FACT SHEET: Educational Services for Immigrant Children and Those Recently Arrived to the United States

Schools in the United States have always welcomed new immigrant children to their classrooms – according to the most recent data, there were more than 840,000 immigrant students in the United States, and more than 4.6 million English learners. We have begun to receive inquiries regarding educational services for a specific group of immigrant children who have been in the news – children from Central America who have recently crossed the U.S. - Mexico border. This fact sheet provides information to help education leaders better understand the responsibilities of States and local educational agencies (LEAs) in connection with such students, and the existing resources available to help educate all immigrant students – including children who recently arrived in the United States.

BACKGROUND

All children in the United States are entitled to equal access to a public elementary and secondary education, regardless of their or their parents' actual or perceived national origin, citizenship, or immigration status. This includes recently arrived unaccompanied children, who are in immigration proceedings while residing in local communities with a parent, family member, or other appropriate adult sponsor.

Under the law, the U. S. Department of Health and Human Services (HHS) is required to provide for the care and custody of unaccompanied children apprehended while crossing the border. While in care at a temporary shelter, such children are not enrolled in local schools but do receive educational services and other care from HHS providers who run temporary shelters.

Recently arrived unaccompanied children are later released from federal custody to an appropriate sponsor – usually a parent, relative, or family friend – who can safely and appropriately care for them while their immigration cases proceed. While residing with a sponsor, these children have a right under federal law to enroll in public elementary and secondary schools in their local communities and to benefit from educational services, as do all children in the U.S.

EXISTING RESOURCES

Existing resources that may be helpful to communities enrolling immigrant children, including newly arrived immigrant children, include:

- **Services for Educationally Disadvantaged Children (Title I):** Title I, Part A of the Elementary and Secondary Education Act (ESEA) provides funds to raise the achievement of children who attend high-poverty schools. To the extent that newly arrived immigrant children attend Title I schools, they may be eligible to receive Title I, Part A services. Additional information about Title I, Part A programs is available here.

- **Individuals with Disabilities Education Act (IDEA):** IDEA funds may be used by LEAs to evaluate children of any background who are suspected of having a disability under IDEA. Once a child is found to be a child with a disability under IDEA, the funds may be used to provide special education and related services to the child consistent with the child's individualized education program and subject to IDEA's notice and consent provisions. Additional information about IDEA is available here.

- **English Language Acquisition Programs**: States are required to set aside up to 15 percent of their Title III funds under the ESEA for subgrants to LEAs that have experienced a significant increase in immigrant students. Such funds can be used for a broad range of activities including improving instruction, providing tutoring and intensified instruction, and conducting community participation programs. Such funds may be used to serve newly arrived immigrant children regardless of whether such children are English Learners. Additional information about Title III is available here and here.

- **McKinney-Vento Act**: The McKinney-Vento Homeless Assistance Act delineates educational rights and support for children and youth experiencing homelessness, including guaranteeing immediate access to a free, appropriate public education. Federal law identifies a number of living arrangements such as sharing the housing of others, in which inhabitants would qualify for purposes of the Act. Under McKinney-Vento, school districts must appoint a local liaison to ensure, among other things, that (1) children and youth eligible under McKinney Vento are identified; (2) that they immediately enroll in, and have a full and equal opportunity to succeed in, the schools of the district; and (3) they receive educational services for which they are eligible, and referrals to health care services, dental services, mental health services, and other appropriate services.

  Unaccompanied children who are in HHS shelters would not be eligible for McKinney-Vento services, but children who are released to live with a sponsor may be eligible on a case-by-case basis under the law's broad definition, which includes youth who are living with family members in "doubled-up" housing, i.e., sharing the housing of other persons due to economic hardship or a similar reason. School districts should refer children they believe may qualify to the district's local liaison for further consideration and a determination of McKinney-Vento eligibility. More information about McKinney-Vento eligibility is available here and more information about the rights and services available under the McKinney-Vento Act is available here.

