklahoma lawmakers also considered a bill that would require public schools to determine, at the time of enrollment, whether a student was born in the U.S. (Semple, 2011). Civil rights and civil liberties organizations

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across the country have called attention to many unlawful district practices as well. The NYCLU found that 139 New York districts, or 20% of the total, were requiring immigration papers prior to enrollment (Semple, 2010). The New Jersey and Arizona branches of the ACLU discovered similar practices in their respective states—several districts in Arizona required birth certificates and/or social security numbers and 139, again one in five districts, required social security numbers or additional information (Tan, 2010).

In response to countless violations, state and federal Departments of Education and Departments of Justice have issued formal directives to school districts reiterating federal and state laws and mandating that districts revise their policies to align with the law. In a May 6 letter, the U.S. Department of Justice and U.S. Department of Education suggested that several districts and schools were in violation of Title VI of the Civil Rights Act of 1964 and *Plyler v. Doe*. The letter argued that no policies should be enacted that might “chill or discourage the participation, or lead to the exclusion, of students based on their or their parents’ or guardians’ actual or perceived citizenship or immigration status,” (USDOJ, 2011). For enrollment purposes, it states that districts may request social security numbers at enrollment, but they may not be required. Immediately after requesting such information, a number of points must be mentioned, by the district or school: the district must explain the purpose of collecting those numbers and that providing such numbers is voluntary and failure to do so will not result in the denial of enrollment.

The latest controversial legislation that has challenged the principles of *Plyler v. Doe* is taking place in Alabama, which recently passed what is being called the nation’s most restrictive immigration law. A provision within the law, signed by Governor Bentley on June 2, mandates school districts to require a birth certificate upon enrollment to determine citizenship status. State Senator Beason, R-Gardendale, stated that the section of the law is in place to “gather information on the number of undocumented aliens in public schools and the price of educating them,” (Lyman, 2011). He commented, “It’s part of the cost factor. Are the parents here illegally, and if they were not here at all, would there

be a cost?” (Lyman, 2011). State lawmakers said that they were careful to study *Plyler v. Doe* in drafting the bill in order to reflect its requirements, but many question whether the law will stand up in federal court. At this point it is unclear as to whether the federal government will intervene; advocates should be on the look-out for how Alabama school districts choose to implement this new law and be prepared to challenge illegal and unscrupulous practices.

These changes come as Alabama has been identified as one of the “new-growth” states, where the immigrant population has grown by 67% from 2000 to 2009 (Migration Policy Institute, 2011). Other states dealing with the same rapid influx over the last decade, such as Georgia, South Carolina, and Oklahoma, have also developed legislation that has targeted undocumented citizens in a variety of ways. As new states start to grapple with the effects of changing demographics, it is important for national and state civil rights advocates to understand the law and help their community members know what their rights under federal law, as it has been proven that districts and even states can overstep their reach, whether it be intentional or not.

- For more information on legal enrollment policies see <http://www2.ed.gov/about/offices/list/ocr/docs/dcl-factsheet-201101.pdf>
- For a Question and Answer on recent Department of Education guidance see <http://www2.ed.gov/about/offices/list/ocr/docs/qa-201101.html>

- If you believe that your district is failing to comply with federal law see <http://www2.ed.gov/about/offices/list/ocr/complaint-process.html> to file a complaint.

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# Overlooked and Underpaid

*As postsecondary education becomes a prerequisite for the majority of our nation's jobs in a global economy, one would be remiss to ignore the importance of high school in creating college and career ready graduates. At present, one fourth of the country's students are failing to graduate on time (Alliance for Excellent Education, 2009) and almost 1,900 high schools across the nation are coined "dropout factories," in which 60% of fewer freshmen advance to senior year on time (Tucci, 2010).*

It is clear that the current condition of high schools warrants increased attention, especially in light of recent findings in an Alliance for Excellent Education brief titled, *Overlooked and underpaid: How Title I shortchanges high schools, and what ESEA can do about it*. The report examines the inadequacy of Title I funding in supporting high schools and provides recommendations as congress debates potential changes to the Elementary and Secondary Education Act (ESEA) over the next several months.

