



Explainer: *Plyler v. Doe* and the Right of Undocumented Children to Access Public Education

Introduction

Denying free public K–12 education to children in the United States based on their immigration status is [unconstitutional](#). This principle was firmly articulated in 1982 by the U.S. Supreme Court in [Plyler v. Doe](#), which held that states may not deny undocumented children access to public education without violating the Equal Protection Clause of the Fourteenth Amendment.

In recent years, however, there have been efforts at multiple levels of government to [challenge](#) or overturn this precedent. The [Trump administration](#), several [state legislatures](#), and [members of Congress](#) have advanced proposals aimed at restricting access to public education for undocumented children and/or directly inviting judicial reconsideration of *Plyler v. Doe*. These efforts reflect a broader strategy to test the durability of the longstanding constitutional right to access [free public K-12 education](#).

This explainer provides a legal and historical analysis of the landmark Supreme Court decision in *Plyler v. Doe*. It examines the constitutional basis of the Court's opinion, explores the key elements of the concurring and dissenting opinions, and analyzes the extent to which the current Supreme Court majority may be willing to revisit – or potentially overturn – this longstanding precedent.

Background and Historical Context of *Plyler v. Doe*

Following the passage of the Immigration and Nationality Act of 1965, the United States replaced its [national-origins quota system](#) with a preference system that imposed the first numerical limits on immigration from the Western Hemisphere. While intended to create a more uniform system, these caps significantly [constrained](#) lawful migration channels from neighboring countries, particularly Mexico, even as labor demand in sectors such as agriculture, construction, and services remained strong. As a result, unauthorized migration [increased](#) during the late 1960s and 1970s, especially in border states like Texas, contributing to [rapidly growing](#) immigrant communities.

Within this environment, some school districts saw [rising enrollments](#) of children from immigrant families, many of whom were English language learners and required additional educational resources. These pressures coincided with broader [economic](#)

challenges of the 1970s and concerns about the allocation of limited public funds. For some state and local policymakers, these conditions intensified debates over who should be entitled to publicly funded services, including education.

In the absence of clear federal guidance on the rights of undocumented children to access public education, Texas policymakers sought to test the constitutional boundaries of state authority in this area. Under these conditions, in 1975, Texas enacted §21.031 of the Texas Education Code, which permitted public K-12 schools to deny admission to undocumented students or charge them tuition to attend school. Following the passage of this law, in 1977, the school board of Tyler, Texas, implemented a \$1,000 tuition fee for each child who was unable to establish citizenship; an amount that would limit access to K-12 education.

This set the stage for legal challenges that culminated in *Plyler v. Doe*, in which the Supreme Court addressed whether such a law was consistent with the Equal Protection Clause.

The Case: *Plyler v. Doe*

In 1977, the Mexican-American Legal Defense and Education Fund filed a class action lawsuit against the Tyler School District, challenging the policy that required children who could not prove lawful status to pay \$1,000 to attend public schools.

First, a Federal District Court held that undocumented people were entitled to free public K-12 education under the Equal Protection Clause of the Fourteenth Amendment and ruled that the Texas law violated that provision. The Tyler School District then appealed to the Fifth Circuit, which also ruled that the Texas law was unconstitutional, and then to the U.S. Supreme Court, which agreed to hear the case.

Key Elements of the *Plyler v Doe* Majority Opinion

In *Plyler v. Doe*, the Supreme Court upheld the lower courts' decisions in a 5-4 ruling. Justice William Brennan, writing for the majority, held that the Equal Protection Clause of the Fourteenth Amendment applies to all persons in the United States, regardless of immigration status. The majority opinion, however, emphasized that not all distinctions between groups are automatically unconstitutional. In evaluating equal protection claims, courts apply one of three established levels of scrutiny to examine the validity of the governmental action in question — strict scrutiny, intermediate scrutiny, or rational basis, each requiring different levels of justification from the government.

