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Education Access for Unaccompanied Immigrant Children

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Education Access for Unaccompanied Immigrant Children

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RESEARCH BRIEF:

A non-exhaustive summary of peer-reviewed evidence related to a children’s rights topic, intended to highlight areas for policy and advocacy work.

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Unaccompanied immigrant children (“UIC” or “unaccompanied children”), defined as those children under the age of 18 who enter the U.S. without a primary caregiver and without legal status, represent a growing population within U.S. schools. Since October of 2013, the U.S. government has detained and placed nearly 170,000 unaccompanied children with adult sponsors who care for the children in communities throughout the U.S. (U.S. Office of Refugee Resettlement, 2017b). These children join thousands more UIC who previously entered the U.S. undetected and also require educational and supportive services in the communities where they live. Although their numbers are relatively small compared to the 56 million students throughout the U.S., their need for support from local schools and school districts is great. Many UIC are not only English Language Learners (ELL), but many also require supports and services to address extended and/or multiple education disruptions, and social, emotional, and physical disabilities that impede learning.

Titles IV and VI of the Civil Rights Act of 1964 state that all children have a right to a free and equitable public education regardless of their race, color, sex, religion, national origin, or legal status. This includes the right to specialized language and special education services so that they can fully participate in every educational opportunity offered in the school and school district. The U.S. Supreme Court reinforced this right in *Plyler v. Doe*,

457 U.S. 202 (1982), which held that states cannot deny a public education (grades K-12) to any child, regardless of their legal status.

All school-aged children are also obligated to either attend school or receive home schooling until, a minimum, of age 16. Many states, however, require children attend beyond that age.¹ Despite this right and legal obligation for primary schooling, some UIC struggle to enroll in school and receive necessary educational and supportive services (Lhamon, Rosenfelt, & Samuels, 2014). Whereas some unaccompanied children have individual challenges that impede their attendance and participation, others experience resistance from schools and school districts that must provide obligatory, but costly, educational and supportive services.

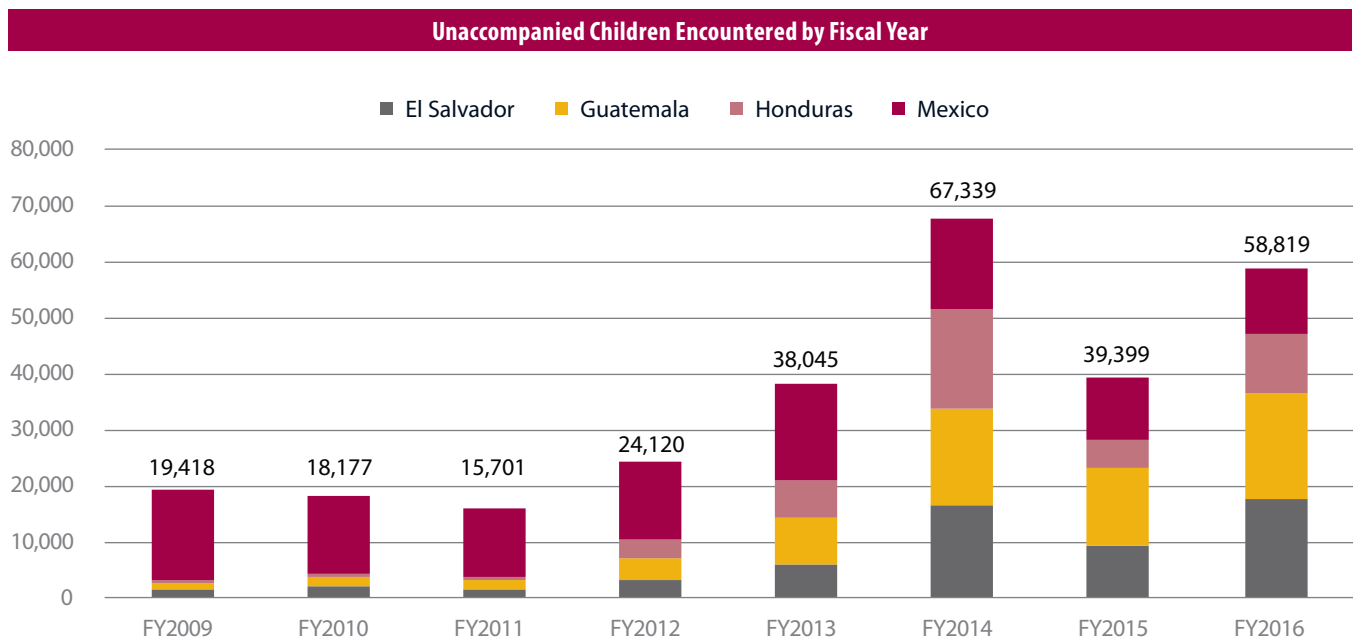
While a few research and policy documents detail the movement of youth through the immigration system, little is known about this population after they enter the U.S. This research brief synthesizes the existing cross-disciplinary research about UIC, the barriers to equitable education in U.S. schools, and relevant federal policies and laws. We have chosen to prioritize peer-reviewed research, but have also included information from governmental and non-governmental reports.