Title I of the ESEA, currently titled No Child Left Behind, is the largest program within the 46 year old law. The title provides money to every state and 90% of districts as a supplement to state and local funding in

schools with high concentrations of students from low-income families. Funds are used to support school-wide support in schools with extremely large concentrations of low income students or to assist individual low income students in more affluent schools. These funds go toward salaries and benefits, instructional materials and equipment, administration, facilities, transport, professional development, and expanded learning time (Alliance for Excellent Education, 2011).

Unfortunately, high schools have not benefited proportionately from these funds. Despite serving one quarter of the nation's low-income students, only 10% of Title I funds go to high school students, compared to 14% for middle school and

76% for elementary school (Chambers et. al., 2009). Furthermore, many high poverty high schools remain ineligible for the Title I funding. Currently there are 675 high schools with 60% poverty or greater, 1294 high schools with 50% poverty or greater, and 2227 high schools with 40% poverty or greater that are ineligible to receive Title I dollars due to inconsistent eligibility requirements (Alliance for Excellent Education, 2011).

Title I funding has been disproportionately awarded to elementary and to a lesser extent middle schools, partially because the *reported* percentages of low-income students in high schools are far smaller than in younger grades. There are a few reasons

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## Overlooked and Underpaid

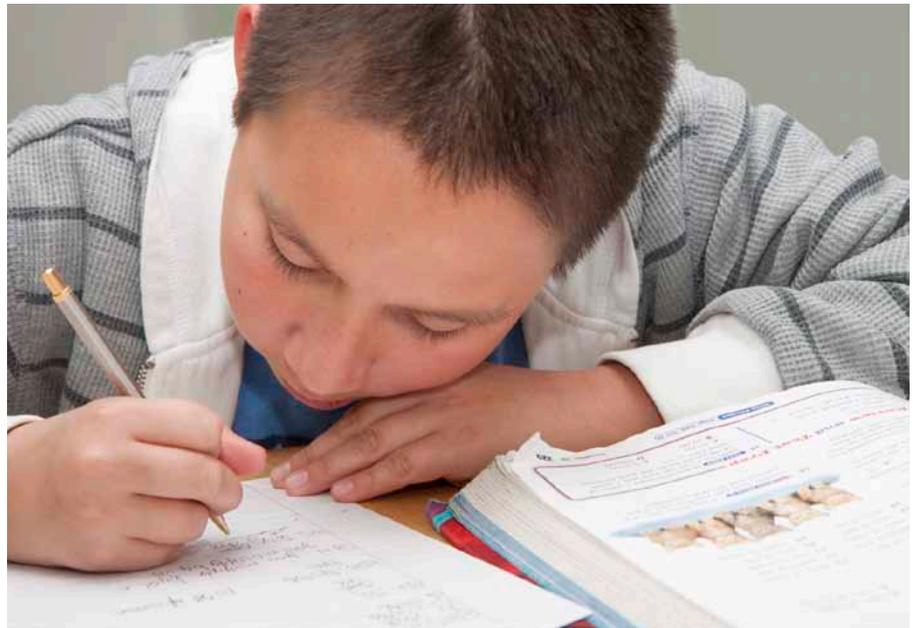
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causing high schools to appear to have far fewer low-income students than elementary and middle schools: currently, most states and districts use the percentage of students receiving free or reduced price lunch to determine the poverty rate of a school. However, many older students fail to submit free or reduced priced lunch forms, even if they are eligible. This results in unfairly lower reported poverty rates in high schools and less Title I funding. The Alliance brief argues that an alternate poverty measure that uses a "feeder pattern," in which a high school poverty rate is determined based on the average poverty rate of elementary schools that feed into it. The feeder pattern is permitted by the U.S. Department of Education and is considered more accurate, but only used by 4% of schools currently (Alliance for Excellent Education, 2011).

