
SENATE COMMITTEE ON EDUCATION

Senator Benjamin Allen, Chair

2017 - 2018 Regular

Bill No: AB 699 **Hearing Date:** July 12, 2017
Author: O'Donnell
Version: July 3, 2017
Urgency: No **Fiscal:** Yes
Consultant: Olgalilia Ramirez

Subject: Educational equity: immigration status

SUMMARY

This bill provides instructions to local educational agencies (LEA) on how to respond to federal immigration enforcement activities on or around school grounds. This bill also emphasizes that discrimination based on immigration status is prohibited within California's K-12 public schools.

BACKGROUND

Existing law:

- 1) Holds that it is the policy of the State of California to afford all persons in public schools, regardless of their disability, gender, gender identity, gender expression, nationality, race or ethnicity, religion, sexual orientation, or any other protected characteristic that is reflected in the definition of hate crimes set forth in Section 422.55 of the Penal Code, equal rights and opportunities in the educational institutions of the state. (Education Code (EC) § 200)
- 2) Prohibits the discrimination on the basis of disability, gender, gender identity, gender expression, nationality, race or ethnicity, religion, sexual orientation, or any other characteristic that is contained in the definition of hate crimes set forth in Section 422.55 of the Penal Code in any program or activity conducted by an educational institution that receives, or benefits from, state financial assistance or enrolls pupils who receive state student financial aid. (EC § 220)
- 3) Establishes the Safe Place to Learn Act which requires the California Department of Education to assess whether LEAs have adopted a policy prohibiting discrimination, harassment, intimidation, and bullying based on specified characteristics, and established a process for receiving and investigating complaints of discrimination, harassment, intimidation and bullying based on those protected characteristics. (EC § 234.1)

ANALYSIS

This bill:

- 1) Prohibits school officials and employees of a LEA from doing either of the following:

- a) Collect information or documents about the immigration or citizenship status of students or their family members.
 - b) Allow an officer or employee of United States Immigration and Customs Enforcement (ICE) to enter a schoolsite for any purpose without providing valid identification, a written statement of purpose, a valid judicial warrant, and a written receipt of approval from the superintendent of the school district, the superintendent of the county office of education, or the principal of the charter school or their respective designees.
- 2) Provides that if an ICE official meets the requirement in b) above, local educational agencies (LEAs) shall limit access to facilities where pupils are not present.
- 3) Requires the superintendent of each school district, the superintendent of each county office of education and the principal of each charter school to do all of the following:
- a) Report to the respective governing board or body of the LEA in a timely manner any requests for information or access to a schoolsite by an ICE official in a manner that ensures the confidentiality and privacy of any potentially identifying information and is encouraged to consult with legal counsel upon receipt of a judicial warrant.
 - b) Determine the process that his or her respective school district, county office of education, and charter school employees should follow when an ICE official enters a schoolsite or office of the school district, county office of education, or charter school, as applicable, including whom the employee should contact for proper instructions.
 - c) Inform all employees of the process established in b) above through established channels of communication.
- 4) Requires the governing board or body of a LEA to do both of the following:
- a) Provide information to parents and guardians, as appropriate, regarding their children's right to free public education, regardless of immigration status or religious beliefs, as described.
 - b) Educate students about the negative impact of bullying other students based on their actual or perceived immigration status or their religious beliefs and customs.
- 5) Provides that if a school employee is aware that a student's parent or guardian is not available to care for a student, the school is required to first exhaust any parental instruction relating to the student's care in the emergency contact information, as specified.
- 6) Specifies that nothing in this bill prohibits the governing board or body of a LEA from establishing stronger standards and protections.

- 7) Inserts the phrase “including immigration status” into Sections 200, 220, and 234.1 of the California Education Code, thus codifying existing law to the effect that discrimination, based on immigration status is prohibited in California public schools.
- 8) States various legislative findings and declarations relative to the immigrant community in California and emphasizes that a student is entitled to a free public education regardless of his or her immigration status.
- 9) Defines various terms for purposes of this bill.

STAFF COMMENTS

- 1) ***Need for the bill.*** According to the author, “all children have a constitutional right to be educated and to receive that education in a safe environment, no matter where they are born. Existing law is silent on the process for entry of immigration and customs enforcement (ICE) agents on school campuses. With the issuance of Executive Orders by President Trump targeting undocumented immigrants and immigrants from certain countries, there is increased fear by students and their families of raids and increased targets by ICE agents, including those taking place at or near schoolsties. There are reports from community organizations that parents are keeping students from school for this reason. The U.S. Supreme Court, in a 1982 decision, Plyler v.Doe, upheld the right of undocumented children to free public education. Children should be able to learn without fear and disruptions.

