

# Protecting Undocumented Student Access to K-12 Public School

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Tennessee lawmakers have filed three bills designed to challenge a constitutional and long-standing legal precedent that guarantees all children living in the United States access to free public school, regardless of documentation status. The U.S. Supreme Court upheld this fundamental right in [Plyler v. Doe](#), institutionalizing a practice that has been in place for more than 150 years. If any of these bills pass and provoke a successful legal challenge to *Plyler*, students across the country will be denied access to K-12 public education. **Decisions this legislative session in Tennessee will determine the future of public education access in the United States for hundreds of thousands of children.**

## Key Findings

- Access to free public education is a right guaranteed to all children living in the United States, and additional state and federal provisions around compulsory school attendance and rights of students with disabilities are also at play.
- While it is not possible to quantify the exact number of undocumented students in Tennessee's public schools, Tennessee is home to a growing English learner population comprising 9% of public school students. English learners and undocumented students are not the same student groups.
- Threats of immigration detention or deportation invoke fear, stress, and trauma that contribute to absenteeism and drops in achievement. Classmates experience grief as though a classmate has died when a student is no longer there and no one knows what has happened to them.
- Changes to school funding made as part of the new voucher law ([HB 6004/SB 6001](#)) mean that if enrollment drops because undocumented students lose access to public schools, the state would take on a greater financial burden while districts serve fewer students.
- This harmful policy threatens Tennessee's future economic competitiveness by potentially worsening existing workforce shortages.

## Current Access to K-12 Public School for Undocumented Students

**The American immigration system is complex and fragmented**, with a range of types of official status available to people based on their family, employment, whether they have experienced specific crises, and other criteria ([American Immigration Council](#)). This memo uses the term “undocumented student” to encompass a wide range of legal statuses including Temporary Protected Status (TPS) and asylee or asylum pending status.

**The *Plyler* precedent means that K-12 public schools cannot collect any information on immigration status for students.** Tennessee requires students between the ages of 6 and 17 to attend school, and students who do not do so are considered truant and subject to legal penalties ([OREA, 2021](#)). Quantifying the exact number of undocumented students in Tennessee public schools is not possible, nor is it desirable - schools should be safe places for all kids, and collecting immigration information may result in families not enrolling their children in school.

**There are additional provisions that affect undocumented students with disabilities**, who have a guaranteed right to a Free Appropriate Public Education (FAPE) under the Individuals with Disabilities Education Act (IDEA) ([TDOE](#)). Additional legal protections under civil rights laws, including Section 504 of the Rehabilitation Act of 1973, are also in place for students with disabilities ([TDOE](#)). IDEA requires that school districts not just provide services to enrolled students with disabilities, but also identify, locate, and evaluate all children with disabilities ([TDOE](#)).

## Current Legislative Threats to *Plyler* in Tennessee

There have been three bills filed that violate the *Plyler* precedent. While the specific provisions of these bills, detailed in Figure 1, are important, **advocates should stay focused on the overall goal of these bills, which is to overturn *Plyler*.** If the *Plyler* precedent is overturned, states, districts, and schools nationwide may be unable to provide a free public education to all children regardless of their status.

Figure 1: Bills Filed in the 114th General Assembly

<b>Bill Number</b> <i>Sponsors</i>	<b><u>HB 793/SB 836</u></b> <i>Rep. Lamberth/ Sen. Watson</i>	<b><u>HB 746/SB 1044</u></b> <i>Rep. Fritts/ Sen. Bowling</i>	<b><u>HB 145/SB 268</u></b> <b>TRUMP Act</b> <i>Rep. Bulso/ Sen. Hensley</i>
<b>How Education Access is Affected</b>	<p>Allows school districts and charter schools to refuse to allow students who are unlawfully present in the U.S. to enroll in school. See below for information on an amendment that changes the bill substantially.</p>	<p>Requires parents or guardians to provide specific forms of documentation, such as a birth certificate listing a place of birth in the United States or its territories, or be charged the amount of funding the student generates in order to enroll their child in school.</p>	<p>Wide-ranging bill that also requires districts to charge students who do not meet the residency definition the same tuition and fees that would be charged to a student residing outside the county who seeks to enroll in a different district's public school.</p>
<b>Analysis from EdTrust-Tennessee</b>	<p>The bill is very vague and only one sentence long. The bill does not define what unlawful presence in the U.S. means. This bill allows districts to collect immigration status information and deny children access to school.</p>	<p>The extremely narrow set of documents required would result in districts charging U.S. citizens tuition to attend public school. This bill requires districts to collect immigration status information and restricts access to public school based on ability to pay.</p>	<p>Other provisions of the bill deny people legal rights they have at the federal level. The bill requires districts to collect immigration status information and restricts access to public school based on ability to pay.</p>

