

Student Immigrants' Rights

As previously stated, the equal protection clause of the Fourteenth Amendment promises that all persons in the United States shall enjoy the "equal protection of the laws." The following case takes a closer look at how the Court has applied the equal protection clause.

Plyler v. Doe (1982)

In May 1975, the Texas legislature revised its education laws to withhold state funds from local school districts used for the education of undocumented immigrant children. By 1977, the Tyler Independent School District established a policy requiring students who were not considered to be "legally admitted to the United States" to pay \$1,000 tuition or be expelled.

A class action was filed on behalf of several unnamed school-age children of Mexican origin against James Plyler, the superintendent of the Tyler Independent School District and others, arguing their rights of equal protection under the 14th Amendment had been violated. The school district and the state of Texas argued that the students, because of their undocumented immigration status, did not qualify as "persons within the jurisdiction" of the state and therefore had no right to attend public school.

Eventually, the case made its way to the U.S. Supreme Court. In a 5-4 vote, the Court reasoned that undocumented immigrants and their children were protected under the 14th Amendment and that states cannot constitutionally deny students a free public education on account of their immigration status.

In the majority opinion, Justice Brennan wrote about the immigrant children stating that they "can affect neither their parents' conduct nor their own status" and "legislation directing the onus of a parent's misconduct against his children does not comport with fundamental conceptions of justice." Additionally, he wrote that "the available evidence suggests that illegal aliens underutilize public services while contributing their labor to the local economy and tax money to the state fisc."

The dissenting justices agreed with the majority that it would be wrong to "tolerate creation of a segment of society made up of illiterate persons," and protected under the 14th Amendment because the children were "physically 'within the jurisdiction' of a state." However, as indicated by Chief Justice Burger in his dissent, illegal immigration is more of a national policy issue and not a Constitutional one and should therefore be handled by Congress and not the judiciary.

The challenges of undocumented immigrants continue to be a concern on local, state and national levels. Will the *Plyler v. Doe* precedent be challenged in the future? Only time will tell.

Newspaper Activity: Look through recent news reports, in print or online, for examples of current immigrants' rights issues. Select one and prepare a summary of the who, what, where, when and why to share with your class.

Next installment: **Rights for Students with Disabilities**

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