

CLASP Statement for the Record
House Committee on Education and the Workforce
Subcommittee on Early Childhood, Elementary, and Secondary Education
“The Consequences of Biden’s Border Chaos for K-12 Schools”
June 4, 2024

Chairman Bean and Ranking Member Bonamici, and Members of the Subcommittee on Early Childhood, Elementary, and Secondary Education, we thank you for this opportunity to submit a statement for the hearing “The Consequences of Biden’s Border Chaos for K-12 Schools.” The Center for Law and Social Policy (CLASP) is a national, nonpartisan nonprofit advancing anti-poverty policy solutions that disrupt structural and systemic racism and remove barriers blocking people from economic security and opportunity. We work at the federal and state levels, supporting policy and practice that makes a difference in the lives of people experiencing conditions of poverty. CLASP works to develop and implement federal, state, and local policies (in legislation, regulation, and implementation) that reduce poverty, improve the lives of people with low incomes, and create pathways to economic security for everyone. That includes directly addressing the barriers people face because of race, ethnicity, gender, disability, and immigration status.

The CLASP policy team has expertise on education policy (from the early years through postsecondary levels) as well as on the range of anti-poverty policies impacting immigrant students and families. We submit this statement to urge Congress to reject the xenophobic and sensationalized claims that newcomer students are harming U.S. schools and focus instead on ensuring that our schools have the resources they need to adequately serve all students, including those that are newcomers as well as other immigrant students and U.S. citizen students who are part of immigrant families. This means improving funding streams and accountability measures so that schools are able to meet the unique needs of immigrant students and abide by their legal obligations under civil rights and education laws. We also call on Congress to recognize the importance of immigrant students to our nation’s future workforce — as evidenced by the contributions of those who have been recipients of the Deferred Action for Childhood Arrivals (DACA) program — and to uphold the constitutional right of every child to a K-12 education regardless of immigration status. Ultimately, to deny any subset of the U.S. child population access to a basic education will have long-term harmful consequences for the country.

- I. We should ensure our schools have the resources they need to serve newcomer students.**

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The U.S. foreign-born K-12 student population is extremely diverse. While some are newcomer students who have arrived in the past three years (some as asylum seekers or refugees), many have been here longer and some are lawful permanent residents. According to the U.S. Department of Education, there were 990,000 foreign-born students enrolled in U.S. K-12 schools in 2020-21 (enrolled for less than three years), comprising less than 2 percent of the country's K-12 student population.¹ Looking at the broader school-age population, according to the Migration Policy Institute's analysis of 2021 American Community survey data, there were 649,000 foreign-born children in the U.S. ages 5-17 who had been in the country for less than three years, and another 1.5 million foreign-born children who have resided in the country for more than 4 years.²

Under the 1982 *Plyler v Doe* ruling, all foreign-born children, including those that are undocumented, have a right to a public K-12 education.³ Under federal law, schools are also required to identify students who are English learners and provide them with language assistance services as well as to provide parents information about enrollment and other school policies in a language they can understand.⁴ Students with special needs — such as those who have a disability — are also protected by laws that require schools to provide them with equitable learning opportunities.⁵ In addition to abiding by their legal obligations to equitably serve immigrant students and immigrant families rights, local education agencies (LEAs) should be providing welcoming spaces for immigrant students and families.⁶

The U.S. K-12 public education system has historically lacked sufficient funding and, as a result, consistently fallen short of global benchmarks.⁷ CLASP supports further investments to ensure that schools are able to meet the needs of every student. Schools all over the country have successfully welcomed and integrated newcomer students as well as other longer-residing immigrant students, allowing them and the rest of the student population to thrive in an environment that celebrates diversity. Rather than shut the doors of schools to newcomer

¹ Julie Sugarman, "Recent Immigrant Children: A Profile of New Arrivals to U.S. Schools," Migration Policy Institute (October 2023), https://www.migrationpolicy.org/sites/default/files/publications/mpi-recent-immigrant-children-2023_final.pdf.

² Ibid.

³ *Plyler v. Doe*, 457 U.S. 202, 206 n.2 (1982).

⁴ Federal laws that prohibit discrimination based on race, class or national origin include the Civil Rights Act of 1964, Equal Educational Opportunities Act. Additional laws protecting English learners and their families include the *Castañeda v. Pickard* 1981 U.S. Court of Appeals for the Fifth Circuit decision, Title I and Title III of the Elementary and Secondary Education Act.