## Amendment to [HB 793/SB 836](#)

An amendment to [HB 793/SB 896](#) was filed on March 4, 2025, just before the bill went to the Senate Education Committee. This amendment is much longer than the original bill’s single sentence and changes the bill in important ways detailed in Figure 2 below.

Figure 2: Details about Amendment to [HB 793/SB 836](#)

<b>How Education Access is Affected</b>	The amendment requires school districts and public charter schools to collect information on the student’s immigration status as part of the enrolling in school. If a student is not a U.S. Citizen, in the process of obtaining citizenship, or does not hold “a legal immigration for visa status.” the district or public charter can choose to charge the student tuition in order to attend public school. If the student does not pay tuition, the district can deny enrollment to the student.
<b>Analysis from EdTrust-Tennessee</b>	Unlike the original version of the bill, the amendment requires all districts and charter schools to collect and store information about a student’s immigration status to enroll them in public school. Student access to public education can be made conditional on paying tuition.

## Thousands of Students in Tennessee and Across the Country Will Be Affected

As discussed above, it is against the law for public school districts and charter schools to collect information on students’ documentation status ([NEA, 2025](#)), so quantifying the exact number of students who may be affected is not possible. However, other data points can help indicate the scope of which students may be affected. Figure 3 provides some general estimates of immigrant and undocumented students both in Tennessee and across the country.

Figure 3: Estimated Statistics on Undocumented Residents for Tennessee and the United States

	Tennessee	United States
<b>Estimated Number of Undocumented Immigrants of All Ages</b>	139,500	10.7 million
<b>Estimated Amount Undocumented Immigrants Pay in Taxes</b>	\$720.2 million	\$75.6 billion
<b>Estimated Undocumented Students Enrolled in K-12 School</b>	10,000	651,000
<b>Estimated Undocumented Students Graduating from High School Each Year</b>	2,000	120,000

Data Sources: American Immigration Council [TN, US](#); Migration Policy Institute [TN, US](#); Presidents' Alliance on Higher Education and Immigration [TN, US](#)

