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Teaching about *Plyler v. Doe* and Educational Rights for Immigrants in the Social Studies Classroom

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Abstract

Since 1982, with the Supreme Court's decision in *Plyler v Doe*, the United States' policy has stated that all students, regardless of immigration status, should have the right to study at the K-12 level. However, given the current political environment, some of those rights for immigrant students are beginning to be endangered, and there is an effort to relitigate the *Plyler* case. This article examines how high school social studies educators can effectively teach about issues related to the history of immigrants in education, the legal rights for immigrants, and the broader context of immigration history. The broader public is not often aware of the education rights for immigrant students nor the current movements to undermine some of these previous protections. Understanding of these topics is crucial not only to ensure civic knowledge but to help combat xenophobic rhetoric and policies in the current political moment.

Keywords: Immigrant students; Plyler v. Doe; xenophobia; critical education; social studies

Introduction

The majority of the American public likely does not know what the actual history is regarding rights for immigrant students in education. There may be a feeling that all students have the right to receive an education or that immigrant students have always been able to, but the actual history behind this is often obscured. People are more aware of the history of discrimination for African Americans and perhaps even Asian Americans in the West, who were not allowed to attend white schools or, in some cases, were not given access to education at all. When it comes to the history of rights for immigrant students in schools more broadly, it is important for social studies teachers and educators more broadly to be aware of these topics, as they are particularly relevant in the current political context.

Broad History of Immigration in Schools

Historically, it is important to highlight that there was not much of an issue of legal versus undocumented immigration. Though people were not always treated well once they entered the country, the borders were largely open. This did apply specifically to Ellis Island and immigration from Europe, but it was also the case at the border (Goldsmith & Romero, 2008; Sabo *et al.*, 2014) ^[12, 28]. In fact, in some ways, the large-scale immigration was one of the foundations for the establishment of the common school system under Horace Mann in the early 1800s. Mann wanted there to be a common school to, among other things, establish the values of the republic and to teach morals, which was accentuated by the more diverse and growing immigrant population. Bandiera and others (2019) ^[3] discuss how the teachings of Mann and the formation of goals for the common school system were used to support civic virtues and cultural diversity. These goals became more pressing as cities grew in number with immigrants. Mann used the common schools to demonstrate support for immigrant children and provided shared values of discipline, morals, and language diversity. By providing learning opportunities for all community members, schools became a place of support and understanding.

Of course, this more embracing position towards immigrant students was somewhat an issue related to race. It is also important to discuss with students that this was not always smooth. For example, though Irish Catholics may have been allowed to study in the public schools, they often felt discriminated against by the more Protestant-leaning curriculum and practices,

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which led to the rise of more Catholic schools. As demonstrated by West and Woessmann (2010) ^[37], the Catholic practices were in stark opposition to the teaching policies that were found in many public schools, which were more Protestant in nature. These forms of discrimination provided an avenue for the Catholic doctrine to build a separate parochial school system. The establishment of Catholic schools brought educational advancements to students who could afford to attend.

Some questions that teachers could consider for discussion when examining this issue in particular are:

What are the reasons that there were largely open borders in the early 1800s?

Why do you think the U.S.–Mexican border was largely allowed to stay this way?

What role does religion play in schools today compared to the past, and how might that still relate to issues of discrimination?

Rise of Restrictive Policies

Teachers can also walk students through the 1900s and the shifts that occurred in regard to immigration policy and the rights of immigrant students. It is important for teachers to highlight how much of these shifts occurred around the 1920s with a new nativism that takes hold, led by things like the re-emergence of the Ku Klux Klan, who were instrumental in helping to implement immigration quotas in the nation (Johnson, 2024) ^[13], which banned immigration from Asia and severely limited it from Southern and Eastern Europe (Marinari, 2022) ^[17]. It is essential to note that much of the immigration from Latin America remained open. This did not necessarily lead to a large rise in undocumented immigrants, as transportation issues were more difficult at the time. Nevertheless, this anti-immigrant attitude did lead to differential treatment.

A prime example of this was the treatment of Chinese students in the West, who at first were not granted permission to study at all or receive public funding, and then were not allowed to attend integrated schools. It was interesting that, in some ways, Japanese students were more accepted than Chinese students in certain California schools (Tamura, 2001) ^[33]. In this section, teachers could have students consider some questions about the relationship between race, immigration, and educational access, such as:

Why do you think certain groups of immigrant students were favored in the past?

What would be the religious, societal, and economic rationales behind this favorable treatment? What groups of immigrants might be favored more today?