⁵ The Individuals with Disabilities Education Act protects students with a range of special needs regardless of immigration status, and also requires services to be provided in a language that the student and their parents understand.

⁶ Hannah Liu, "How Schools Can Create Welcoming Spaces for Kids in Immigrant Families," Center for Law and Social Policy (September 6, 2023), <https://www.clasp.org/blog/how-schools-can-create-welcoming-spaces-for-kids-in-immigrant-families>.

⁷ Melanie Hanson, "U.S. Public Education Spending Statistics," EducationData.org (September 8, 2023), <https://educationdata.org/public-education-spending-statistics>.

students, policymakers should focus on strategies for equipping schools to be ready to serve these students. Some of these strategies are included in the Department of Education’s Newcomer Toolkit, which provides tools and resources to support educators, principals, and administrators working in elementary and secondary schools in meeting the needs of the newcomer student population.⁸ As members of the National Newcomer Network (NNN), CLASP endorses NNN’s policy platform which specifically calls for:

- Upholding civil rights laws and providing adequate services by targeting funding to LEAs through federal and state earmarks to improve services and curriculum development for newcomer students, as well as support to the Department of Education’s Office of Civil Rights to ensure meaningful enforcement of civil rights laws;
- Ensuring educators are prepared to meet the needs of newcomer students through targeted training for the Department of Education, including the development, implementation, and monitoring of such training;
- And amending federal and state funding streams and accountability measures to ensure that the needs of newcomer students are met, in particular those that are multilingual learners.⁹

II. Educating immigrant children has proven beneficial to our country as a whole.

Immigrant children have been attending U.S. schools far before their right to do so was confirmed by the Supreme Court in 1982. This is largely because the benefits of a basic education — both to a child’s future success as well as to the U.S. workforce — have been proven time and again over our nation’s history. Research also shows that the presence of immigrant students is not only unharmed to students in native-born families, but in many cases can help improve the educational outcomes of students in native-born families.

Economic Contributions of DACA Recipients and Immigrants

The significant contributions of the more than 830,000 young people who have benefitted from the Deferred Action for Childhood Arrivals (DACA) program since its inception in 2012 is one of the strongest testaments to the societal benefits of educating immigrant students, including those who are undocumented. The DACA program made it much easier for recipients to pursue a postsecondary education and provided them with work permits to pursue the careers of their choice. A 2023 DACA survey revealed that among respondents, nearly 23 percent reported they are currently enrolled in school, with the majority (73.5 percent) pursuing a bachelor’s degree or higher. The survey also found that 9 out of every 10 respondents are currently employed or enrolled in school, and more than 3 out of every 10 respondents are first-time homeowners and

⁸ Newcomer Tool Kit, U.S. Department of Education Office of English Language Acquisition (June 2023), <https://www2.ed.gov/about/offices/list/oela/newcomers-toolkit/index.html>.

⁹ Alejandra Vázquez Baur, “The National Newcomer Network’s Policy Platform,” The Century Foundation (February 20, 2024), <https://tcf.org/content/commentary/the-national-newcomer-networks-policy-platform>.

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pay mortgages.¹⁰ Over the last decade DACA recipients have filled critical roles in our workforce, including as essential workers during the COVID pandemic. Data shows that approximately 343,000 people with DACA in the workforce were employed as essential workers, representing more than three-quarters of working DACA recipients.¹¹ Of those, a total of 20,000 were educators and 100,000 worked to maintain our food supply chain.¹² Additionally, approximately 45,000 DACA recipients worked in health care settings, including during the height of the pandemic, despite lacking equitable access to protect their own health.¹³

Even prior to the DACA program, many states recognized the value of ensuring that undocumented students who were graduating from high school were able to pursue postsecondary education. Undocumented students without any lawful status face significant barriers to pursuing postsecondary studies due to their inability to qualify for financial aid or in some cases, to qualify for in-state tuition or enrollment at all. In recognition of the importance of immigrant students, more than half of states have implemented policies to provide in-state tuition and, in some cases, state financial aid and other supports to undocumented students.¹⁴ Texas was the first state to take action to provide in-state tuition to undocumented students in 2001.¹⁵

It is also important to recognize the tremendous contributions of immigrants more broadly, including undocumented immigrants, to the U.S. economy. In 2021, despite a severe backlog in Individual Tax Identification Number (ITIN) applications, immigrant households paid \$524.7 billion in total taxes, including \$346.3 billion in federal taxes.¹⁶ They also contributed \$178.4 billion in state and local taxes, money that funds schools for all children.¹⁷ Another study finds

¹⁰ Tom K. Wong et al., “2023 Survey of DACA Recipients Highlights Economic Advancement, Continued Uncertainty Amid Legal Limbo,” Center for American Progress (March 25, 2024), <https://www.americanprogress.org/article/2023-survey-of-daca-recipients-highlights-economic-advancement-continued-uncertainty-amid-legal-limbo/>.