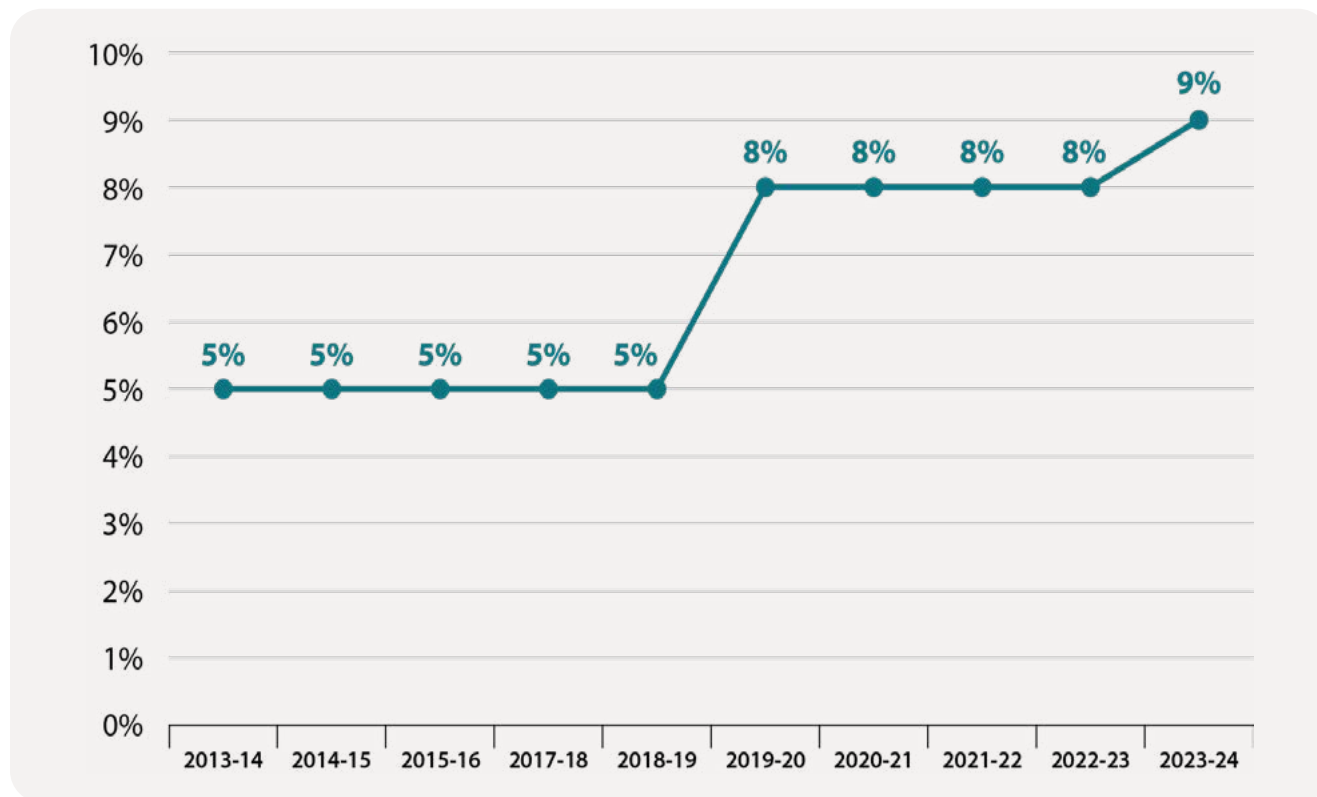
## English Learner Students

Identifying students as English learners is a requirement under federal law ([NCELA](#)). Tennessee utilizes the WIDA English Language Development standards to assess English learner students annually, and federal funding flows from the United States Department of Education to the Tennessee Department of Education to support English learner students in Tennessee ([OREA](#)). The Tennessee Investment in Student Achievement (TISA) public school funding formula provides additional funding for students who are classified as English learners ([TDOE](#)).

**English learner status is not the same as immigration status.** There are students who are undocumented who are not classified as English learners, just as there are U.S. citizens who are identified for English learner support.

**Tennessee’s English learner population comprises 9% of all public school students** ([TDOE](#)). Analysis from EdTrust-Tennessee of school enrollment data shows the proportion of Tennessee students identified as English learners almost doubled over the last ten years as shown in Figure 4.

Figure 4: Proportion of Tennessee Public School Students Identified as English Learners, 2013-2024 (TDOE)



**English learner enrollment is concentrated in some districts more than others.** English learner enrollment ranges from some districts having fewer than 10 students to others having almost 1 in 3 students identified as English learners (TDOE). The districts with the highest English learner student proportions in 2023-24 are Metro Nashville Public Schools (29%) and the schools served by the Tennessee Charter School Commission (22%) (TDOE). However, English learners are also found in high concentrations in rural and suburban districts like Hamblen County (20%), Lenoir City (20%), and Cleveland City (18%) (TDOE).

## Schools Should Be Safe Spaces Dedicated to Learning

**EdTrust-Tennessee believes every child deserves a high-quality education that prepares them for an increasingly complex and diverse world.** Strong public schools are the foundation of strong communities, and when our schools are functioning at their best, kids across Tennessee are more likely to graduate, secure good jobs, and lead healthier lives. Our public education system should be open to all children, and families should feel safe sending their children to school and getting involved in their learning.

All of these proposals would require or allow schools to make determinations about whether students are legally residing in the United States, and two of the three would require schools to collect and store information about student documentation status. Collecting immigration information is likely to have a chilling effect, with families avoiding enrolling their children in school because they are afraid of immigration enforcement that could result in family separation. Children would be denied the opportunity to learn, grow, and give back to their community, and schools would be forced to operate as a layer of immigration enforcement, eroding family engagement and trust.

