




Legal Guidance

Immigration issues affecting California LEAs



This legal guidance, first issued in 2017, is intended to give governing boards clarity regarding their responsibilities under federal and state immigration law. This guidance provides information about current law and policy as of the first quarter of 2026. It includes updates related to new state laws and federal guidance. Boards should be aware that this guidance is subject to change as both federal and state laws are enacted or amended and guidance is issued or revised, and CSBA will provide updates as the legal landscape changes.

Governing boards should be aware that all students have equal access to an education under the laws of the United States. Under current law, the immigration status of a student does not impact the ability of the student to access education in their place of residency. However, families that fear an increase in immigration enforcement by the federal government may act on these concerns by keeping their children home from school. In response to these concerns from students and parents, school boards should create protocols that direct staff on how to uniformly respond to potential requests related to immigration enforcement. School boards should also utilize their lawful discretion to establish policies and procedures to ensure the district or county office of education is providing equal access to public education for all students. Under current law, in large part, information requested about students is protected from disclosure absent parental consent, a court order or judicial warrant. State law currently prohibits local educational agencies (LEAs) from allowing immigration enforcement officials to access nonpublic district and county office of education facilities and students without a judicial warrant or other legal exception. LEAs should follow all legal obligations to

maintain safe and secure school facilities and follow their policies and administrative regulations regarding immigration enforcement activity.

This legal guidance is being published by CSBA to inform board members about the obligations of schools, the rights of students and their parents and guardians under state and federal law, and the exclusive authority of the federal government to interpret and enforce immigration laws, regulations and policies. CSBA, in acknowledging a potential conflict among these various interests, is distributing this guidance to its members to share with their superintendent and legal counsel and to use at their discretion. This guidance also provides information about various state laws that have been passed in response to federal action on immigration that have not, to date, been challenged as in conflict with federal authority. This guidance is intended to set forth the current legal landscape as of its publication, but is not intended to substitute for legal advice. LEAs with specific questions should contact their legal counsel.

School districts and county offices of education must provide all children equal access to school, regardless of their immigration status

In 1982, the U.S. Supreme Court ruled in *Plyler v. Doe*, 457 U.S. 202 (1982) that under the 14th Amendment of the U.S. Constitution, if a state provides a free public education to U.S. citizens, it cannot deny such an education to undocumented children. *Plyler v. Doe* has not been challenged.

The Court found that denying students a basic education because of their immigration status was denying them “the ability to live within the structure of our civic institutions and foreclose any realistic possibility that they will contribute in even the smallest way to the progress of our Nation.” This remains the current legal precedent.¹

Further, under California law, students have, under the California Constitution, “the inalienable right to attend campuses which are safe, secure and peaceful.”²

All children residing in California between the ages of 6 and 18 years old are required under California law to attend school.³ This compulsory education requirement applies to all children in California, including those that are undocumented. In addition, every student in California has the right to attend public school in the state free from discrimination, harassment, violence, intimidation and bullying on the basis of immigration status, as well as race, national origin or any other protected characteristic.⁴

Schools may not share student or employee records with U.S. Immigration and Customs Enforcement (ICE) without parental consent, the consent of the employee or a valid judicial warrant, subpoena or court order

Federal law

Federal law, specifically the Family Educational Rights and Privacy Act (FERPA), prevents schools from sharing student information, including their citizenship status,

if they know it, with ICE without parental consent. All student records, including student files, are generally exempt from disclosure or subject to redaction to prevent disclosure of personally identifiable information. This protects against the sharing of personally identifiable student information except for certain narrow exceptions including in response to a court order or subpoena, or a request for “directory information.”⁵

FERPA broadly defines student education records as materials that contain information directly related to the student and are maintained by an educational agency or institution.⁶ If a district or county office of education has collected and stored information related to a student’s immigration status, this information is likely to fall within the protections of FERPA as well and cannot be shared without parental consent or a court order or warrant. FERPA also requires prior notice to parents before responding to a subpoena or court order.⁷ In addition, Education Code Section 49076 mandates that school districts shall not permit access to student records without written parental consent or under court order, with very limited exceptions, and does not include ICE and immigration authorities in those limited exceptions.

State law

Since 2017, the Education Code has prohibited school officials and employees of LEAs from collecting information or documents regarding citizenship or immigration status of students or their family members.⁸ Further, superintendents of school districts or county offices must report to the governing board of the LEA in a timely manner any request for information by an officer or employee of a law enforcement agency for purposes of enforcing immigration, and must do so in a manner that ensures confidentiality.

Resources and data collected by an LEA may not be used, directly or by others, to compile a list, registry or database of individuals based on national origin, immigration status, religion or other category of individual characteristics protected against unlawful discrimination.⁹

Additionally, Assembly Bill 495 (Rodriguez, 2025),¹⁰ which went into effect on Jan. 1, 2026, prohibits a district, to the extent practicable, from providing an officer or an employee of an agency conducting

immigration enforcement with educational records of, or any information about, a student or their family and household without parental consent, unless the district is presented with a valid judicial warrant, judicial subpoena or court order directing them to produce the records.¹¹ This applies to information that is provided verbally or in writing, and includes a student’s “personal information” as well as information about a student’s home and travel schedule.¹²

The protections regarding the release of records and personal information set forth in AB 495 extend to district teachers and employees. Furthermore, Government Code Section 7285.2 prohibits the LEA from providing voluntary consent to an immigration enforcement agent to access, review or obtain an employee’s records without a subpoena or judicial warrant.¹³