¹¹ Nicole Prchal Svajlenka and Trinh Q. Truong, “The Demographic and Economic Impacts of DACA Recipients: Fall 2021 Edition,” Center for American Progress (November 24, 2021), <https://www.americanprogress.org/article/the-demographic-and-economic-impacts-of-daca-recipients-fall-2021-edition/>.

¹² Ibid.

¹³ Ibid.

¹⁴ “Toolkit on Access to Postsecondary Education,” National Immigration Law Center (August 2023), <https://www.nilc.org/issues/education/eduaccess toolkit/eduaccess toolkit2/#maps>.

¹⁵ Kevin Lindsey, “Access to Education: Challenges and Opportunities for Immigrant Students,” First Focus on Children (December 11, 2013), <https://firstfocus.org/resource/access-education-challenges-opportunities-immigrant-students/>.

¹⁶ “American Immigration Council Maps the Impact of Immigrants With New Data on the United States and All 50 States,” American Immigration Council, (November 2023), <https://www.americanimmigrationcouncil.org/news/american-immigration-council-maps-impact-immigrants-new-data-united-states-and-all-50-states>.

¹⁷ Lisa Christensen Gee et al., “Undocumented Immigrants’ State & Local Tax Contributions.” Institute on Taxation and Economic Policy, March 2017, <https://itep.org/undocumented-immigrants-state-local-tax-contributions-2017/>.

that refugees and asylum seekers contributed a net positive \$123.8 billion of tax revenue than they used in public services, including \$92.3 billion net positive in state and local tax revenue.¹⁸

Benefits of Immigrant Students to Native-Born Students

The presence of immigrant students in classrooms does not hamper the achievement of native-born students.¹⁹ On the contrary, studies suggest that native-born students actually may benefit from having immigrant children as peers. A Florida-based study found that U.S.-born students with more immigrant peers scored better on math and reading tests than similar students with fewer immigrant peers.²⁰ This effect was especially pronounced for Black students and students with low incomes.²¹ Research also shows that Spanish bilingual education programs that support immigrant students have positive spillover effects – improving test scores of native-born students, even those whose home language is not Spanish.²² Moreover, the benefits to all students from learning in diverse classrooms is well-documented. Students gain valuable skills — such as creative problem solving and critical thinking — from interacting with others with different perspectives, life experiences, and backgrounds.²³ Ultimately, committing to providing quality education for immigrant students, all students will do better.

III. Denying education to any subset of the child population will have harmful long-term consequences for the country.

When the Supreme Court ruled in *Plyler v. Doe* that every child — regardless of immigration status — was entitled to a public K-12 education under the Equal Protection Clause, it did so based on the principle that a basic education is fundamental to a child’s ability to succeed. The ruling also warned that barring undocumented students from attending public school would “create and perpetuate” an underclass of uneducated individuals, to the detriment of broader

¹⁸ Robin Ghertner, Suzanne Macartney and Meredith Dost, “The Fiscal Impact of Refugees and Asylees at the Federal, State, and Local Levels from 2005-2019,” U.S. Department of Health and Human Services Office of the Assistant Secretary for Planning and Evaluation (February 15, 2024), <https://aspe.hhs.gov/reports/fiscal-impact-refugees-asylees>.

¹⁹ David Figlio and Umut Özek, “Unwelcome Guests? The Effects of Refugees on the Educational Outcomes of Incumbent Students,” *Journal of Labor Economics* Volume 37, no.4 (2019): 1061-1096, https://www.nber.org/system/files/working_papers/w23661/w23661.pdf; Margarita Pivovarovna and Jeanne M. Powers, “Are immigrant students disproportionately consuming educational resources?,” Brookings Institution (October 3, 2019), <https://www.brookings.edu/articles/are-immigrant-students-disproportionately-consuming-educational-resources>.