## All Students Would Be Harmed by Limiting Access to Education

Multiple studies have documented that experiences or threats of Immigration and Customs Enforcement (ICE) detention and deportation **invoke fear, stress, and trauma for students** ([Gandara & Ee, 2021](#)). These effects contribute to **increased absenteeism and dropout rates, decreased student achievement, and worsened school climate and parent disengagement** ([Amuedo-Dorantes & Lopez, 2015](#); [Kirksey, 2023](#); [Kirkey & Sattin-Bajaj, 2021](#)). These effects are magnified in poorly funded districts, low-income schools, and among immigrant, English learner, and Latino students. Increased deportations have been followed by declines in test scores in both reading and math ([Kirksey, 2023](#); [Kirksey & Sattin-Bajaj, 2023](#)).

Negative effects are felt by children throughout school communities, not just immigrant or undocumented students. **Classes experience “grief as though a classmate has died when all of a sudden the student is no longer there and no one knows what has happened to him or her”** ([Ee, 2020](#)). School climate suffers for all students, and teachers struggle to cope with stressed and distracted students as they attempt to teach lessons ([Ee, 2020](#)). Increased absenteeism has negative spillover effects on the achievement of students with regular attendance ([Gottfried, 2019](#)). **Students with disabilities particularly experience worsened school climate and safety** following increased immigration enforcement activity, likely due to an increased sense of fear and anxiety in the school ([Kirksey & Sattin-Bajaj, 2021](#)).

## Denying Students Access to K-12 Public School has Negative Fiscal Implications

**If Plyler is overturned, Tennessee would begin denying thousands of children access to school—while still making taxpayers foot the bill for their education.** Despite arguments that this change would result in cost savings, overturning the long-standing precedent of guaranteeing access to free public education for all children will have negative fiscal implications for Tennessee. New hold harmless provisions will impact local school districts and the state as a whole, likely creating a greater financial burden for the state. Negative impacts also extend beyond the classroom. If Tennessee does not educate every student, the state’s workforce pipeline and economy will also suffer.

## Recent Voucher Legislation Means Taxpayers Will Still Pay

In 2022, Tennessee changed the way it funds public schools, moving from a resource-based funding formula, the Basic Education Plan (BEP), to a student-based formula, the Tennessee Investment in Student Achievement (TISA). TISA provides funding to schools based on the students they enroll, and students generate different amounts of funding based on their unique needs. For more information on how TISA works, see our recent memo, [TISA in Action: What Tennessee Advocates and Policymakers Need to Know](#).

TISA includes provisions to protect districts from sudden drops in funding. In addition to some BEP transition funding support for districts in the first few years of implementation, TISA includes a safety net provision that no district can lose more than 5% of their funding in one year. Safety net funds come from state funds, and do not require local contribution. These provisions were carefully crafted based on experiences of other states who have student-based formulas.

Figure 5: TISA Safety Net Provision Example

	District A	District B
<b>Current Funding</b>	\$1,000,000	\$1,000,000
<b>Projected Funding for Next School Year</b>	\$970,000	\$900,000
<b>Hold Harmless Funding</b>	\$0	\$50,000
<b>Explanation</b>	District A is only losing 3% of their funding, so they do not qualify for safety net funding.	District B is losing 10% of their funding. Safety net funding will kick in to ensure they don't lose more than 5% of their funding in one year.

In January, Tennessee legislators passed [HB 6004/SB 6001](#), a universal school voucher law. One of the law's provisions changes the way districts with declining enrollment are funded. Under this new "hold harmless" provision, districts who experience an enrollment decline and a loss of revenue receive additional state funding to make up the difference between what they are slated to receive and what they received in prior years. This law does not remove the safety net provision, but districts would only qualify for safety net if they somehow experience a funding decline of more than 5% and do not experience lower enrollment, which would be very rare. Both the safety net and hold harmless funding come from state funds, not local funds. If district enrollment drops because undocumented students lose access to public schools, the state would take on a greater financial burden while districts serve fewer students.