To evaluate the Texas law, the Court seemingly applied intermediate scrutiny, undertaking a more careful analysis that took into account the costs to the nation and to

the affected immigrant children. After rejecting Texas's arguments related to immigration deterrence, resource allocation, and student mobility, the Court concluded that the law did not serve a substantial state interest and was therefore unconstitutional. The ruling can be summarized in the following five points:

- 1. Equal Protection Clause Applies to Undocumented Children.** The Fourteenth Amendment provides that states must treat "any person" equally under the law.¹ The Supreme Court made clear that this includes all people living in the U.S., regardless of their citizenship or immigration status. The Court emphasized that the Equal Protection Clause applies to anyone within a state's jurisdiction, irrespective of how they entered the country. The Court further noted that it had long recognized this principle in prior cases,² consistently holding that constitutional protections extend to all persons within the United States' territorial boundaries.
- 2. Intermediate Scrutiny Determines the Constitutionality of Texas' Law:** In *Plyler v. Doe*, the Supreme Court applied intermediate scrutiny after declining to use strict scrutiny or traditional rational basis review.³ The Court adopted this approach because the case involved a discrete group of children who were not responsible for their undocumented status and faced severe, lifelong harm from being denied access to education, even though they were not considered a "suspect class"⁴ and education had not been found to be a fundamental right. Under this form of intermediate scrutiny, the Court reviewed the Texas law, taking into account "its costs to the Nation and to the innocent children who are its victims." There have been other

¹ Equal Protection Clause of the Fourteenth Amendment: "[n]o State shall ... deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

² The Court explained that "any person" applies to all people within a state's boundaries, regardless of their immigration or citizenship status. This was not a new idea; the court referenced several prior cases that reached the same conclusion, including *Wong Wing v. United States*, 163 U.S. 228, 237 (1896); *Yick Wo v. Hopkins*, 118 U.S. 356, 367–68 (1886); and *Mathews v. Diaz*, 426 U.S. 67, 77 (1976).

³ The Court cited *Craig v. Boren*, 429 U. S. 190 (1976), which first set out the intermediate scrutiny standard, in determining that the risk of "recurring constitutional difficulties" requires the state to show a "substantial interest" in making the classification at issue. 457 U. S. at 217-18, n.16. See also Powell, J. concurrence, stating that while strict scrutiny is not appropriate, "Our review in a case such as these is properly heightened." (citing *Craig v. Boren*). 457 U.S. at 238.

⁴ "Suspect class" is a term used for groups that have historically faced discrimination, such as those defined by race or national origin. Under intermediate scrutiny, classifications applied against "quasi-suspect" classes facing discrimination (like women or illegitimate children) are evaluated under heightened scrutiny. See Burger C.J. dissent, criticizing the majority's "quasi-suspect-class and quasi-fundamental-rights analysis." 457 U.S. at 244.

instances in which the courts have departed from traditional rational basis review when laws exhibit a desire to harm a politically unpopular group.⁵

- 3. Although Education Is Not Considered a Fundamental Right, Denying Access to Education Would Create an Underclass:** The Supreme Court emphasized that, although the Constitution does not explicitly guarantee education as a fundamental right, education plays a unique and vital role in American society. The Court described education as "perhaps the most important function of state and local governments," noting that it provides the basic tools individuals need to lead productive lives and participate meaningfully in civic life. It further reasoned that denying access to education imposes a lifetime hardship on children, effectively foreclosing their ability to contribute to society and elevating the risk of long-term social and economic harm. The Court also warned that excluding these children from education would create an "underclass" of individuals unable to fully integrate into society, with lasting consequences for both the individuals and the nation. For these reasons, the Court treated education as different from other government benefits, warranting careful constitutional scrutiny when access is denied to a discrete group of children.

- 4. The Court Rejected Texas's Arguments:** In evaluating the Texas law under the Equal Protection Clause, the Court closely examined each of the state's justifications and found that none were sufficient to support the exclusion of undocumented children from public education.
 - a. Immigration Deterrence:** Texas argued the law would discourage undocumented immigration. The Court rejected this, saying denying education to children would not meaningfully reduce immigration. It reasoned that children are not responsible for their immigration status and that penalizing them would not effectively influence the behavior of their parents or others considering migration.

