

Children's Access to Public Education

Frequently Asked Questions

Who has the right to access public education in the United States?

All children living in the United States, no matter their race, ethnic background, religion, gender, or immigration status, have the right to a free public education for grades K-12. Children who are undocumented or arrived in the United States as a resettled refugee or asylum seeker can enroll in public school.

What are the sources of law that allow equal access to education in the U.S.?

There is no explicit mention of the right to public education in the Constitution, but the [Equal Protection Clause](#) of the 14th Amendment has been applied to previous educational issues. A notable example is the 1954 [Brown v. Board of Education](#) decision by the Supreme Court of the United States that declared separate educational facilities for black and white students were inherently unequal.

In the 1982 [Plyler v. Doe](#) case, the Supreme Court of the United States ruled that denying undocumented children the right to attend public school because of their immigration status **constituted discrimination** that violates the Equal Protection Clause. The case originated from the Texas Legislature passing education laws that denied enrollment in their public schools to undocumented children and withheld any state funds for the education of children who were not "legally admitted" to the country.

Have states tried to challenge the *Plyler v. Doe* ruling?

Yes. Since 1982, there have been legislation and lawsuits that seek to challenge or circumvent the Supreme Court's decision. In 1994, California voters passed Prop 187 which was a ballot initiative seeking to prohibit undocumented immigrants from accessing public services, including public education, in California. Prop 187 was challenged in the courts and in 1997 was [ruled unconstitutional](#) by a federal judge.

In June 2011, the governor of Alabama signed into law the Beason-Hammon Alabama Taxpayer and Citizen Protection Act ([H.B. 56](#)), which mandated that public schools check and report on the legal status of their students and parents. While this law did not directly challenge *Plyler*, it led to a significant decrease in the number of Hispanic/Latino children attending public schools.

In August 2011, the United States government [filed a lawsuit](#) challenging the law's provision to check and report on the legal status of students and parents. Both the U.S. District Court for the Northern District of Alabama and the 11th Circuit Court of Appeals held that Alabama could not enforce the provision. Upon appeal by Alabama, the case was denied by the United

States Supreme Court in 2013. By November 2013, the case was closed as both parties reached a settlement, with the state of Alabama agreeing to not enforce the provision.

As recently as November 2024, representatives in the Texas state house [prefiled a bill](#) that would require the federal government to pay for the education of children unlawfully present in the United States. If the federal government agrees to pay, only then would undocumented children be admitted to the school district. The Texas education agency would also be required to seek an agreement with the federal government for reimbursement of these educational costs and distribute the fund to school districts accordingly.

What have states done to promote access to education for immigrant children?

Several states have attempted to ensure greater access to education for children. In 2023, the Connecticut state legislature passed [HB 6762](#) which called for the state Board of Education to draft a “bill of rights” for non-English-speaking parents of school age children. In January 2024, the Connecticut Board of Education passed the “bill of rights” to ensure that families understand they are entitled to enroll their child in public education, regardless of their immigration status.

In 2024, the New Jersey Department of Education [sent a memo](#) to educators to remind them of federal and state laws that prohibit denying the enrollment of students in public schools based on immigration status. The governor of California also [sent a letter](#) to public school leaders stating that undocumented students have the right to attend public school and shared resources for immigrant families.

Why is ensuring that all children in the United States have equal access to education important? Why is it a good thing?

No matter the child’s background, access to education is essential for a child’s development as they gain skills, interact with peers, and cultivate their talents. Denying children access would increase illiteracy and limit career opportunities as they become adults and self-sufficient. For our country to thrive, all children should have equal access to education.

What can you do to help promote equal access to education?

1. Learn more about your state’s [pending and passed](#) education legislation.
2. [Sign up](#) to receive information and updates about Global Refuge’s state and local work.
3. Raise awareness of this issue and advocate for your state legislature to pass a resolution that declares equal access to education in your state, no matter the immigration status of the child.