¹ See, Education Commission of the States, *Free and Compulsory School Age Requirements in the United States*, retrieved June 15, 2015, from <http://www.ecs.org/clearinghouse/01/18/68/11868.pdf>.

In recent years, the number of unaccompanied immigrant children coming to the U.S. has increased dramatically. In FY2014, the U.S. Department of Homeland Security (DHS) apprehended 68,500 UIC at the Southwest Border, up from 16,067 in FY2011. The number declined to 39,970 in FY2015 but increased again to 59,692 in FY2016 (Kandel, 2017). Although these numbers highlight the number of children apprehended at the border, an additional unknown number of unaccompanied children enter undetected and also live in communities throughout the U.S.. UIC arrive from countries from throughout the world, but the overwhelming majority, 98% in FY2016, come from Mexico and the Central American Northern Triangle countries of El Salvador, Honduras, and Guatemala (U.S. Office of Refugee

Resettlement, 2017a). Although the number of unaccompanied children coming from Mexico remains relatively constant, the numbers of UIC coming from the Northern Triangle countries apprehended by the U.S. Department of Homeland Security has increased substantially.

A review of the limited research available about both apprehended and undetected unaccompanied children in the U.S. suggests that these young people tend to have varied and often very complex educational and social-emotional needs that impede their ability to achieve their educational potential. This section provides an overview of this vulnerable population and their educational and social emotional needs. Periodically, when research about unaccompanied children living in the U.S. is not available, this brief



U.S. Customs and Border Protection (2017). Southwest Border Unaccompanied Alien Children FY2016. Retrieved July 17, 2017, from <https://www.cbp.gov/site-page/southwest-border-unaccompanied-alien-children-statistics-fy-2016>.

employs analogous research of children with similar migration experiences, including child refugees, internally displaced children, and newly arrived immigrant children.

TRAUMA

While UIC make the difficult journey to the U.S. for multifaceted and complex reasons, escaping the high rates of violent crime in their home countries is often a leading influence, along with family separation and reunification and limited economic opportunity (Donato & Perez, 2017; Kandel, William A; Bruno, Andorra; Meyer, Peter J; Seelke, Clare Ribando; Taft-Morales, Maureen; Wasem, 2014). In fact, a United Nations High Commissioner for Refugees (“UNHCR”) study (2013) of UIC ages 12 – 17 reports that nearly half (48%) left their home country because of their experience with violence in their community (including gang violence, organized crime or government and sexual violence) and/or interpersonal/domestic violence. These youths’ countries of origin – Mexico, El Salvador, Honduras, and Guatemala – have among the highest rates of violence, crime, and poverty in the region (Kandel, 2017; University of Washington, 2017). In 2015, Honduras and El Salvador had the highest murder rates in the world, while Guatemala and Mexico were 5th and 26th, respectively (UNODC Statistics, 2017). Because of these factors, many UIC experience trauma prior to their migration journey (Fuino Estefan, Ports, & Hipp, 2017; UNHCR, 2013). However, unfortunately, research suggests that UIC are also exposed to trauma, including mistreatment by human smugglers/

traffickers, sexual and/or physical abuse, natural disaster, and becoming victims/witnesses of crime during their journey to the U.S. (Chen & Gill, 2015; Jaycox et al., 2002).