 - b. Protecting School Resources:** Texas claimed that undocumented students burdened schools. The Court found no evidence that excluding these children would improve education quality for other children. It emphasized that the state failed to demonstrate a substantial connection between the exclusion of these students and any meaningful improvement in educational outcomes or resource allocation.

⁵ See *Halgren v. City of Naperville*, 577 F.Supp.3d 700 (2021); *Romer v. Evans*, 517 U.S. 620 (1996); *City of Cleburne, Tex. v. Cleburne Living Center*, 473 U.S. 432 (1985); *U.S. v. Windsor*, 570 U.S. 744 (2013); *U. S. Dept. of Agriculture v. Moreno*, 413 U.S. 528 (1973).

- c. **Children May Not Stay in the State:** Texas argued these students might not [remain](#) in the state long-term. The Court dismissed this, noting there is no guarantee that any child, citizen or not, will stay. The Court further explained that such speculation could not justify denying a basic educational opportunity, particularly when the long-term societal costs of exclusion could be significant.

5. Holding: Equal Protection Principle Requires States to Provide Free Public K–12 Education to Undocumented Children Without Discrimination.

The Court [concluded](#) in *Plyler v. Doe* that Texas's law would create and perpetuate a "subclass of illiterates" within the country, which would add to the problems and costs associated with unemployment, welfare, and crime. Grounded in the Equal Protection Clause of the Fourteenth Amendment, the Court reasoned that undocumented children are "persons" entitled to its protections and therefore cannot be denied access to public education without sufficient justification. It held that whatever cost savings might be achieved through the Texas law would be "wholly insubstantial" when weighed against the costs to the "children, the State, and the Nation." Because Texas failed to demonstrate that the law furthered a substantial governmental interest under the applicable level of scrutiny, the policy violated the Equal Protection Clause and was therefore unconstitutional.

Key Elements of the Minority's Dissenting Opinion

Chief Justice Warren Burger [dissented](#) for the four-justice minority. The dissent argued that although denying education to undocumented children is "[senseless for an enlightened society](#)," the Constitution doesn't authorize the Court to act in the role of a policymaker. Because undocumented immigrants are not a suspect class, and that education is not considered a fundamental right, a standard rational basis review should have been applied. The dissent stated that under a standard rational basis review, there was a sufficiently legitimate reason to distinguish between lawful and unlawful residents when allocating finite public resources, as the federal government has excluded undocumented immigrants from programs like Medicaid and food stamps. The dissent also warned of judicial overreach and explained that when courts remedy the failures of other political branches, they weaken those branches' incentive to act. In its closing, the dissent reiterated that, while they would not personally deny children an education and the results of doing so would be "destructive," the Constitution doesn't empower judges to substitute their policy preferences for those of elected legislatures. The dissenting opinion can be summarized in the following five points:

1. **Equal Protection Clause Does Not Mandate Identical Treatment of Undocumented Persons.** The dissent agreed that undocumented immigrants were "persons" protected by the Fourteenth Amendment. However, it [emphasized](#)

that equal protection "does not mandate identical treatment of different categories of persons," especially when important state interests are involved.

2. **Judicial Deference to the Legislature.** While expressing disagreement with the policy choice of the Texas legislature, the dissent argued that courts should defer to elected state officials when making policy decisions, particularly on complex issues like immigration and public spending. It [warned](#) that the Court was overstepping its role by second-guessing the judgment of the Texas legislature.
3. **Rational Basis Should Apply.** The dissent maintained that the Texas law should be evaluated under [rational basis review](#), the most deferential standard of equal protection review. They [emphasized](#) that undocumented immigrants are not a suspect class and that education is not a fundamental constitutional right. Because neither condition was met, there was no justification for applying a higher level of scrutiny. Under this approach, the minority argued the law should be upheld as long as it is reasonably related to a legitimate government interest.
4. **Legitimate State Interests.** The dissent [accepted](#) Texas's arguments that the law served legitimate goals, including preserving limited state resources and managing the impact of undocumented immigration on public services like education.
5. **Dissenting Conclusion: Law Should Be Upheld.** The dissent [concluded](#) that the Texas law was a rational response to real challenges and should have been upheld. It argued that the Constitution does not require states to provide free public education to undocumented children and that this decision should be left to policymakers, not the courts.

