

# SAFE SCHOOLS FOR IMMIGRANT STUDENTS

## AB 699 (O'DONNELL) – IMPLEMENTATION FACT SHEET

(Confirms that all children have a right to attend our public schools regardless of immigration status.  
Amends Education Code §§200, 220, 234.1 & adds §234.7)

### SEVERAL BILLS WERE SIGNED INTO LAW THIS YEAR TO PROTECT CALIFORNIA'S IMMIGRANT COMMUNITIES. AB 699 ADDS ADDITIONAL PROTECTIONS FOR IMMIGRANT STUDENTS!

We need your help to make certain that school districts around the state change their local policies to follow the law and educate everyone about the changes.

#### What Does AB 699 Do & How Does It Help Students?

The United States Supreme Court held in *Plyler v. Doe* (457 U.S. 202), that under the United States Constitution all children have a right to attend our public schools regardless of their immigration status. The *Plyer* Court found that the harms imposed on society at large from denying these students an education far outweighed any resources that might be saved from excluding undocumented children from our public schools.

However anti-immigrant sentiment and increased ICE enforcement activity continues to threaten the right of immigrant children to attend school with many families currently living in fear and hesitant to send their children to school. A recent investigation by public interest law groups found that some 75 school districts were inquiring about a student's immigration status as part of their enrollment process. In response, AB 699 provides critical protections for immigrant students including: prohibiting the collection of information regarding immigration status; requiring the adoption of model policies to prevent immigration enforcement on school grounds; and prohibiting discrimination based on immigration status.

#### 1. AB 699 Prohibits Discrimination Based on a Student's Immigration Status:

Existing law prohibits discrimination on the basis of specific characteristics in educational activities conducted by school districts that



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receive state financial assistance. Some of these protected characteristics include disability, gender, religion, race and nationality. AB 699 expressly adds "immigration status" to the list of protected characteristics.

- School districts must adopt or amend their current policies to prohibit discrimination, harassment, intimidation, and bullying based on a student's actual or perceived immigration status.
- All districts must have a process in place to receive and investigate complaints for discrimination, harassment, intimidation, and bullying based on protected characteristics. These processes must be amended to include complaints for discrimination based on immigration status.

## 2. **AB 699 Prohibits the Collection of Immigration Information:**

School personnel are prohibited from collecting information or documents regarding the citizenship or immigration status of students or their family members, unless it is required by state or federal law. *We know of no state or federal law that requires such an inquiry.* The federal Departments of Justice and Education have stated that “Immigration or citizenship status is not relevant to establishing residency in the district, and inquiring about it . . . may have a chilling or a discouraging effect on student enrollment.”

## 3. **Inquiries by Law Enforcement to Enforce Immigration Laws Must be Reported:**

All Superintendents must report to their governing boards any requests for information or access to a school site by law enforcement for the purpose of enforcing immigration laws. These reports must be done in a timely manner.

## 4. **Schools Must Take Steps to Avoid Referrals to Child Protective Services:**

Should a parent become unavailable due to immigration enforcement activity, a school must exhaust any parental instructions relating to a child’s care. Schools should update parental emergency contact information and avoid referrals to Child Protective Services.

## 5. **School Board’s Must Inform Immigrant Parents About Their Children’s Rights:**

School boards must inform parents regarding the rights of their children to a free public education, regardless of their immigration status or religious beliefs. This information must also include the “know your rights” immigration enforcement policy that is to be drafted by the Attorney General. (See below.)

## 6. **School Boards Must Educate Students About the Impact of Bullying:**

School boards are required to educate students about the negative impact of bullying other

students based on actual or perceived immigration status or religious beliefs.

## 7. **The Attorney General Must Develop Model Policies Limiting Immigration Enforcement in Our Schools:**

By April, 1, 2018, California’s Attorney General must publish model policies on limiting assistance with immigration enforcement in schools. These policies should ensure that schools remain safe and accessible to all residents, regardless of immigration status. The Attorney General must consider the following issues when developing these policies:

- How to respond to a request for school site access for purposes related to immigration enforcement;
- How a superintendent is to be notified if someone requests or gains access to school grounds for immigration enforcement purposes;
- How to respond to a request for personal information about students or their family members for immigration enforcement purposes.

## 8. **School Districts Must Adopt Model Policies:**

All local educational agencies, which include all school districts, county offices of education and charter schools, must adopt the Attorney General’s model policies or equivalent policies by July 1, 2018.

AB 699 will help to protect immigrant students and ensure that they may continue to take advantage of the education to which they are entitled, free from intimidation or loss of access to programs that other students enjoy.

At the end of this fact sheet, you can find the exact text of AB 699.

## **How can you help make certain your school district follows the new law?**

California law is clear that school board policies must be consistent with the law. AB 699 takes

effect on January 1, 2018. You can help make certain your school district will be prepared to comply with this new law by doing the following:

- **Request** a copy of the district’s policies, rules, and procedures governing non-discrimination and harassment from your Superintendent and note that you are asking under the Public Records Act. Most Board Policies and Administrative Regulations are also available on a district’s school board webpage. The numbers for these non-discrimination policies and procedures are usually BP 5145.3, AR 5145.3 and BP 5145.3.
- **Check** if the policies, procedures, and complaint forms are consistent with AB 699. Is “immigration status” listed as one of the protected characteristics in the district’s non-discrimination policies, procedures, and complaint forms?
- **Advocate** for the school district to change the policies, procedures, and forms and to educate all school personnel, parents, and students regarding the new requirements.
- **Review** the district’s enrollment and registration forms and procedures. They are often found on a district’s website. Do they ask for information about a student’s immigration status? Do they require documents that undocumented families may not be able to produce, such as birth certificates or passports? If the registration process appears burdensome or hostile towards immigrant families, or asks for information about a student’s immigration status, ask that the process be changed and that any offensive questions or burdensome requirements be removed.
- **Meet** with the Superintendent and request that s/he update all enrollment, registration and non-discrimination policies and procedures so that they are in compliance with AB 699 and that they don’t discriminate against immigrant students or their family members. Include other parents, students and community members who care about immigrant student rights.
- **Spread the word:** Educate parents, students, and community members about the new law.
- **Ask** the school board to hold a hearing on the impact of AB 699 and the needs of immigrant students and their families within the district. You may want to ask the school board to discuss the following issues at a board meeting and to solicit input from the public:
  - Are the district’s enrollment and registration policies and procedures immigrant friendly and language accessible;
  - How does the board intend to inform immigrant parents about the educational rights of their children and the Attorney General’s new policies limiting immigration enforcement in our schools;
  - Are the notices of these rights language accessible;
  - How will the board educate students about the impact of bullying based on immigration status or religious beliefs;
  - Should there be additional services for immigrant students, such as access to counselors, etc.;
  - Can the district develop a list of immigrant-related resources available in the community and make it available on its website;
  - How will the district update emergency contact information for all families;
  - Is the district’s complaint process, including associated forms, understandable to immigrant parents and language accessible.

**AB 699 Co-Sponsors include:**



**CALIFORNIA  
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