Although a child’s response to traumatic experiences such as these may vary, research suggests that it can create additional challenges for students. Generally, children who are exposed to trauma are at increased risk of negative health and wellbeing outcomes. This may include post-traumatic stress, anxiety, depression, and cognitive impairments, among others (Bücker et al., 2012; Sacks, Murphey, & Moore, 2014). This is notable for many recent immigrant children who are at risk for violence exposure and related psychological distress resulting from experiences before, during, and after immigration (Jaycox et al., 2002). A study of newly-arrived immigrants in the U.S. found that they displayed higher levels of interpersonal, socioemotional, health, and substance abuse issues compared to their non-immigrant peers (Sulkowski, 2017).

A traumatic experience can impact a child and young person’s educational performance and behavior in school and may increase the risk of dropout. Traumatic experiences in childhood can negatively impact concentration, memory, and the ability to process information, which are necessary for children to succeed in school. It can also influence the ability to self-regulate emotions and behavior, which teachers can interpret as disruptive classroom behaviors and lead to increased suspension and expulsions (Porche, Fortuna, Lin, & Alegria, 2011). Although research findings consistently suggest that childhood

trauma is linked to negative educational and life outcomes, more research is needed to understand the impact that trauma has on unaccompanied children's educational experiences, as well as the role of protective factors in promoting positive educational outcomes.

LANGUAGE

Many of the unaccompanied children arriving in the U.S. have limited English proficiency. The majority speak Spanish, but others speak less common indigenous languages, such as Ixil, Mam, or K'itche. For those UIC who do qualify as English Language Learners (ELL), the failure to learn English or learn it quickly may lead them to struggle academically. Research continues to show that, although results vary between states, an academic achievement gap exists between ELL and non-ELL students in both reading and math (Murphey, 2014). Furthermore, ELL who enter school between the ages of 12-15 often encounter the most difficulties when acquiring a second language, and often take six to eight years to perform at their grade level (Collier, 1987). If students do not reach English language fluency by secondary school, they are more likely to attend remedial, less challenging classes, which decreases the likelihood they graduate and/or attend college (Callahan, 2005).

A delay in English proficiency not only affects academic performance, but also impacts social and emotional adjustment. In fact, a review of the literature focusing on immigrant students found that newly-arrived students with good English adjusted better to their new school environments

than their non-English speaking peers, especially for those individuals who are already behind their peers academically. In addition, students who have a strong accent and/or who struggle with speaking English are more likely to report being mistreated by their teachers and peers (McBrien, 2005). Likely related to these setbacks, UIC are at-risk of poor academic performance, lower academic achievement, and school dropout (Freeman & Freeman, 2002; Gunderson, 2007).

To address these issues, some schools have implemented various strategies for integrating ELL students, such as developing special programs, promoting more "heterogeneous" and "collaborative" groupings of ELL students, providing better trained teachers and staff members who can work with students, and speak their native language (de Jong & Harper, 2005; Genesee, Lindholm-leary, & Christian, 2005; Roessingh, 2004). One study found that UIC students had especially positive experiences at schools that had "well-developed systems" and special "welcoming" programs" for ELL students (Roth & Grace, 2015).

EDUCATION DISRUPTION AND SCHOOL INTEGRATION

Many newly-arrived UIC have limited consistent formal education experience (Booi et al., 2016). In many cases, they either did not attend school or attended school inconsistently before they arrived in the U.S. because of poverty-related issues and/or the threat of violence and crime in their communities (UNHCR, 2015). Their schooling may also have been limited because of inadequate resources, limited education beyond

primary years, instruction quality, or other school-related factors (DeCapua & Marshall, 2010). As result, UIC are more likely to have limited literacy skills in their native language and be several grade levels behind their peers. These educational delays can also lead to additional delays in English language learning for UIC beyond those discussed above. For example, one study of newly-arrived immigrant children with limited and/or interrupted formal education living in New York City found that they performed at significantly lower levels than other English Language Learners, who are characterized as already performing poorly compared to their peers (Advocates for Children of New York, 2010).