This inaccurate measure of low income students in a high school has a bearing on other federal programs as well. In order for the federal governments to take corrective action with a school for failure to meet Adequate Yearly Progress under the School Improvement Grant (SIG), that school must be eligible under Title I. In the past, federal programs have not typically tied eligibility requirements to Title I eligibility, but many programs are beginning to use it, meaning that ineligibility under Title I (nearly one-third of the nation's dropout factories are not eligible) has significant consequences to many of our nation's lowest performing high schools.

Furthermore, percentages of low income students in a school don't always adequately reflect that school's need for Title I funds. High schools serve much larger populations, meaning that small percentages will still equate to a large number of students. Title I guarantees that schools with a poverty rate above 70% receive funding, there are nearly 1300 high schools with 50% or more students—an extremely large concentration—from low-income families that are not eligible for Title I.

The Alliance for Excellent Education brief pushes for adjustments within Title I eligibility and measurement systems, but also stresses that while such measures would help, additional funds would do the greatest good to ensure that high schools don't benefit at the expense of middle and high schools. At this point, however, additional funding may



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be difficult to secure. It is far more likely that legislators will accept changes to the funding allocation formulas. Its recommendations are as follows:

- Require districts to use feeder-pattern projections to calculate high schools' poverty rates and use this projection to allocate Title I funds if it is higher than the poverty rate based on free and reduced-price lunch eligibility.
- Grant automatic Title I eligibility to high schools with a poverty rate of 35 percent or higher as determined by the feeder pattern.
- Reduce or eliminate the 75 percent threshold at which school districts are required to fund schools. Because high schools are larger than elementary schools, they are less likely to have poverty rates at or above 75 percent even though they may have significantly more poor students than their feeder elementary and middle schools.
- Target Title I funds to high schools so that they receive a share of Title I funding that is at least equal to the percentage of low-

income students attending high schools in the district.

Regardless of what is in the works, it has become increasingly clear that low income high school students have not sufficiently benefited from Title I funds and the potential reauthorization of ESEA is a prime opportunity to ensure that those students are not left out for another decade.

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# Predatory Practices in Higher Education

*In the January State of the Union Address, President Obama reiterated his goal of the United States ranking first in the number of college graduates by 2020, recognizing that nearly half of new jobs in the next decade will require at least some college courses.*

College completion in the United States is no longer reserved for an elite few, but is now an imperative for all. With a growing interest in college access and completion for all, the government, not for profit, and private sector have contributed to a proliferation of post-secondary institutions to accommodate the influx of first-generation college students. Yet, with the expansion of higher education have come questionable practices and poor returns amongst a number of universities—particularly some for-profit schools. In response to data suggesting that certain for-profit schools are shortchanging their students, the US Department of Education has recently instituted a controversial gainful employment regulation following 18 months of deliberation, three rounds of public hearings, hundreds of meetings with the higher education community, and 90,000 public comments.

The regulations on career college programs, finalized on June 2<sup>nd</sup>, with the first two components having gone in to effect on July 1, 2011 (disclosure requirements and new program approval requirements, for more information please see: <http://tinyurl.com/3gpkh6q>). Provisions such as prohibitions against misleading students and banning programs from rewarding recruiters based on how much federal aid they allocate will go into effect in 2012 while programs will be given until 2014 to meet standards set by the Department of Education. A program will be considered to lead to gainful employment by meeting at least one of three criteria:

- At least 35% of former students are repaying their loans;
- The estimated annual loan payment of a typical graduate does not exceed 30% of his or her discretionary income;
- The estimated annual loan payment of a typical graduate does not exceed 12% of his or her total earnings.

If a program fails to satisfy the debt measure it will be mandated to disclose the reason for its failure and outline how it will address the problem. If a program should

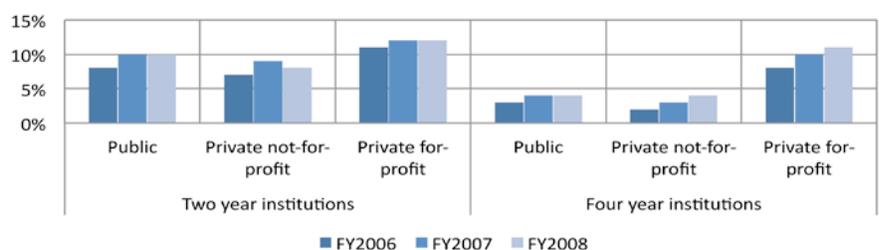
miss the target for two out of three years, it must inform students that their debts may be unaffordable and that the program is in jeopardy of losing federal aid eligibility. If the program then misses the target for three out of four years, the program loses eligibility to apply for federal student aid and cannot reapply for eligibility for another three years. Important to note is that these regulations apply to specific programs within an institution, not the institution in its entirety.