A review of school district enrollment procedures by the Lawyers’ Committee for Civil Rights and the California Rural Legal Assistance found numerous school districts that inquire about a student’s immigration or citizenship status and request social security numbers, which may deter parents and guardians from enrolling students in school. These types of questions are not necessary to determine where a student attends school and may instead act as a deterrent for parents to enroll their children in school.”

This bill seeks to establish minimum protections for students and their families that will mitigate the impacts of possible immigration enforcement activities on schoolsites by requiring local educational agencies to create and follow specified procedures. This measure also aims to prohibit school staff from collecting information or documents regarding the immigration or citizenship status of students or their families.

- 2) **Undocumented students in K-12 schools.** The U.S. Supreme Court in, Plyer v. Doe, 457 U.S. 202 (1982), held that public schools were prohibited from denying immigrant students access to a public education. In May 1975, the Texas Legislature revised its education laws to withhold from local school districts any state funds for the education of children who were not "legally admitted" into the United States. The 1975 revision also authorized local school districts to deny enrollment in their public schools to children not "legally admitted" to the country. In 1982, the U.S. Supreme Court struck down the state

law denying funding for education to children who were illegal immigrants and ruled, that public schools could not deny immigrant students access to a public education. The U.S. Supreme Court found that the Texas policy was in violation of the Equal Protection Clause of the Fourteenth Amendment.

In California Proposition 187 was a 1994 statewide ballot initiative designed to prohibit “illegal immigrants,” from using social services, health care, and public education in the State of California. Although passed by the voters, Proposition 187 was ultimately preempted by federal law in the case of *League of United Latin American Citizens v. Wilson*, C.D.Cal. 1997, 997 F. Supp. 1244.

3) ***Collection of private information by school districts.***

Under current law, a school district, county office of education, or charter school is prohibited from collecting or soliciting social security numbers or the last four digits of social security numbers from students or their parents unless otherwise required by state or federal law. A recent report by the Lawyers' Committee for Civil Rights and the California Rural Legal Assistance (CRLA) noted that, “there is simply no state or federal statute or regulation that requires collection of this information for enrollment.” The report found that despite the legal protections afforded to immigrant children, 75 California school districts openly inquire about a student’s citizenship status and/or social security number. These school districts are located throughout the state in the counties of Alameda, Butte County, Calaveras, Contra Costa, El Dorado, Fresno, Humboldt, Imperial, Kern, Kings, Lassen, Los Angeles, Madera, Marin, Mendocino, Modoc, Napa, Nevada, Riverside, Sacramento, San Benito, San Diego, San Joaquin, San Mateo, Santa Barbara, Santa Clara, Santa Cruz, Shasta, Siskiyou, Solano, Sonoma, Stanislaus, Sutter, Tulare and Tuolumne.

The statewide collection of this information may discourage California families who are vulnerable to deportation from enrolling their children in school. This bill directly prohibits school officials and employees of a local educational agency from collecting information or documents about the immigration or citizenship status of students or their family members.

4) ***Guidance for schools when parents are detained or deported.*** A November 2011 report prepared by the Applied Research Center (Center) estimated that 5,100 children nationwide whose parents were either detained or deported are living in foster care. The Center’s report, “Shattered Families: The Perilous Intersection of Immigration Enforcement and the Child Welfare System,” predicted that approximately 1.25 percent of all children in foster care have parents who have been detained or deported. Using that rate, approximately 700 California children currently in the foster care system may belong to a parent who has been detained or deported. This bill provides that if a school employee is aware that a student’s parent is not available to care for the student, a school is required to first exhaust any parental instruction relating to the student’s care in their absence. The bill’s provisions also encourage a school not to contact Child Protective Services to arrange for the students care unless the school is unable to arrange for care using the emergency contact information or other information or instructions provided by the parent.

- 5) ***Bullying and harassment activities.*** According to a letter issued by the State Superintendent of Public Instruction (SPI), since the presidential election, reports of bullying, harassment, and intimidation of K-12 students based on immigration status, religious, or ethnic identification are on the rise. This bill proposes to require local educational agencies (LEAs) to educate students about the negative impact of bullying other students based on their actual or perceived immigration status or their religious beliefs and customs.
- 6) ***Support for undocumented students by education leaders.*** Earlier this year, the new Trump administration issued two executive orders about increased border security and stricter enforcement of immigration laws. These actions at the federal level regarding immigration enforcement activity have put K-12 families and college students on edge.