For more on the voucher hold harmless provision, see our memo, [Vouchers: Now What?](#)

Figure 6: Voucher Hold Harmless Provision Example

	District A	District B
<b>Current Funding</b>	\$1,000,000	\$1,000,000
<b>Projected Funding for Next School Year</b>	\$970,000	\$900,000
<b>Hold Harmless Funding</b>	\$30,000	\$100,000
<b>Explanation</b>	If they are also experiencing lower enrollment, both districts qualify for additional state funding so their funding levels do not decline from the prior year.	



The result of the new hold harmless provision is that even if *Plyler* is overturned and undocumented students are not allowed access to public school, Tennessee taxpayers will still be paying for the funding generated by these students under TISA. This is at odds with the rhetoric around these harmful bills targeting undocumented students, which emphasize costs to taxpayers ([Chalkbeat, 2025](#))

## Federal Education Funding for Tennessee, Districts, and Charter Schools May Be Affected

The [official fiscal note](#) for [HB 793/SB 836](#) does not attempt to estimate how many students may be affected or how many school districts will deny them access to education. The fiscal analysis does note that Tennessee's federal education funding is contingent on complying with federal civil rights laws, and that this bill could put that funding at risk. The fiscal note documents that Tennessee receives \$1.1 billion in federal education funding, and that additional amounts of federal education funding that flow directly to districts and charter schools may also be affected.

## These Proposals Threaten Tennessee's Economy

These harmful bills threaten the availability of Tennessee's future workforce. The United States is just beginning to experience a demographic cliff caused by declining birth rates in the aftermath of the Great Recession ([Georgetown, 2025](#)). While the effects will be less severe in Tennessee due to significant numbers of in-migration, or people moving here from other states, Tennessee is still facing a workforce shortage, with more available jobs than there are people looking for work ([Boyd Center, 2024](#)). Over 60% of Tennessee business leaders report they do not have enough local workers who are appropriately trained for their employment needs ([Boyd Center, 2024](#)).

Increasingly, Tennessee is competing with other states for jobs based on the availability of workers ([Area Development, 2024](#)). As companies weigh whether to expand or relocate to Tennessee, reducing the number of students in our public K-12 education system could result in companies selecting states other than Tennessee to grow their businesses. We also know that future jobs in Tennessee will require Tennesseans to obtain more education in the form of formal training after high school. By 2031, 63% of jobs in Tennessee will require some postsecondary education ([Georgetown, 2023](#)).

Well-educated communities are stronger communities. Research indicates increased levels of education are associated with stronger civic engagement, increased earnings and tax revenue, and better health outcomes ([College Board, 2023](#)). If we want Tennessee to thrive, our focus needs to be on expanding access to education, not restricting it.

## Key Questions Advocates Can Ask Decision Makers and Legislators

- How will provisions allowing districts to either deny enrollment or charge students based on their status interact with other parts of Tennessee law related to compulsory school attendance and truancy?
- What implications do these bills have for district requirements to provide free appropriate public

education for students with disabilities, and to seek out all children in the community with disabilities under IDEA?

- What additional burdens do these bills place on school districts in terms of data collection and student privacy?
- What impact will the removal of undocumented students have on an individual classroom or school?
- How would Tennessee's federal education funding change if we experienced a sudden drop in English learner student enrollment or were found to be in violation of federal civil rights laws?
- Rhetoric around these proposals emphasizes taxpayer costs and scarce resources, but changes to school funding made as part of the voucher law mean taxpayers will still be paying for undocumented students, whether they are enrolled in public school or not. How would these proposals affect school funding?
- What are the workforce implications of reducing the K-12 school population, our future talent pipeline?

## Questions Advocates Can Ask Decision Makers and Policy Makers About Amendment to HB 793/SB 836

The amendment is vague about the types of documentation that will be required. How will districts and charter schools navigate the complexities of immigration documentation to comply with this law?

Would districts who charge tuition to students receive funding for the same student twice, both from funding the student generates as part of the Tennessee Investment in Student Achievement (TISA) public school funding formula and tuition dollars?

## Additional Resources

- [Education for All Tennessee](#)
  - [Call Your Legislator](#)
  - [Email Your Legislator](#)
  - [Advocacy Toolkits](#)
- [National Immigration Law Center \(NILC\) Resources](#)