Ohio Education Association

Ohio House Government Oversight Committee

House Bill 42 – Opposition Testimony

November 18, 2025

Chair Hall, Ranking Member Humphrey, and members of the House Government Oversight Committee, my name is Jeff Wensing. I am a 32-year high school math teacher from the Parma City School District and currently serve as the President of the Ohio Education Association (OEA). On behalf of OEA's nearly 120,000 members, thank you for the opportunity to submit testimony today in opposition to House Bill 42. Our core mission is to ensure that every child—no matter their ZIP code, race, language, or immigration status—has access to a safe, high-quality public education.

House Bill (HB) 42 would require multiple state agencies, including the Department of Education and Workforce (DEW), to collect and report data on the citizenship and immigration status of the people they serve. Specifically, for K–12 schools, the bill requires that local school districts report the following data via the Ohio education management information system (EMIS):

- The number of students who are U.S. citizens or nationals,
- The number of students who are not citizens but are "lawfully present," broken down by immigration category, and
- The number of students who are "not lawfully present" in the United States.

DEW must then report this data to the Governor, who in turn must submit a statewide report to the General Assembly and post it on a public website.

From OEA's perspective, the K–12 portions of HB 42 are unworkable in practice, damaging to student trust and school climate, and constitutionally suspect because they undermine "Plyler rights"—the rights recognized in *Plyler v. Doe* — that guarantee all children, regardless of immigration status, access to free public education under the Equal Protection Clause of the Fourteenth Amendment. For these reasons, we urge you to reject House Bill 42.

For more than forty years, *Plyler v. Doe*, 457 U.S. 202 (1982), has been the settled law of the land: states may not deny, or significantly burden, a child's access to a K–12 public education based on immigration status. In line with that precedent, guidance used in Ohio recognizes that all children—regardless of citizenship or immigration status—are eligible to attend public elementary and secondary

schools, and schools may not require citizenship or immigration documentation as a condition of enrollment.

HB 42 pushes Ohio in the opposite direction. It requires each public school to determine which of its students are "citizens," which are "lawfully present" and in which immigration category, and which are "not lawfully present," and then to report those numbers to the state each year.

Ohio's Legislative Service Commission (LSC) has already identified serious constitutional concerns with this approach. LSC's bill analysis notes that the U.S. Supreme Court's decision in *Plyler* prohibits states from denying undocumented children access to K–12 education, and it points to an Eleventh Circuit decision striking down an Alabama law that required public schools to collect and report students' immigration status for data reporting. The court held that the Alabama law "significantly interfered" with undocumented students' Fourteenth Amendment right to a K–12 education because it deterred them from enrolling and attending school.

HB 42's K–12 data collection scheme is alarmingly similar. Even if the state promises that reported figures are "aggregate," the process of asking families to categorize their children's immigration status—and branding some students as "not lawfully present"—will inevitably have a chilling effect on enrollment and attendance. That is exactly what *Plyler* and the Alabama case warn against.

Educators see every day how fear around immigration enforcement and data sharing affects students. Community groups, faith-based organizations, and education advocates have documented that fear of immigration enforcement already leads some families to avoid schools and public programs altogether.

HB 42 would intensify that fear by signaling that schools are now part of a statewide system for categorizing and reporting students based on immigration status. It does not matter how many times the bill's sponsors say, "this is just for data" or "individual names will not be reported." What families inevitably hear is:

"My child's school is being asked to sort students into citizen, lawful immigrant, and 'unlawfully present.'"

Once that perception takes hold, parents will be afraid to enroll their children in public schools at all, leading to others potentially pulling students out of school if they think the questions are too intrusive or older students skipping class to avoid perceived surveillance.

The National Education Law Center (NILC) All4Ed analysis of HB 42 flags exactly these concerns, warning that immigration-status data collection—even when framed as neutral— "risks fueling fear among families, eroding trust in public institutions, and paving the way for hyper-surveillance."

Teachers, counselors, and school support staff work hard to build trusting relationships so that students show up, feel safe, and focus on learning. HB 42 undermines that basic foundation by turning schools into sites of immigration-status reporting.

HB 42 assumes that local school staff will be able to:

1. Ask families about immigration status,
2. Interpret complex federal categories of "qualified alien" and "lawfully present," and
3. Correctly determine which students are "not lawfully present."

That is simply not realistic. School staff are not immigration lawyers. There is no practical way for them to make these determinations without:

- Requesting immigration documents that schools have historically avoided collecting because of *Plyler*.
- Risking incorrect classification of students.
- Creating new records that could later be misused in ways the bill does not—and cannot—fully anticipate.

At the same time, schools already operate under strict federal privacy laws, including the *Federal Educational Rights and Privacy Act* (FERPA), which protect student education records from unauthorized disclosure. Creating new categories tied to immigration status increases the risk that sensitive information will be linked, inferred, or exposed, whether through data breaches, public records requests, or small-cell re-identification in smaller districts. In short, HB 42 asks schools to do something they are not equipped to do, in a legal area where the margin for error is very small.

From an educator's standpoint, HB 42 does nothing to reduce class sizes, solve the educator recruitment and retention issues faced across the state, hire more school counselors and mental-health professionals, provide needed funding or modernize school buildings, support English learners, or improve reading and math outcomes.

Instead, it diverts time and resources to a politically driven data exercise that scapegoat's immigrant families and invites litigation—without producing any concrete benefit to students or educators. Advocacy organizations that have analyzed the bill note that Ohio already has rigorous eligibility rules for public benefits, and that the data collected under HB 42 are more likely to be used to justify budget cuts or punitive policies than to improve services or outcomes in our schools.

Educators and parents alike do not want to see Ohio become a place where families fear that sending their child to school could expose their immigration status. According to a statewide poll conducted by Fallon Research that asked Ohioans if they believed Ohio public schools should be involved in helping identify the immigration status of parents, respondents overwhelmingly were opposed. Fifty-seven percent of school parents and 51% of overall respondents did not want to see schools taking on this role. They want Ohio to remain a state where the doors of public schools are open to every child who lives in the community, in accordance with *Plyler* and with decades of Ohio practice.

“Plyler rights” require that no child should be turned away from school, or made afraid to attend school, because of where they were born or the papers their family does or does not have. Right now, Ohio’s policies respect those rights: all children, regardless of citizenship or immigration status, may attend public elementary and secondary schools, and schools are not supposed to screen students based on immigration status.

HB 42 places that consensus at risk. Even if the bill does not formally deny enrollment to any student, its K–12 data-collection mandate is likely to be viewed by courts as a “significant interference” with undocumented students’ access to education—precisely the concern identified by the Eleventh Circuit in the Alabama case and highlighted by LSC in its own analysis of this bill.

Ohio should not invite that kind of constitutional challenge, especially when the likely result is fewer children in school, less trust in public institutions, and more barriers to learning.

On behalf of the Ohio Education Association and the students and educators we serve, I respectfully urge opposition to House Bill 42. Our state’s educators are committed to upholding *Plyler* rights and ensuring that every child in Ohio can walk into their neighborhood public school without fear. HB 42 moves Ohio in the wrong direction.

Thank you for your consideration and for your work on behalf of Ohio’s students.