In response, the leaders of California's public postsecondary institutions and the State SPI Tom Torlakson issued written statements and implemented policies to address growing concerns on college campuses and school site. The SPI in a letter to County and District Superintendents, Charter School Administrators and Principals stated that California schools are not and will not become agents of the U.S. Customs and Immigration Enforcement. Instead, schools will remain safe places for learning and teaching for all students regardless of immigration status. Additionally, the California Community College Chancellor, University of California President and California State University Chancellor in a joint letter called upon President Trump to preserve Deferred Action for Childhood Arrivals (DACA) and defend the right of all students to obtain a higher education in California. The statements made by the SPI and others appear to be consistent with the intent of this bill.

- 7) ***Undocumented students in Higher Education.*** The state has demonstrated a willingness to invest in college students regardless of their immigration status who have attended and graduated from California K-12 schools by qualifying them for state aid programs and resident tuition at California public postsecondary institutions. In addition to these policies, enactment of federal DACA under the Obama administration made college graduation more attainable for undocumented students in California. AB 21 (Karla, 2017) like this bill, would require the public higher education institutions and certain independent colleges and universities to establish policies and actions that safeguard against immigration enforcement activities on campuses.
- 8) ***Related and prior legislation.***

AB 21 (Kalra, 2017) would provide rules and guidance to the students, staff, and employees of California's public colleges and universities regarding how to respond to possible interactions with federal immigration officials. AB 21 was heard by this committee on July 28th and subsequently approved by a vote of 5-2.

SB 54 (De León, 2017) would limit state and local law enforcement agencies, including school police, involvement in immigration enforcement and ensures that eligible individuals are able to seek services from and engage with state

agencies without regard to their immigration status. SB 54 is currently pending consideration before the Assembly Judiciary Committee.

AB 132 (Mendoza, 2009) would have prohibited school officials and employees from collecting information or documents and from inquiring about the immigration status of pupils or their family members, except as required by federal or state law. AB 132 would also have encouraged the school to comply with certain procedures relating to procuring child care for the pupil if an employee of a school is aware that a pupil's parent or guardian is not available to care for the pupil. Finally, the bill would have encouraged schools to provide counseling services for pupils affected by enforcement activities of immigration agents, as specified. AB 132 was vetoed by Governor Schwarzenegger whose veto message read:

“This bill is unnecessary since the California Constitution already prohibits the state from discriminating against, or granting preferential treatment to, any individual or group on the basis of race, sex, color, ethnicity, or national origin in the operation of public employment, public education, or public contracting. The Constitution also states that all students and staff have the inalienable right to attend campuses which are safe, secure, and peaceful. Therefore, a codified policy statement is unnecessary.”

SUPPORT

Abriendo Puertas
 Advancement Project
 Alliance for Boys and Men of Color
 Alliance San Diego
 American Academy of Pediatrics
 Anti-Defamation League
 Asian Americans Advancing Justice California
 Asian Law Alliance
 Asian Pacific Policy and Planning Council
 Association of California School Administrators
 Bay Area Community Resources
 California Association for the Gifted
 California Charter Schools Association
 California Coalition Against Sexual Assault
 California Federation of Teachers
 California Nurses Association
 California School Based Health Alliance
 California State PTA
 California Teachers Association
 California Young Democrats
 CaliforniaHealth + Advocates
 Californians for Justice
 Central American Resource Center
 Children Now
 Children's Defense Fund

City of Long Beach
Clergy and Laity United for Economic Justice
Coleman Advocates for Children and Youth
College for All Coalition
Common Sense Kids Action
Community Coalition
Council of Mexican Federations
Courage Campaign
Empowering Pacific Islander Communities
Families in Schools
Genders & Sexualities Alliance Network
Innercity Struggle
Innovated Public Schools
Japanese Community Youth Council
Jewish Public Affairs Committee of California
Khmer Girls in Action
Korean Resource Center
Latino and Latina Roundtable
Latinos in Action California
Lawyers' Committee for Civil Rights of San Francisco Bay Area
Legal Advocates for Children and Youth
Long Beach Immigrant Rights Coalition
Los Angeles Community College Districts
Los Angeles College Faculty Guild
Los Rios Community College Districts
Muslim Public Affairs Council
National Association for the Advancement of Colored People Pomona Valley Branch
National Association of Social Workers
National Center for Youth Law
National Employment Law Project
National Immigration Law Center
National Nurses United
Nikkei Progressives
OCA Greater Los Angeles
Orange County Asian and Pacific Islander Community Alliance
Our Family Coalition
Peralta Community College Districts
Pilipino Workers Center
Public Advocates
San Diego Community College Districts
San Francisco Community College Districts
San Francisco Unified School District
San José Evergreen Community College District
Santa Clara County Office of Education
Service Employees International Union (SEIU)
Services, Immigrant Rights and Education Network
Southeast Asia Resource Action Center
The Education Trust-West
The National Lawyers Guild, Los Angeles
UPLIFT

Youth Alive
Youth Justice Coalition

OPPOSITION

None received

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