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**Are the proposed rules in effect?**

No. The proposed rules have been approved by the Oklahoma State Board of Education but must still be approved by the Oklahoma Legislature or the Governor before going into effect.

**Whose immigration status has to be disclosed under the proposed rules?**

The proposed rules require parents to disclose the immigration status of their child, the enrolling student, not the parents themselves. The proposed language is ill-drafted on this point, but 210:10-1-5(d)(5) requires schools to record the number of students who are unable to provide proof of citizenship or lawful immigration status. Nothing bars a school official from drawing the inference, however, that an undocumented student likely has undocumented parents.

**Can a school deny enrollment to a non-citizen or an undocumented immigrant under the proposed rules?**

The proposed rules probably do not permit school districts to deny enrollment to a non-citizen or an undocumented immigrant under the proposed rules, but they may permit school districts to deny enrollment to students who refuse to provide any information or participate in the information collection process. 210:10-1-5(d)(5) requires schools to record the number of students enrolled who are unable to provide proof of citizenship or lawful immigration status. This language suggests that the rule does not contemplate outright denials of enrollment to students who are unable to provide the requisite proof. That said, it is unclear what consequences, if any, exist for students who refuse to confirm or deny their immigration or citizenship status.

**Can a school disclose the information collected under the proposed rules to immigration or law enforcement?**

A school cannot disclose the information collected under the proposed rules to information or law enforcement. The Family Educational Rights and Privacy Act of 1974 (“FERPA”) is a federal law that strictly regulates the collection and use of student data by schools. Unless the school receives a judicial order, receives the consent of the student and/or parent, or some other legal exception applies, the school may not disclose immigration or citizenship status to immigration or law enforcement officials.

**What rights do students have?**

Under both federal and state law, all children, including undocumented immigrants, have the right to an education. A burden imposed on children on the basis of their immigration status, including a requirement that they demonstrate proof of citizenship or lawful immigration status, interferes with this right and is unlawful. The U.S. Constitution’s Equal Protection Clause prohibits discrimination against undocumented students in the provision of public education. The Civil Rights Act of 1964 likewise prohibits discrimination on the basis of immigration status in public education. And the Oklahoma Constitution requires all children to be provided with a public education. Enrolling families need not disclose their immigration or citizenship status in order to obtain a public education.