

Education and the 14th Amendment

During the 1970s, a lot of people entered the United States illegally. Many came from Mexico. They worked for low wages in border states like Texas. These workers are often referred to as “undocumented workers” or “unauthorized immigrants.”

The 14th Amendment bars any state from denying “to any person within its jurisdiction the equal protection of the laws.” This is the equal protection clause. We know this means that state laws must treat all American citizens equally. What about people who have entered the United States illegally?

In 1982, the U.S. Supreme Court decided a case about a group of children of undocumented workers. The state of Texas denied them free public schooling.

The Background of *Plyler v. Doe*

In May 1975, the Texas state government passed a law that allowed school districts to bar children of unauthorized immigrants from public schools. School districts had the choice to allow these children to attend school but had to charge them a fee (tuition). A school district in Smith County chose to charge them tuition.

Attorneys filed a lawsuit on behalf of “certain school-age children of Mexican origin.” These were children in Smith County who could not show they were legal residents of the United States.

A federal court ruled that the state law violated the 14th Amendment’s equal protection clause. The court ruled that the school district could not deny free public schooling to the children. A federal appeals court agreed with the lower court. The school district and school superintendent, James Plyler, appealed to the U.S. Supreme Court.

The Constitutional Questions

Attorneys for both sides wanted the Supreme Court to answer a basic constitutional question. In this case, the question was:

Does the equal protection clause require Texas and the local school district to provide a free public education to all school-age children on an equal basis whether or not they are in the United States legally?

Another way of phrasing this question is this: Does a state have to offer a free education to all children whether or not they are in the United States legally?

The Arguments of the School District (Appellants)

Attorneys representing the school district appealed the case to the Supreme Court. So they are *appellants*. They answered “no” to the constitutional question. To support their position, they argued:

1. The word “persons” in the equal protection clause means “legal residents.” People who can be deported are not protected. Undocumented immigrants should not be protected under the equal protection clause equally to citizens and others living legally in the country.
2. The Texas law serves a “substantial state interest.” The “substantial state interest” in this case is based on the following:
 - a. Texas will spend over \$62 million per year to educate the estimated 20,000 children of undocumented immigrants in the state. This money should be spent on the children of legal residents.
 - b. A free public education for the children in this case will encourage other undocumented immigrants to immigrate into Texas.
3. The Supreme Court should not attempt to solve social problems. This is the job of Congress and the state legislatures.
4. It is not fair for Texas taxpayers to be held responsible for educating the children of the world.

The Arguments of the Undocumented Children (Respondents)

Attorneys representing the undocumented immigrant children are responding to the appeal. So they are *respondents*. They answered “yes” to the constitutional question. To support their position, they argued:

1. The U.S. Supreme Court has already held that the equal protection clause applies not only to citizens but to “any person.” “Any person” includes “aliens” (foreign-born persons). The children in this case are “persons” who are subject to Texas laws just like citizens living in Texas.
2. The Texas law does not serve any “substantial state interest”:
 - a. The children in this case represent only one percent of the school-age population in Texas. Spending some state funds to educate these children will not affect other children.
 - b. There is little evidence that undocumented immigrants come to Texas seeking educational benefits for their children. Most come looking for jobs.
3. Children should not be punished for the illegal acts of their parents. Undocumented immigrant children could later become legal residents or even citizens. For example, an undocumented immigrant might marry a citizen.
4. The Texas law presents the danger of creating a permanent class of undocumented immigrants. They would be encouraged to stay as cheap labor but not have any benefits of society.

Moot Court Activity: *Plyler v. Doe*

A. Your Roles

Form your court in a group of seven:

- Two of you will be attorneys for the school district (appellants).
- Two of you will be attorneys for the undocumented children (respondents).
- Three of you will be Supreme Court Justices (the three justices are a “triad”).

Write your assigned role here: _____

B. Prepare for Court

Attorneys, work with your partner in your court. Justices, work in your triad.

Attorneys for the school district:

- Read the constitutional question in the case and the arguments for your side.
- Be prepared to explain and answer questions about your arguments. Do not merely read them word for word from the article.
- Attorneys are encouraged to make inferences based on the background to the case and the arguments presented.

You are arguing that the equal protection clause does *not* require Texas and the local school district to provide a free public education to all school-age children on an equal basis whether or not they are in the United States legally.

Attorneys for the undocumented children:

- Read the constitutional question in the case and the arguments for your side.
- Be prepared to explain and answer questions about your arguments.
- Do not merely read them word for word from the article.
- Attorneys are encouraged to make inferences based on the background to the case and the arguments presented.

You are arguing that the equal protection clause *does* require Texas and the local school district to provide a free public education to all school-age children on an equal basis whether or they are in the United States legally.

Justices of the Supreme Court:

- Read the constitutional question in the case and the arguments for both sides.
- Create questions to ask both sides about whether the equal protection clause requires Texas and the local school district to provide a free public education to all school-age children on an equal basis whether or they are in the United States legally.
- One justice should be a timekeeper during the hearing.

C. Conduct the Hearing

1. The justices will conduct the hearing and give both sides equal time.
 - Attorneys for the school district speak first. Attorneys for the school district give a one-minute summary of your arguments.
 - Then attorneys for the undocumented children speak. Attorneys for the undocumented children give a one-minute summary of your arguments.
 - The justice may ask questions at any time. (The time for a justice's question does not count as part of the one-minute arguments.)
2. After hearing both sides, justices deliberate out loud. Attorneys listen but do not interrupt the justices.
 - Justices, deliberate by discussing the arguments you heard. Share with each other the most persuasive and least persuasive arguments you heard.
 - Justices, provide reasons why you thought arguments were most persuasive or least persuasive.
 - After deliberating, votes whether your triad rules in favor of the school district or the undocumented children.

Our court's decision is in favor of