Unfortunately, despite UIC's specific educational needs relating to trauma, language, and education disruption, schools may not provide the supports and services necessary to support them (*Advocates for Children of New York, 2010*). Indeed, some schools may be reluctant to enroll UIC in the first place. States and local school districts vary in how they enroll UIC. While many welcome unaccompanied children into their community schools, others impede or delay enrollment, contrary to federal law and policy (Booi et al., 2016; Pierce, 2015). The Associated Press reports that in at least 35 districts in 14 states, local schools and school districts bar and/or delay unaccompanied children's enrollment. This actual number, however, is substantially underreported because the federal government does not release information on counties where fewer than 50 UIC are placed, which accounts for 25,000 unaccompanied children (Burke & Sainz, 2016).

Methods used to discourage enrollment vary. Some schools require children and/or their caregivers provide documentation that is either difficult to obtain and/or is not required for U.S. born children (Booi et al., 2016). A qualitative study of UIC living in New York City found that some schools required children and/or their caregiver to provide documents from their home country, such as school transcripts and immunization records, to enroll (Fordham University School of Law & Vera Institute of Justice, 2015). Others require that they meet strict residency requirements and provide proof of "domiciliary" or permanent residency within the

intended district (Booi et al., 2016). These requirements are particularly challenging for UIC and/or undocumented/mixed status caregivers who may, themselves, be transient, not have adequate documentation, may not be able to afford the process by which to obtain the necessary documentation, and/or have fears about deportation, language barriers, and cultural differences (Burke & Sainz, 2016).

For some UIC, meeting age or grade-level requirements are a barrier to enrollment, despite applicable laws mandating the child's right to attend. A study of government and school officials, service providers, and undocumented children in North Carolina and Texas found that factors such as the child's age or testing performance were used to delay and/or discourage enrollment (Booi et al., 2016). Administrators may impede enrollment for a variety of reasons, but this is frequently done to limit costs and maintain higher school performance and graduation rates (Booi et al., 2016; Sugarman, 2016).

Although costs between ELL programs vary, they generally require additional resources to hire teachers with specialized skills. The federal government provides some funding to support ELL programs, but this covers only about 11% of funding, with states and local districts responsible for the remaining costs. The primary source of federal funding comes through grants to the states in Title III of the Every Student Succeeds Act of 2015. Other sources of federal funding include the Migrant Education Program and Refugee School Impact Program.²

² For more information about federal funding to schools for immigrant children see the U.S. Department of Education's (2016) '[FACT SHEET: Educational Services for Immigrant Children and Those Recently Arrived to the United States.](#)'

School administrators also face additional performance-based pressures to maintain and/or improve student academic performance and graduation rates (Menken & Solorza, 2014). These pressures create a disincentive to serve English learning UIC, who are more likely to be judged low performing and less likely to graduate before they reach the identified graduation age. As a result, schools may divert older UIC to alternative education programs where they can continue their education beyond district age limits and outside district reporting requirements.

Although states and local districts can determine the minimum requirements for enrollment and the documents necessary to establish proof of a child's residency and guardianship, federal law protects children from discrimination. Title IV of the Civil Rights Act of 1964 prohibits primary and secondary schools from discriminating based on race, color, national origin, and immigration status, and Title VI bars them from using administrative criteria and/or methods to discriminate against groups of individuals based on such categories as race, national origin, and/or immigration status, among others. Relatedly, schools and districts are barred from the following:

- Asking about citizenship or immigration status of the adult enrolling the child;
- Requiring documentation to establish residency that would bar a student whose caregiver is undocumented from enrolling

in school;

- Requiring a birth certificate or social security number; or
- Rejecting a birth record that indicates a foreign place of birth or foreign birth certificate.

Furthermore, under the McKinney-Vento Education for Homeless Children and Youth Program, Title VII-B of the McKinney-Vento Assistance Act of 1987 (PL 100-77), districts/schools must accept and immediately enroll any child, including unaccompanied children, who is deemed under the Act as being "homeless." Schools must enroll children even if they cannot present the otherwise required documentation.³

³ For more information about federal guidance to Unaccompanied Immigrant Children see U.S. Departments of Justice, Education, and Health & Human Services (2016) memorandum to schools, '[Information on the Rights of Unaccompanied Children to Enroll in School and Participate Meaningfully and Equally in Educational Programs.](#)'