Such regulations are taking place amidst an unprecedented surge in university attendance. As of 1980 undergraduate enrollment, in all institutions, was 10.5 million students. By 1990, enrollment rose by 1.5 million. From 2000 to 2009 enrollment ballooned by 4.4 million students, more than 25% of which were enrolled in private for-profit universities (NCES, 2011). Low-income students now constitute two of every five enrolled, signaling progress in providing access to college for all students. However, a recent study by the Institute for Higher Education Policy found that low-income and minority students are increasingly and disproportionately attending for-profit universities. 19% of low-income young adults were enrolled at for-profits in 2008, compared to 5% of their wealthier peers. 24% of Latino students attended for-profits, versus only 16% of whites and 11% of Native Americans (IHEP, 2009).

As low-income and minority students are forgoing traditional institutions for purportedly more accessible for-profits, federal loans are greatly subsidizing the continued operation of these for-profit institutions. More than one quarter of for-profits receive 80% of their funding through taxpayer-funded financial aid. Furthermore, two-year for-profit institutions are on average more expensive and require significantly greater loans than their not-for-profit and public counterparts (NCES, 2011). As of 2007, more than 95% of students at two-year for-profits took out student loans, compared to only 16.6% of students attending community college. While these institutions create a greater financial burden on students and the taxpayer, data strongly suggests that many of these programs are not leading to any significant educational or career benefits for the students attending. For profit institutions comprise 11% of all university students, but also make up 26% of all student loans, and 43% of all loan defaulters (Adams, 2010). Graph 1 details default rates for two and four year public, private not-for profit, and private for-profit universities. In both two and four year institutions for-profits suffered from the highest default rates.

In addition to high default rates, many for-profits are also criticized for a number of other issues. Although tuition is generally higher, they spend on average considerably

**Figure 1: Two-year student loan cohort default rates at degree-granting institutions, by level and control of institution: Fiscal years 2006–2008**



Source: NCES, 2011



## Predatory Practices in Higher Education

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less for instruction, research, and student support (See graph 2).

Graduation rates in four year for-profit universities are also considerably below those of other institutions. 46% of Latinos graduate within six years from four year public universities; 58% graduate from private not-for-profit; and only 29% complete their degree at for-profit universities (NCES, 2011).

Recruitment practices in some institutions have also been questionable. In an effort to increase profits, some schools have deceptively and aggressively recruited students, inflated job placement rates, reported false information to authorities, overstated their programs' value, and understated its high cost. In a 2010 report by the Government Accountability Office, investigations at 15 for-profit colleges in six states and D.C. found that four universities encouraged fraudulent practices and all 15 made deceptive or questionable statements to undercover applicants. Representatives failed to clearly describe program costs, duration, and graduation rates. In certain cases, representatives also pressured the applicants into enrolling before allowing them to talk to a financial advisor. For-profit college recruiters also engaged in incessant phone calls to potential students. One undercover applicant received over 180 calls within one month (USGAO, 2010).

There has been pushback, regarding the regulations, from the private higher education community arguing that the new regulations are beyond the statutory authority of the De-

partment of Education and that they will limit access for low income and working adults. Through more than a year of negotiations, the Department of Education has embraced an intervention based on program improvement in place of immediate accountability for unsuccessful universities. Under the final regulations the Department anticipates that although 18% of for-profit programs will fail to meet the threshold at some point, only 5% will fail to improve and eventually lose eligibility (USDOE, 2011). Many have criticized these regulations as too lenient in that they allow unsuccessful programs to receive federal aid until 2015 before stripping funding. In a public hearing Senator Tom Harkin, Chairman of the Senate Health, Education, Labor, and Pension Committee, D-Iowa, pointed out that stock prices for large for-profit companies soared on June 3<sup>rd</sup>—one day after the regulations were released. In interpreting this he commented, "What [this] said to me was that investors and Wall Street looked at this and said for the next three to four years at least, things are going to be pretty good," (Adams, 2011). However, despite his criticism, Harkin recognized the regulation as an important first step.