Brown v. Board and San Antonio v. Rodriguez

This could then relate to other issues that arose from Brown v. Board of Education and the changes that resulted from this court decision. The expansion of educational opportunities following Brown v. Board meant that students would be granted equal access to education, although it took a considerable time for schools to actually be integrated (Clotfelter, 2004) ^[8]. Central to this was the 14th Amendment and the rights of individuals. However, teachers can also point out a lesser-known court case that directly affected immigrant students in a more detrimental way, namely *San Antonio Independent School District v. Rodriguez* (1973). It essentially stated that schools do not have to give equal funding or an equitable education. This

particularly applied to giving inferior education to the largely Mexican and Mexican-American students in the San Antonio area compared to the wealthier white population. In the majority opinion, the court stated that “Education, of course, is not among the rights afforded explicit protection under our Federal Constitution.” (*San Antonio Independent School District v. Rodriguez*, 411 U.S. 1, 35, 1973). The statement demonstrates the Court's position that unequal funding does not violate the Constitution, therefore allowing state legislation to take action rather than federal legislation. This permits educational inequalities based on race, gender, and immigrant status in relation to school funding, which was extremely harmful to minority immigrant families in states such as Texas.

Although schools could not officially ban students, keep students undocumented, or segregate them, they could provide very different levels of education. This could lead to discussions about some of the broad educational inequalities that are occurring today, especially how those differences are impacted by race and immigration status. Some good resources to consult can be found below (Borjian, 2016; Crosnoe & Turley, 2011; Legewie *et al.*, 2022; Liu & White, 2017) ^[6, 9, 15, 16].

Some guiding questions that teachers could use include:

-What did Brown v. Board mean for immigrant students, and what did it not mean?

-Why do you think there was such a significant shift in the court from the Brown case to the San Antonio case?

-In what ways has the San Antonio case currently affected immigrant students?

Plyler v. Doe

Though there were cases of segregation and inequality in most states outside of California, in the 1800s, they did not directly restrict immigrant students based on their status. Of course, in the Deep South, where Jim Crow had ruled, there were not many immigrant students to begin with. However, the state that became the test case was the state of Texas, which passed a 1975 law saying that school districts could either completely restrict or charge students who were undocumented or whose parents were undocumented. The 1975 revision of the Texas Legislation education code enabled school districts to deny or charge tuition to attend the public school system for undocumented immigrant students; the use of state aid and financial rates was applied by the schools to calculate the amount of money entitled to each student, excluding immigrant students (Cárdenas & Cortez, 1986) ^[7].

Eventually, one school district, Tyler School District, did actually seek to implement this policy and charge these immigrant students tuition (Williams, 2011) ^[38]. A group of parents and advocates came together to sue the school district on these grounds. It made its way all the way to the Supreme Court, which, at this time, had taken a more conservative direction than it had in the days of Brown v. Board in the early 1950s. *Plyler v. Doe* was a largely divided decision, five to four, but it did state that students could not be barred from studying based on immigration status.

Some interesting perspectives from both the majority judges and the judges that were in the minority can be found in the references (Biegel, 1995; Justia, 1982) ^[2]. The perspectives from the judges that represent the majority and minority opinions provide valuable insight into the court's decision of

Plyler v. Doe (1982) and the educational policies that impact undocumented students. Some questions that teachers could consider include:

Why do you think the court was so divided on this question?
How might the country look differently if the court had allowed districts to discriminate?
What are your feelings on the ruling, particularly related to state versus federal power?

George Bush vs. Ronald Reagan Debate

Students could also watch a relevant debate from this time between Ronald Reagan and George H. W. Bush on the topic of immigrant students in schools and the more inclusive approach they took (TIME, 1980). Both candidates agreed that immigrant students, regardless of their status, should be entitled to the same rights as other students. Reagan in particular stressed that we should not be building a fence with Mexico but rather more bridges, and Bush talked about his Mexican heritage and the need to make legal immigration easier. Some questions that students could ask about this include:

What do you think has changed from the stance of the Republican Party in the 1980s to today? What causes that type of shift?
What role did the Cold War perhaps play in this larger discussion?

Restrictions on Immigrant Students

In some ways, since this was about 40 years ago, the debate and discussion on this issue somewhat dwindled for a time. It almost seems that, in the wake of the civil rights movement and its focus on those past injustices, people were not willing to touch this topic, especially telling directly denying educational services to immigrant students. With the expansion of the Department of Education roughly around the same time, more resources were allocated directly for multilingual services, and it seemed almost unthinkable that this policy would be reversed.

However, starting in the early 2000s, there were moves to restrict the rights of immigrant students at the college level. *Plyler v. Doe* pertains to students in elementary and secondary school, but it does not pertain to students at the university level. Because of this, the state of South Carolina in 2009 became the first to completely ban undocumented students from studying at state colleges and universities (Assembly S. C. G., 2008). The state of Alabama and most of the Georgia public colleges also banned undocumented students (Sandoval, 2013; Shahshahani & Washington, 2013). The South Carolina legislation stipulates that “An alien unlawfully present in the United States is not eligible on the basis of residence for a public higher education benefit, including, but not limited to, scholarships, financial aid, grants, or resident tuition” (Assembly S. C. G., 2008, Section 17(B)).

This was ironically after many states, such as Florida, and even more conservative states like Texas, Oklahoma, and Utah, provided in-state tuition for undocumented students who studied at their state colleges and universities (Flores, 2010). Teachers could ask questions about why the Southeast, in particular, seemed to lead to these more restrictive stances. Other questions could include:

Why do you think Plyler v. Doe did not cover higher education?