- **Migrant Education Programs (MEP):** MEP funds are awarded to States under the authority of Title I, Part C of the ESEA. The MEP provides educational and supportive services to children who are migratory agricultural workers or fishers or who move with a parent or guardian who is a migratory agricultural worker or fisher. Newly arrived immigrant children may qualify as eligible migratory children on a case-by-case basis— provided they meet the program requirements and fit the program-specific definition of migratory child. Additional information about migrant education programs is available here.

- **National Clearinghouse for English Language Acquisition:** This Clearinghouse provides non-monetary assistance in research-based strategies and approaches such as academic language development, and can also share data and models for the creation of Newcomer Centers to serve recently arrived immigrant students and English language learners. Additional information about the Clearinghouse is available here.

FREQUENTLY ASKED QUESTIONS

Q1. Do States and school districts have an obligation to educate children who arrived as unaccompanied children to the United States?

A1. Yes. Under Federal law, States and local educational agencies are obligated to provide all children – regardless of immigration status – with equal access to public education at the elementary and secondary level. This includes children such as unaccompanied children who may be involved in immigration proceedings. The U.S. Departments of Education and Justice published a joint guidance letter on this topic that is available here and a fact sheet that is available here.

Q2. Where are unaccompanied children housed while in temporary custody?

A2. The Department of Health and Human Services operates about 100 short-term shelters throughout the nation for unaccompanied children that care for the children until they are released to sponsors, on average within 35 days. Shelters are operated by non-profit organizations, generally as group homes. HHS pays for and provides all services for the children while they are in care at a shelter. This includes providing food, clothing, education, medical screening, and any needed medical care to the children. The children at these shelters do not attend local public schools, do not integrate into the local community, and remain under staff supervision at all times. Additional information about HHS custody is available here.

Q3. Are children provided with basic education services while in temporary custody at HHS shelters?

A3. Yes. The children are provided with basic education services and activities by HHS grantees. Thus, these children do not enroll in local schools while living in HHS shelters.

Q4. Are children who arrived as unaccompanied children ever enrolled in local schools?

A4. While students are in HHS custody at HHS shelters, they will not be enrolled in the local school systems. When students are released to an appropriate sponsor, typically a parent, relative or family member, or other adult sponsor, while awaiting immigration proceedings, they have a right – just like other children living in their community – to enroll in local schools regardless of their or their parents' actual or perceived immigration or citizenship status. State laws also require children to attend school up to a certain age.

Q5. Are immunization records available for children who arrived as unaccompanied children to the United States?

A5. While at HHS shelters, the children receive vaccinations. When a child is released from HHS custody to a sponsor, the sponsor is given a copy of the child's medical and immunization records compiled during their time in custody. If a sponsor does not have a copy of the child's medical or immunization records, the sponsor can request a new copy from HHS via e-mail at Requests.DUCS@acf.hhs.gov.

Q6. Are children who arrived as unaccompanied children eligible for Deferred Action for Childhood Arrivals?

A6. Deferred Action for Childhood Arrivals, or "DACA," does not apply to children who arrive now or in the future in the United States. To be considered for DACA, individuals must have continually resided in the U.S. since June 2007.

Q7. Do districts have the ability to use Federal education funds to address the needs of unaccompanied children who enroll in the district?

A7. States and LEAs have the ability to use various Federal education funds for this purpose. For example, to the extent that such children attend Title I schools, they may be eligible to receive Title I, Part A services. In addition, as discussed above, States can reserve up to 15% of their Title III formula grants for immigrant subgrants, and if a State has previously reserved a lesser amount, it could increase that amount for next year's subgrants.

Q8. Is there a place to ask additional questions about immigrant children who enroll in the district?

A8. For help with additional questions regarding resources for unaccompanied children, please call the U.S. Department of Education at 1-800-USA-LEARN or visit answers.ed.gov.

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