

Plyler and Data Collection

Equal Access to Public Education Under *Plyler v. Doe*

All children living in the U.S., regardless of their immigration status, have the right to equal access to public education. In [*Plyler v. Doe*](#) (1982), the U.S. Supreme Court ruled that it was a violation of the Equal Protection Clause of the Constitution for a state to discriminate against undocumented children by denying them access to that state's system of free public education.

Data Collection

The primary function of our schools is to give all children an opportunity to learn, thrive, and be fully integrated into U.S. communities. To fulfill these functions, it is essential that routine administrative processes, like school enrollment, are not conducted in ways that discourage children from attending school and chill access to public education. For example, including questions about students' and parents' immigration statuses and asking for documentation as proof may cause them to hesitate to continue the enrollment process, fearing that answering these questions or lacking proper documentation will cause them or their family members to be reported to immigration enforcement.

We have seen these attempts in state legislation and regulations including:

- [Tennessee HB793/SB836, in various forms, would have allowed public schools to deny enrollment or charge tuition to a student who does not show certain documents as proof of their citizenship or immigration status. Other versions of this measure would have required schools to collect documents, and report on the number of students who were U.S. citizens or in specific immigration categories, as well as those who failed or refused to provide documents, and the reason why they did not do so. The summary reports would have gone to the state's centralized immigration enforcement division.](#)

- [Oklahoma State Department of Education proposed](#) a rule change to Oklahoma Administrative Code § [210:10-1-5\(d\)](#) requiring parents and guardians to provide proof of citizenship or immigration status at the time of school enrollment. School districts would have been required to record and report the number of students for whom parents or guardians do not establish citizenship or immigration status to the Oklahoma State Department of Education.

Proposals like these create a chilling effect that undermines access to education established for all children in *Plyler v. Doe* and can prevent schools from fully serving their communities. For this reason, the [Eleventh Circuit Court of Appeals](#) ruled that laws requiring inquiries about students' immigration status may conflict with the rights established under *Plyler*. Similarly, the U.S. Department of Education previously issued guidance explaining that this kind of data collection is unnecessary and may be unlawful if it is done “with the **purpose or result of denying access** to public schools on the basis of race, color, or national origin.” We encourage you to review previously issued [guidance](#) related to access to education for undocumented students and recommended enrollment practices highlighted in the Department of Education guidance.

What is the harm in collecting data without disclosing names?

Regardless of whether a school discloses students' immigration statuses to any third parties, collecting this information may impose greater burdens on students based on their race, color or national origin in violation of federal law.

The act of collecting this information may also create unnecessary risks. Because school records are maintained within complex administrative systems, families often have little insight into how sensitive information is stored, who may access it, under what circumstances it could be shared, and if current protections can change in the future. That uncertainty may discourage families from enrolling their children or fully participating in school if asked about their immigration status and documentation. Beyond this, there are inherent dangers that come with collecting immigration data. Retaining sensitive immigration information creates an unnecessary repository of data that could later be disclosed, requested, or accessed by other government entities or through changes in law, policy, or data-sharing practices.



[Research](#) shows that collecting information would also impose substantial administrative burdens on schools. Collecting and protecting sensitive immigration-related information requires additional staff time to review each document, implementing privacy protections, training staff, and spending resources on technology and other needs. These responsibilities consume time and resources without advancing an educational mission and are easily avoidable by not collecting unnecessary information in the first place.

What can schools do to protect student privacy?

In addition to [highlighting the harms](#) caused by these proposed state legislations and regulations, schools can do their part to ensure that they only collect the information they need to enroll a student or administer a specific program without asking for unnecessary information that intentionally or unintentionally chills access to educational opportunities. We recommend that schools evaluate **what information they are collecting, for what purpose, how long they need to keep these records, who has access to the data, and what data protections are in place to protect the data** (e.g. Family Educational Rights and Privacy Act ([FERPA](#)) or state laws). School Districts should also evaluate their school enrollment systems to ensure that citizenship and immigration status information is not collected from parents/guardians and students. Limiting data collection to information that is legally required and educationally necessary helps foster trust, protects student privacy, and ensures that all children feel safe accessing their right to a free public education.