

Despite Ruling, Many School Districts Ask for Immigration Papers

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Body

Three decades after the Supreme Court ruled that immigration violations cannot be used as a basis to deny children equal access to a public school education, one in five school districts in New York State is routinely requiring a child's immigration papers as a prerequisite to enrollment, or asking parents for information that only lawful immigrants can provide.

The New York Civil Liberties Union, which culled a list of 139 such districts from hundreds of registration forms and instructions posted online, has not found any children turned away for lack of immigration paperwork. But it warned in a letter to the state's education commissioner on Wednesday that the requirements listed by many registrars, however free of discriminatory intent, "will inevitably discourage families from enrolling in school for fear that they would be reported to federal immigration authorities."

For months, the group has been pushing the State Education Department to stop the practices, which range from what the advocates consider unintentional barriers, like requiring a Social Security number, to those the letter called "blatantly discriminatory," like one demanding that noncitizen children show a "resident alien card," with the warning that "if the card is expired, it will not be accepted."

But the Education Department has resisted doing anything to address the issue directly, in contrast with several other states -- including Maryland, Nebraska and New Jersey -- where education officials have taken strong steps in recent years to halt similar practices.

"It is the responsibility of each local school district to ensure that it complies with all laws and decisions regarding student registration," Jonathan Burman, a spokesman for the department, said in a brief e-mail message in response to a reporter's inquiries. "Under New York's education law, anyone who is aggrieved by an action or decision of a district that allegedly violates the law may appeal to the commissioner for a review of that action or decision."

Udi Ofer, director of advocacy for the civil liberties union, said his group was astonished by the department's unwillingness to alert and guide the school districts, most of which he described as probably "clueless" rather than malicious in asking for immigration documents. It is irresponsible, he added, for officials to wait for affected families to complain. "We're dealing here with an undocumented community that is afraid of coming out of the shadows," he said.

The state's education law, which mandates a free public education for all residents ages 5 to 21 who have no high school diploma, allows districts to require documents that prove age and residency, like birth certificates, rental agreements and utility bills. But it is silent on any additional requirements that would violate the 1982 Supreme Court decision, Plyler v. Doe.

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That ruling, considered by legal scholars to be a high-water mark of immigrant rights, held that under the Constitution, all children who live in a district must be given equal access to a public education from kindergarten through 12th grade, regardless of whether they entered or stayed in the country in violation of federal immigration rules.

To refuse them, Justice Harry A. Blackmun warned in his concurring opinion, "raises the specter of a permanent caste of undocumented resident aliens, encouraged by some to remain here as a source of cheap labor," yet denied the basic benefits available to others.

The civil liberties union said it mailed letters on Wednesday to all the districts it had flagged, advising them that their policies and practices "discriminate against undocumented children and are unconstitutional." The letters asked that they rescind problematic requirements and "inform students who may have been denied enrollment."

In several of the districts, which are scattered from Westchester County to rural Chenango County, officials who learned about the issue from a reporter's call seemed surprised and concerned that immigration-related documents were demanded in their online registration packets. Some forms, they said, had been copied from another district's Web site; others, like one in the Rhinebeck Central School District, had not been changed in decades, even as a climate of immigration enforcement changed the context.

Among a half-dozen districts contacted, registration personnel in all but one -- the Williamsville Central School District, outside Buffalo -- said that no child had been rejected for lack of immigration paperwork or a Social Security number. Some districts immediately changed language they identified as troublesome.

The Williamsville district demands that noncitizen children supply a visa and uses the jargon of federal immigration classification to describe examples: "J1 or F1, etc."

"I'm told what visas we can accept," said Paula Colburn, its part-time registrar for the last two years. Asked if any children had been rejected because they did not have the right visa, Ms. Colburn said: "Oh, yeah. There are certain visas that we accept. Other than that, if it's not a right visa" She broke off and referred the call to district officials.

The Williamsville superintendent, Howard S. Smith, said, "We have not turned students away specifically because of a single entrance criteria," and called the civil liberties union's objections "ridiculous."

"The visa is only one piece of information that we may or may not look at in determining whether they're a resident of the school district," he added, saying that it could indicate an intent to remain. "We are fully in compliance with any state and federal requirements."

In the Spencerport Central School District, near Rochester, cited by the advocates for glaringly discriminatory requirements, calls for comment were not returned.

More typical, however, was the response by the Fairport Central School District, also near Rochester, where officials quickly dropped a requirement for a visa or green card, and changed questions about citizenship to ones seeking verification of a child's birth date.

"At no time ever in this district have we excluded a student based on their citizenship or immigration status," said Barbara Gregory, the assistant superintendent. "It was certainly a good thing for us to review, because we want to be very inclusive. We have a significant number of English-language learners, and they enrich our population."

The registrar in another district, the Springville-Griffith Institute Central School District near Buffalo, said its online registration packet had been copied from Fairport's and would be reviewed. A similar review was promised by Joseph Phelan, superintendent of the Rhinebeck district. And William Stavisky, superintendent of the Perry Central School District, said he directed in April that online demands for a green card be dropped, after a local immigrant group alerted him to the civil liberties union's concerns.

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All the superintendents said they were used to complying with instructions from the State Education Department and had heard nothing from the department on the issue.

Civil liberties union officials began writing to the department last September, after they were alerted by a United States citizen of Hispanic descent that a **school** near Rochester was **asking** about **immigration** status during registration. The advocates did a cursory Internet search and found five **districts** making similar demands, including the City **School District** of Albany.

"We were shocked," Mr. Ofer said, adding that four of the five **districts** had readily changed their requirements when contacted. Last week, the Web site of the fifth, the Rush-Henrietta Central **School District**, still stated: "If not born in this country, please provide **immigration** paperwork."

Unable to persuade the Education Department to check the registration requirements of all 695 **districts**, the advocates did the research themselves.

A similar survey, released in 2008 by the American Civil Liberties Union of New Jersey, found that 20 percent of that state's public **school districts** were **asking** for information that would reveal the **immigration** status of a parent or child. The New Jersey Department of Education responded forcefully, threatening to cut state aid to **districts** that persisted.

In contrast, state education officials in New York tucked a line into a December newsletter reminding **districts** to check that registration requirements complied with state laws, with no mention of immigrants. In April, the department's legal counsel wrote the advocates that "no further action" would be taken.

The department itself may have been the source of demands for a Social Security number. In the rural Oxford Academy and Central **Schools District** in Chenango County, founded in 1794, the superintendent said the only reason it began **asking** for the numbers was "because the S.E.D. is **asking** for that information when they get older."

The superintendent, Randall Squier, said the Oxford area lacked immigrants as well as jobs. "Our enrollment is declining so fast, we would welcome them to our **district**," he added. "We don't need their Social Security number to educate them."

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Graphic

PHOTO: The State Education Department in Albany. The Constitution guarantees a public education even to children here illegally. (PHOTOGRAPH BY NATHANIEL BROOKS FOR THE NEW YORK TIMES) (A20)

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