Once UIC cross the first barrier of enrollment, schools and districts must provide equal access to necessary supports and services to all children regardless of the child or caregiver's national origin, citizenship, or immigration status. While many schools and districts meet these requirements, others fail to adequately evaluate UIC and other culturally and linguistically diverse students resulting in inappropriate educational placements and services (Advocates for Children of New York, 2010; Booi et al., 2016; Fernandez & Inserra, 2013). These practices contribute to disparities in resources, opportunities to learn, and educational attainment and have been linked to negative outcomes, such as behavioral issues, low engagement, grade retention, high drop-out rates, and inappropriate referrals for special education (Brayboy, Castagno, & Maughan, 2007; Suárez-Orozco, Roos, & Suárez-Orozco, 2000). This is particularly problematic for UIC who are English Language Learners and/or have histories of limited or interrupted formal education (Duran, 2008; Gunderson, 2007).

Research suggests that schools are increasingly likely to identify English learners as having learning disabilities or mental retardation compared to their white peers resulting in their overrepresentation in special education programs (Artiles, Rueda, Salazar, & Higareda, 2005; Sullivan, 2011; Valenzuela, Copeland, Qi, & Park, 2006). When ELL are judged to lack English language proficiency, they may be regarded as remedial students and placed in special education courses to their academic detriment (Collier, 1987; Sullivan, 2011). School staff often fail to distinguish between

students' limited cultural and English language proficiency and actual learning disability (Fernandez & Inserra, 2013). Moreover, in assessing students they may not consider students' literacy level and numeracy in their native language, the number of years they spent in school, and the length of time they spent participating in a formal education program.

In addition, UIC who are English learners are also at increased risk of being segregated from the general population if the school's ELL program requires extended separated instruction. English language courses that pull-out students from mainstream courses may have the unintended consequence of separating English learners from other students, thus perpetuating their linguistic isolation and providing limited opportunity for them to interact with English speakers both in and out of school (Arias, 2007). Students placed into ELL courses can also spend years in lower level courses, with little interaction with students from "more linguistically, ethnically, and socio-economically diverse body of students" (Goździak, 2015).

Once enrolled, schools must, without delay, identify student's eligibility for English language services using valid and reliable tests. If identified, school districts must provide English language services so that children can become proficient in English and participate equally in all school instruction and programming. This includes equal opportunity to participate in athletic programs, arts, career and technical education, clubs, courses and Advanced Placement and International Baccalaureate programs/courses. Students with interrupted formal education who are placed below grade-level,

should receive age-appropriate classes that provide an opportunity for students to meet grade-level standards within a reasonable period.

Fortunately, although limited research exists about UIC's access to education services, more extensive research is available to guide schools and districts in supporting children's educational needs in the classroom. This includes research on ways to provide an appropriate, culturally-responsive, educational climate and supports for students who are English language learners, as well as students who are recent immigrants.⁴

Under the Individuals with Disabilities Act (IDEA) or Section 504 of the Rehabilitation Act of 1973, school districts must provide unaccompanied children who are English learners and have disabilities with both English language and disability-related services. In these cases, school districts must do the following:

- Evaluate and identify special education and disability related services in a timely manner;
- Provide both special education and English language services, if necessary.⁵

⁴ See National Council of Teachers. (2008). ['English language learners: A policy brief produced by the National Council of Teachers.'](#)

⁵ For more information about federal guidance to Unaccompanied Immigrant Children see U.S. Departments of Justice, Education, and Health & Human Services (2016) memorandum to schools, ['Information on the Rights of Unaccompanied Children to Enroll in School and Participate Meaningfully and Equally in Educational Programs.'](#)

Unaccompanied children face numerous challenges prior to and after they arrive in the United States. Obtaining an education is both an opportunity and potential challenge depending on the young person and the school. This brief provides an overview of some of these challenges. It does so, however, with limited research about UIC and their school experience. Apart from a few studies, information depends predominantly on the analogous research of other migrant children.

The experience of these young people, however, is unique and deserves more attention. All of these youth require educational and supportive services. Unfortunately, little is known about the educational well-being of this population of vulnerable children. Without more information, this population risks falling between the cracks and being denied access to the education they deserve and require to succeed.

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