

Protecting Undocumented Student Access to K-12 Public School

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In the 114th General Assembly, 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.**

Latest Developments

- SB 836 has passed the Senate; its companion bill HB 793 has been placed behind the budget in the House. Each version has been amended, and the Senate and House versions differ from one another in important ways.
- Two of the three proposed bills threatening undocumented students' freedom to learn, HB 746/SB 1044, sponsored by Rep. Fritts and Sen. Bowling, and HB 145/SB 268, sponsored by Rep. Bulso and Sen. Hensley, have been defeated.

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.
- 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, but English learners and undocumented students are not the same student groups. Best estimates indicate that undocumented students make up only 1% of Tennessee's student population.

- 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

Bill Number <i>Sponsors</i>	<u>HB 793/SB 836</u> <i>Rep. Lamberth/ Sen. Watson</i>	<u>HB 746/SB 1044</u> <i>Rep. Fritts/ Sen. Bowling</i>	<u>HB 145/SB 268</u> TRUMP Act <i>Rep. Bulso/ Sen. Hensley</i>
Status as of April 1, 2025	House: Headed to Finance, Ways, and Means Subcommittee Senate: Passed	DEFEATED	DEFEATED
How Education Access is Affected	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 amendments that change the bill substantially.	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.	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.
Analysis from EdTrust-Tennessee	The original 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.	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.	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.

Amendments to HB 793/SB 836

This bill, originally one sentence in length, has passed the Senate and been placed behind the budget in the House. Each chamber has different versions of the bill, with one amendment adopted and one proposed on the House side and two passed as part of the final bill on the Senate side. See Figure 2 below for a comparison of the amendment proposals and analysis from EdTrust-Tennessee. If the two chambers cannot come to agreement on the bill, the bill would go to a conference committee process.

Figure 2: Amendments to HB 793/SB 836 Adopted or Proposed

	House Amendments		Senate Amendments	
	<u>House Amendment 1 (5269)</u>	<u>Proposed Amendment (7467)</u>	<u>Senate Amendment 1 (4412)</u>	<u>Senate Amendment 2 (6947)</u>
Status	<ul style="list-style-type: none"> Adopted by House Education Committee on March 26, 2025 Moves with the bill to House Finance 	<ul style="list-style-type: none"> Put on the bill in the House Finance, Ways, and Means Subcommittee when placed behind the budget on April 14, 2025 Modifies the version of the bill in House Amendment 1 	<ul style="list-style-type: none"> Part of the bill as passed in the Senate 	<ul style="list-style-type: none"> Part of the bill as passed in the Senate
How Education Access is Affected	<p>Allows districts and public charter schools to collect student immigration status as part of enrolling in school.</p> <p>The district can choose to deny enrollment or charge tuition to undocumented students and other students who cannot prove their citizenship status.</p> <p>Districts must report the</p>	<p>Requires districts and public charter schools to verify student immigration status as part of the enrollment process.</p> <p>The district can choose to deny enrollment or charge tuition to undocumented students and other students who cannot prove their status. If districts charge tuition but receive TISA funding for a student, they must repay the funds to the state.</p>	<p>Requires districts and public charter schools to verify student immigration status as part of the enrollment process.</p> <p>The district can choose to charge tuition to undocumented students and other students who cannot prove their citizenship status.</p> <p>If the student does not pay tuition, the district or charter can deny</p>	<p>Cleans up language and numbering in the first section of Senate Amendment 1.</p>

	<u>House Amendment 1 (5269)</u>	<u>Proposed Amendment (7467)</u>	<u>Senate Amendment 1 (4412)</u>	<u>Senate Amendment 2 (6947)</u>
	number of students who enroll without supplying a birth certificate.	Districts must report the number of students who enrolled this school year without supplying a birth certificate and the number of students not lawfully present in the U.S. in subsequent years.	enrollment to the student.	
Analysis from EdTrust-Tennessee	This version makes more choices up to the district or charter, but allows these institutions to deny enrollment regardless of tuition. Student access to public education can be made conditional on immigration status, and data collection on birth certificates has troubling future implications.	This version requires all districts and charter schools to collect and store immigration information. It substantially increases burdens on districts, including expanded reporting requirements and funding reimbursements. Student access to public education can be made conditional on immigration status.	Unlike the original version of the bill, the amendment requires all districts and charter schools to collect and store documentation on all students' immigration status to enroll them in public school. Student access to public education can be made conditional on paying tuition.	Minimal impact to the bill.

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. It is not desirable to collect information on immigration status as part of school enrollment because it may discourage families from enrolling their students in school. 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
Estimated Number of Undocumented Immigrants of All Ages	139,500	10.7 million
Estimated Amount Undocumented Immigrants Pay in Taxes	\$915.6 million	\$651.9 billion
Estimated Undocumented Students Enrolled in K-12 School	10,000	651,000
Estimated Undocumented Students Graduating from High School Each Year	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		

Undocumented Students and English Learner Students are Not the Same

There are an estimated 10,000 undocumented students enrolled in school in Tennessee ([Migration Policy Institute](#)), but more than 87,000 English learners ([TN Dept. of Education](#)). Much of the debate on these bills have centered on the costs of educating English learner students, but these populations are significantly different. Analysis of US Census Data from 2023 by EdTrust finds that more than two-thirds of English learners in Tennessee are U.S. citizens.

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](#)).

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.

These proposals would put schools in positions to collect or require information about student immigration status and use that information to make determinations about whether students are legally residing in the United States. Verifying immigration status is a responsibility of the federal government, and school staff are not prepared to take on that burden. 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](#); [Kirksey & 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 4: TISA Safety Net Provision Example

	District A	District B
Current Funding	\$1,000,000	\$1,000,000
Projected Funding for Next School Year	\$970,000	\$900,000
Hold Harmless Funding	\$0	\$50,000
Explanation	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 5: Voucher Hold Harmless Provision Example

	District A	District B
Current Funding	\$1,000,000	\$1,000,000
Projected Funding for Next School Year	\$970,000	\$900,000
Hold Harmless Funding	\$30,000	\$100,000
Explanation	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 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 drop in undocumented 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 Tennessee just passed a universal school voucher program that will send over \$900M in public funds to private schools in the first 5 years. How will Tennessee ensure schools have the funding they need to educate all students, including English learners?
- What are the workforce implications of reducing the K-12 school population, our future talent pipeline?

Questions Advocates Can Ask Decision Makers and Policymakers About Amendments to HB 793/SB 836

- The amendments are 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? How will districts and charter schools pay for additional staff needed to process documentation?
- Why does Tennessee need to collect information on the number of students who submit copies of birth certificates in our public schools?
- Will this lead to increased absenteeism and future truancy law exceptions, leading more and more young people to spend their days outside of school?

Additional Resources

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