What was it about Western states that led them to support undocumented students more?

What may have been some of the political realities at the time that led to these policy changes?

In 2011, the state of Alabama also sought to begin to chip away at *Plyler v. Doe* directly. Specifically, they stated that all enrolling students must provide a Social Security number or identify if they did not have one (Rieser-Murphy & DeMarco, 2011) [25]. Though they did not specifically state that students would be banned if they did not have a Social Security number, it was a way to gauge the number of undocumented students as part of a larger anti-immigrant act (Mussey, 2014) [22]. This bill was eventually brought to the Supreme Court, which ruled that it defied the principles established in *Plyler v. Doe* (Maxwell & Walsh, 2012) [18]. Particularly, this would have a chilling effect on students attending school, even if it was not explicitly stated that students were not allowed to study. For this reason, school districts do not actually keep track of which students are undocumented or not (Murillo, Quartz, Garcia, & Liboon, 2021) [21].

Some questions students could consider with this include:

Why would asking for students' immigration status have such a chilling effect?

How did these policies from Alabama relate to the past segregationist, discriminatory policies of the state?

How do you think this type of bill would be perceived today?

Though due to the Supreme Court ruling, these policies were not actually implemented, soon a new anti-immigrant movement rose with fervor in the United States with the candidacy and ultimate election of Donald Trump. This led to significant changes in the nation's perceptions of immigrants and more restrictive immigration policies. However, during his first term, the actual issue of immigrant students' rights to education was not necessarily litigated (Nguyen & Kebede, 2017) [23]. There were not many bills passed or even put forward that would ban undocumented students from studying in schools. Even when Trump implemented policies like the Muslim travel ban and separating kids from their families, there was not actually a move to ban undocumented students from studying in schools. Teachers could question why this is. What were the reasons that this still seemed to be off-limits? Why was this not included as a primary part of the educational goals?

Direct Attack on Plyler

Over the last several years, particularly during the Biden Administration and the early part of the second Trump Administration, there has been a noticeable shift in tone on these issues. It perhaps, unironically, began in the state where it all started, Texas, where Greg Abbott, amid his ongoing conflict with the Biden administration, proposed reversing *Plyler v. Doe* (Moran, 2023; Rodriguez, 2024). Although it was discussed on a podcast and not necessarily throughout the nation, it signaled a shift in established norms. Greater shifts in attitudes began to occur with the election of Trump in 2024.

The state of Florida, for example, reversed its bill on allowing undocumented students who had graduated in the state to receive in-state tuition (Ruge & Iza, 2005). The policy in states such as Florida aligns with the larger example of the tuition equity movement, which sought to break down financial barriers imposed on undocumented students (Ruge & Iza, 2005). This was passed by Trump ally

Ron DeSantis as part of a larger bill restricting the rights of immigrants (Weissman, 2025) ^[36].

The state of Texas did not even actually have to pass a bill to reverse its previous in-state tuition policies for immigrant students. The Trump administration sued the state of Texas over the policy, and Texas Attorney General Ken Paxton, who opposed the policy to begin with, did not defend it in court. The Texas legislation and educational policies that support undocumented students were fueled by social justice and economic reform (Amuedo-Dorantes & Sparber, 2014) ^[1], which are threatened by the Trump administration and relevant governing bodies. It was an underhanded way to defy the will of the voters.

Finally, in Tennessee in 2025, there was a bill put forward that would ban undocumented students from studying at the K-12 level (House Bill (H.B.) 793, 2025). One version of the bill would leave it up to the districts to make the decision, while the other would ban students completely (Ellett, 2025; Monaghan & Michaels, 2024).

Although this bill was ultimately unsuccessful, it raises the question of what the next steps will be for the rights of immigrant students and what the courts will ultimately decide. One thing that students can examine is the likelihood of the Supreme Court upholding *Plyler v. Doe*. Students could examine the courts' willingness to overturn previous legislation, such as the Voting Rights Act, as well as decisions like *Roe v. Wade*, and even previous discussions of the courts potentially overturning the *Obergefell* decision on gay marriage (Bard, 2025; Scaglia, 2023). It likely would be a close vote if this occurred, and it would have significant effects on American society. Some questions teachers could ask students include:

What do you think the current Supreme Court would say in such a case?

What would be arguments for and against this position?

What social implications do you think the courts would consider in regard to this?

Conclusion

The issues behind *Plyler v. Doe* are topics that many individuals throughout the United States are not aware of, much less current students. It may be easy to take the rights to public education for granted, but students need to understand that this is a relatively new historical trend and, if not defended, could be quickly taken away. In a time where more nativists and anti-immigrant attitudes have grown, especially with the rise of the Trump Administration, it is vital to have these important and even sometimes uncomfortable conversations in the social studies classroom so that students can understand both the history of the rights to an education for immigrant students and the current struggles to maintain those same rights. Social studies teachers play a central role in carrying these discussions forward and preparing the next generation to continue to advocate for educational rights for all.

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