²⁰ David Figlio et al., “Diversity in Schools: Immigrants and the Educational Performance of U.S.-Born Students,” *The Review of Economic Studies* Volume 91, no. 2 (March 2024): 972–1006, <https://doi.org/10.1093/restud/rdad047>.

²¹ Ibid.

²² Aimee Chin, N. Meltem Daysal and Scott A. Imberman, “Impact of bilingual education programs on limited English proficient students and their peers: Regression discontinuity evidence from Texas,” *Journal of Public Economics* Volume 107 (November 2013): 63-78, <https://doi.org/10.1016/j.jpubeco.2013.08.008>.

²³ Amy Stuart Wells, Lauren Fox, And Diana Cordova-Cobo, “How Racially Diverse Schools and Classrooms Can Benefit All Students,” The Century Foundation (February 9, 2016), <https://tcf.org/content/report/how-racially-diverse-schools-and-classrooms-can-benefit-all-students>.

society as a whole.²⁴ For similar reasons, state laws around the country require that every child be enrolled in elementary and secondary school.²⁵ Children who lack a basic education will face significant hurdles in being able to support themselves or their families later in life, and they are also at greater risk of being involved in the criminal legal system or needing to rely on public benefit programs. As the Supreme Court recognized in 1982, the fact is that the costs of *not* educating undocumented children are likely to greatly exceed the costs of educating them.

It is also important to note that any effort to bar or restrict access to a K-12 education to a targeted subset of the child population will likely have implications that reach beyond the targeted population. For example, barring undocumented children from enrolling in school could create a chilling effect that could lead to other immigrant children or children in immigrant families choosing not to enroll. There are more than five million U.S. citizen children living with an undocumented family member, and efforts to restrict their undocumented siblings or classmates could create barriers to their education access as well.²⁶ Some proposals have suggested charging tuition to the children of undocumented parents, which would create an unprecedented violation of such children's rights as U.S. citizens. Charging tuition at all for a public K-12 education — including specifically charging undocumented children or newcomer children — could also create such a high barrier that it ultimately bars children from enrolling since parents, in particular those with low-incomes, may not be able to cover the tuition. Policies that would require schools to document immigration status could also lead to declines in enrollment among the broader immigrant student population and other students in immigrant families. For example, the Monday following the implementation of HB 56 in Alabama in 2011, which required schools to collect and report information on whether students were undocumented, more than 2,000 children did not show up to school.²⁷

VI. Conclusion

It is our position as anti-poverty policy experts that Congress must work to expand resources to local education agencies to ensure that they are able to abide by their legal obligations to educate every child and to provide equitable access to newcomer students and all other immigrant students and students in immigrant families. We also believe it is imperative that Congress reject

²⁴ Michael A. Olivas, "Plyler v. Doe, the Education of Undocumented Children, and the Polity," In David Martin and Peter Schuck, eds., *Immigration Stories*, Foundation Press, 2005.

²⁵ Lauren Burr, Mark Ziegler-Thayer, Jenny Scala, "Attendance Legislation in the United States," American Institutes for Research, <https://www.air.org/sites/default/files/2023-04/Attendance-Legislation-in-the-US-Jan-2023.pdf>.

²⁶ Randy Capps et al., "Unauthorized Immigrants in the United States, Stable Numbers, Changing Origins," Migration Policy Institute (December 16, 2020), <https://www.migrationpolicy.org/research/unauthorized-immigrants-united-states-stable-numbers-changing-origins>.

²⁷ Tom Baxter, "Alabama's Immigration Disaster: The harshest law in the land harms the state's economy and society," Center for American Progress (2012), <https://www.americanprogress.org/article/alabamas-immigration-disaster/>.

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any proposal that could undermine the well-being of any child and to uphold the constitutional right of every child to access a public K-12 education regardless of immigration status. A basic education is critical to a child's ability to sustain themselves in the future and contribute to our nation's workforce. The decisions policymakers make today about how to treat newcomer students and children in immigrant families—which comprise one in four of all children in the United States—will have consequences for generations to come. We can meet the challenge of this moment by investing in our schools and believing in every child's potential.

We thank you again for the opportunity to submit this statement for the record. For any questions, please contact Wendy Cervantes, Director of Immigration and Immigrant Families, at wcervantes@clasp.org.