Although there is a long history of such regulation on both sides of the aisle, dating back to the Reagan administration under the authority of conservative Secretary of Education William Bennett, sides have largely been determined by party affiliation. Earlier in the year the GOP-led House of Representatives passed an amendment to the federal budget bill H.R. 1 to defund enforcement of the rule; however, the bill did not make it through the Democrat-led Senate. In June, the House education committee once again moved to repeal key provisions of the regulations with

HR 2117, which would block rules to establish a federal definition of a credit hour and require state approval of all online or distance-learning programs. Again, the likelihood of the bill's success is marginal as it has yet to be voted on in the full House or the Senate.

LULAC and other civil rights organizations have also taken a position on the rule, joining a working group of dozens of organizations to support the gainful employment rule and put a halt to predatory practices that are burying low income students in unmanageable debt at some institutions. While for-profit colleges have emerged as a more accessible alternative to public and not for profit private institutions that benefit many low-income and minority students, that fact alone does not absolve the industry from any wrong-doing. In our push for greater access to higher education in the Hispanic community, we must also ensure that the degrees are attainable, affordable (for both the student and taxpayer), and that students earn degrees that will allow them the opportunity to secure gainful employment.

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# Recent Happenings at LULAC



Carmel Martin, Assistant Secretary for Planning, Evaluation and Policy Development, U.S. Department of Education, along with congressional staff and civil rights leaders address the 1st National Education Policy Summit sponsored by LULAC, The Leadership Conference Education Fund, and the Campaign for High School Equity.

## EDUCATION POLICY SUMMIT

On June 13<sup>th</sup> and 14<sup>th</sup> state advocates, representing the local partners of the Campaign for High School Equity ([www.highschool equity.org](http://www.highschool equity.org)) came to Washington, DC for an education policy summit, hosted by LULAC, Leadership Conference Education Fund, and the Campaign for High School Equity. The summit united education and civil rights advocates from several states with the goal of not only sharing perspectives from their own states amongst themselves, but also advocating for students of color on federal education policy priorities.

The two-day summit kicked off with informational sessions on the federal climate and in depth group sessions on the policy priorities of the Campaign for High School Equity to get state advocates up to speed on recent happenings in Washington. Topics included effective teaching, accountability, English Language Learners, the use of data in advocacy, and strategic communication and message development. In addition to presentations by CHSE partners, other prominent speakers included the honorable Michael Honda (D-CA) and representatives



Nancy Zirkin, Executive Vice President for policy for The Leadership Conference on Civil and Human Rights, provides a keynote address at the Education Policy Summit

Latina/o Lesbian, Gay, Bisexual and Transgender (LGBT) Human Rights Organization, the Anti-Defamation League, Equality Cincinnati and the American Federation of Teachers (AFT) on "Promoting Safe Schools." Panelists

shared best practices for implementing and enforcing anti-bullying policies to keep Spanish-speaking, immigrant, Latino, LGBT and all students safe in school in order to create more productive learning environments.

This year's convention was host to a wide range of participants and consisted of several events, including a federal training institute, career exploration forum, a career and college fair, and a three day youth and young adult conference.

from the Senate Health, Education, Labor, and Pensions Committee, the U.S. Department of Education, and the White House.

The summit culminated with an advocacy day in which participants met with their Senators and Representatives to discuss their views on federal policy as it relates to students of color. In addition to voicing many concerns, several participants established valuable relationships with key representatives and made plans to continue such collaboration in the future.

The Education News is a publication of the League of United Latin American Citizens, founded in 1929 and currently headed by National President **Margaret Moran**.

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