

# AB 699 Mandates Support for Immigrant Families

## New Law Sets July 1, 2018 Deadline to Adopt Policies

For years, both state and federal laws have required public schools to provide equal rights and opportunities to all persons regardless of their actual or perceived membership in certain protected classes (e.g., race, gender, disability, nationality, sexual orientation). Assembly Bill 699 (AB 699), signed into law in October 2017, expressly added “immigration status” as a specified protected characteristic for purposes of anti-discrimination and equal protection laws in schools and other educational entities and agencies.

AB 699 also outlined a number of mandates with which local educational agencies must comply, including the adoption of policies that are consistent with or equivalent to the California Attorney General’s model policies. The deadline for compliance is July 1, 2018.<sup>1</sup> This checklist provides only a brief description of such mandates to ensure your LEA is in compliance with AB 699, and may not cover all legal requirements. It is not intended to replace guidance from your legal counsel.

### Gathering and Managing Student and Family Information

- Stop specifically inquiring, collecting and/or retaining information about a student's or family's immigration status or citizenship; further abstain from seeking or using such information to discriminate or bar families from enrollment.
- If the submission of national origin information is required to satisfy requirements of a special program (e.g. English language development programs), solicit the information separately from, and not during, the enrollment process.
- Create alternative means to establish residency, age or other eligibility criteria, to ensure these means do not reveal information related to immigration status or citizenship. Further, do not ask solely for documents that immigrant families may not possess (e.g., birth certificates or passports). Review enrollment related policies, including admissions and residency, to ensure that they are consistent with AB 699 and are immigrant-friendly.
- Stop soliciting or collecting entire Social Security numbers or cards; however, if a Social Security number is required to establish eligibility for federal benefits programs (e.g., free or reduced lunch programs), do not collect this information during the enrollment process. Only the last four digits of an adult household member's Social Security number may be collected and the LEA should explain the limited purpose for which it is being used and that providing this information is optional.
- Create policies and procedures for gathering and handling student information in compliance with the law and provide training to those who are responsible for such tasks.

### Sharing Student and Family Information

- Do not disclose information that may indicate a student's or family's citizenship or immigration status if such disclosure is not authorized under the Family Educational Rights and Privacy Act (FERPA).

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<sup>1</sup> This useful publication, *Promoting a Safe and Secure Learning Environment for All: Guidance and Model Policies to Assist California's K-12 Schools in Responding to Immigration Issues*, can be accessed at <https://oag.ca.gov/sites/all/files/agweb/pdfs/bci/school-guidance-model-k12.pdf>.

- Create appropriate procedures that address what happens if/when a LEA receives an inquiry for a student's or family member's immigration/citizenship status, including the requirement that the LEA notify designated administrators and the student's family member of the request; obtain informed consent for disclosure, where necessary; document each request for information by immigration authorities; and provide the student and guardian/parent with any documents issued by the requestor (unless prohibited).
- Bar the release of information to authorities for immigration enforcement purposes without a valid court order or judicial subpoena. (This does not apply to investigations of child abuse, child neglect, or child dependency.)
- Obtain written consent for release of student information unless the information is for a legitimate educational interest or includes directory information only. Immigration enforcement does not serve a legitimate educational interest and immigration status is not directory information.
- Update the annual notice that reflect the above requirements.

### **Responding to Immigration Enforcement Issues**

- Develop policies for responding to requests for access to school grounds for immigration enforcement purposes.
- Create policies regarding student interviews or searches by an immigration enforcement officer, including the need to obtain parent consent and/or provide parental notice when such actions occur, unless the officer presents a valid warrant or court order.
- Establish protocol for arranging for student care and maintaining up-to-date emergency contact information at school sites in case of detention or deportation of student's family member. Emergency contact information should include at least two family or other parental chosen contacts. Child Protective Services should not be contacted unless a school is unsuccessful in arranging for the care of the child through the emergency contact information, or other instructions conveyed by the parent or guardian.

### **Responding to Hate Crimes and Bullying**

- Update policies on bullying and harassment to include actual or perceived citizenship or immigration status as protected classes; further update complaint processes to reflect same.
- Inform and provide training for students and staff regarding the negative impact of bullying based on actual or perceived immigration status, religious beliefs or customs.
- Notify parents and guardians of their children's right to a free public education regardless of immigration/citizenship status or religious beliefs, including the "Know Your Rights" immigration enforcement guidelines established by the California Attorney General.

### **Parental Information Should be Language-Accessible**

- All notices provided to parents pursuant to AB 699 should be language-accessible in compliance with state and federal laws.
- Enrollment, registration, and uniform complaint procedures information provided on an LEA's website should be language-accessible in compliance with state and federal laws.

This fact sheet is a summary only and not legal advice. We recommend that you consult with legal counsel to determine how this legal development may apply to your specific facts and circumstances.

**Special thanks from ACSA to Fagen Friedman & Fulfroost, leaders in education law, for assisting our members by helping create this important resource.**