Could *Plyler v. Doe* Be Overturned?

Like many significant and controversial Supreme Court decisions, *Plyler* has [generated](#) arguments both for and against its reasoning and outcome. While some critics have [questioned](#) its doctrinal framework, supporters [emphasize](#) that the Court's approach appropriately reflected the unique and compelling circumstances of the case, particularly the vulnerability of children and the fundamental role of education in society.

Since *Plyler* was decided, its reasoning has drawn criticism not so much for its result, but for its doctrinal foundation. Critics have [argued](#) that the Court should have applied a rational basis test rather than intermediate scrutiny because immigrants are not a suspect class and education has not been found to be a fundamental right. However, *Plyler v. Doe* continues to have strong adherents who defend both its reasoning and its result. Proponents argue that undocumented children amount to a "[quasi-suspect](#)" class,

including a history of discrimination and a lack of political power, which justifies more searching judicial review. They also contend that, while not formally recognized as a fundamental right, education is so essential to individual opportunity and democratic participation that it [warrants](#) heightened constitutional protection. Finally, supporters emphasize the Court's concern about the [creation](#) of a permanent underclass, arguing that this risk provides a compelling basis for applying a more rigorous form of scrutiny than traditional rational basis review.

In recent years, several efforts have [emerged](#) to test or narrow *Plyler's* reach. Legislatures in some states have [introduced](#) bills designed to limit the provision of K-12 public education to undocumented children and/or probe the boundaries of the decision, including by collecting enrollment data by immigration status to enable cost analyses and strengthen the fiscal arguments *Plyler's* majority rejected. In addition to highlighting the importance of K-12 public education, opponents of those bills have [noted](#) that requiring schools to verify the immigration status of every student would add significant administrative costs and burden schools and U.S. citizen families, while also discouraging some immigrant families from enrolling their children.

In addition, on March 18, 2026, the Republican-led House Judiciary Subcommittee on the Constitution and Limited Government held a [hearing](#) entitled "Immigration Policy by Court Order: The Adverse Effects of *Plyler v. Doe*" with the asserted [purpose](#) of explaining why the case was purportedly "wrongly decided and how it harms America's schools and students."

Consequences of Overturning *Plyler v. Doe*

A [recent study](#) by the Niskanen Center highlighted the potential consequences of restricting public education to undocumented children, examining policy outcomes in countries like Malaysia, the Dominican Republic, and Lebanon. The analysis suggests that overturning *Plyler* could have devastating economic and social consequences for the United States. This study [found](#) that restricting children's access to school in those countries led to increased child labor and long-term social and economic marginalization. These types of outcomes deepen, rather than resolve, the challenges associated with unauthorized immigration and highlight the *Plyler* majority's concern that denying education creates a permanent underclass.

Another recent study by FWD.us [found](#) that undocumented recipients of K-12 education in accordance with *Plyler*, lifetime state and local income tax payments exceed the total cost of their education by a wide margin, \$633 billion, undermining the argument that educating undocumented children harms states from a fiscal standpoint. Conversely, research has [found](#) that reversing *Plyler* and halting access to K-12 education would lead

to significant economic costs. These include reducing GDP by more than \$1 trillion over the lifetime of future undocumented children who would benefit from K-12 education, and the loss of more than 450,000 workers in jobs requiring at least a high school education.

Conclusion

Plyler v. Doe has guaranteed undocumented children access to public education for over four decades. Today, however, a combination of political pressure from certain state legislatures, an organized effort to generate new test cases, and a Supreme Court majority that has shown a [willingness to revisit precedent](#) may place *Plyler* in a more uncertain position than at any point in recent history.

At the same time, the decision rests on a set of practical and constitutional judgments that have only [gained support](#) over time—namely, that denying education to children imposes profound individual harm while creating broader social and economic costs. Whether *Plyler* ultimately endures may depend on whether the Court is prepared to reaffirm those conclusions and recognize that preserving access to education is not only consistent with constitutional principles but also aligned with the nation's long-term interests.