If the LEA is presented with a valid judicial warrant, judicial subpoena or court order, records may be disclosed without consent. However, prior to providing education records pertaining to a student, the district must follow FERPA’s parent notification requirements, unless notification is explicitly prohibited by the subpoena or court order.¹⁴

Handling record requests

LEAs are under no obligation to provide records or information immediately. Upon receiving a record request from an immigration enforcement officer, pursuant to the Attorney General’s Model Policies, LEAs are required to:

- Ensure the request is immediately forwarded to the superintendent or designee for handling and consultation with legal counsel.
- Provide students and families with appropriate notice and a description of the immigration officer’s request.
- Document any verbal or written request for information by immigration authorities.
- Provide students and parents or guardians with any documents provided by the immigration enforcement officer, unless such disclosure is prohibited by a subpoena served on the LEA or in cases involving investigations of child abuse, neglect or dependency.

- Make every effort to receive written parental or guardian consent as required by FERPA for release of student information, unless the request is for directory information only.¹⁵
- If the request is for information regarding an employee, the LEA should follow the same procedures as listed, except that Human Resources should be consulted first.

Schools should ensure appropriate policies are in place regarding their response to immigration enforcement

AB 699 (O’Donnell, 2017) required LEAs to adopt model policies on immigration, either those developed by the California Attorney General as required by the bill, or equivalent policies.¹⁶ CSBA issued model Administrative Regulation 5145.13 in light of this requirement.¹⁷ AB 495 updated these requirements and directed the Attorney General to update the model policies by Dec. 1, 2025, and LEAs to adopt the model policies, or equivalent, by March 1, 2026. AB 495 also required LEAs to provide their model policies to the California Department of Education (CDE) upon request. CDE has chosen to implement this requirement by requiring LEAs to upload their policies to a CDE website.¹⁸

CSBA’s GAMUT policy update for immigration issues has been released and covered the areas necessary to meet the requirements of the bill, but LEAs should always customize GAMUT sample policies with the assistance of legal counsel.

School personnel, whenever encountering ICE or Customs and Border Patrol (CBP) officers on school sites, should refer them to the school administration, who should contact the superintendent and district legal counsel. Officers should be asked for any documentation that authorize+6s school access. Superintendents of school districts and county offices must notify their respective governing boards of requests by law enforcement officers or employees to access school sites for the purpose of enforcing immigration laws.¹⁹

Under current policy, immigration enforcement actions are no longer prohibited at schools

Prior to 2025, ICE and CBP had a policy in place to “generally avoid” enforcement actions at “protected areas” including schools, school bus stops, health care facilities, places of worship, weddings, funerals, places where children gather, places where disaster or emergency response/relief is provided, and during public demonstrations such as a parade.²⁰ This was known as the “Protected Areas Policy.” However, on Jan. 20, 2025, under the second Trump administration, the Department of Homeland Security (DHS) released a memorandum rescinding that policy.²¹ Now, immigration enforcement officers from these agencies are encouraged to use discretion and “a healthy dose of common sense” when determining where immigration enforcement actions will take place.

On Jan. 31, 2025, ICE issued a related memorandum specifying that no further rules will be issued regarding the location of immigration enforcement operations.²² Instead, based on DHS personnel’s discretion to balance a variety of interests, case-by-case determinations will be made by specific directors and agents within ICE when considering if, where and when an enforcement action will take place. Consequently, there are no specific guidelines on how the location of enforcement actions will be determined.

Following this change in policy, on Sept. 9, 2025, DHS issued a press release stating that ICE does not raid or target schools.²³ It explained that the directive that allows ICE officers to go into schools was given to afford those officers an opportunity to “do their jobs” if there was a need to enter a school, but DHS expects this situation to be “extremely rare.” This press release indicates that there is a possibility of enforcement actions at or near schools, which LEAs should be aware of.

In response to these changes, in 2025, the California Legislature passed two bills aimed at providing protections for students, staff and community members when they are at a school. Senate Bill 98 (Pérez) was signed into law in September 2025 and took immediate effect as an urgency bill. As discussed further below,

the new law requires LEAs to update their Comprehensive School Safety Plans to include a procedure to provide notice to parents and guardians of students, teachers, administrators and school personnel when the school confirms the presence of immigration enforcement on campus. AB 495, which also passed as an urgency bill and took immediate effect in September 2025, prohibits officials and employees of an LEA from allowing immigration enforcement officers to enter a school site without providing valid identification and a valid judicial warrant.

Guidance to address visits by immigration enforcement officers to schools or other LEA facilities

LEAs have had many questions about how to prepare in the event that immigration enforcement officers engage in activities on campus. Such preparation should include the posting of signs that clearly identify areas of the school site that are nonpublic, such as gated playgrounds, fenced parking lots, classrooms, hallways, administrative offices or other interiors of a school building. Schools should follow their normal processes for handling visitors on campus, including requiring sign-in and proof of identification from immigration enforcement officers. Staff should report the presence of immigration enforcement officers to the school administration and any on-site campus police or school resource officer.

If an immigration enforcement officer seeks to interview or search a student in order to enforce immigration laws, school staff must obtain consent from a parent, unless the officer presents a valid, effective warrant signed by a judge or other valid, effective court order.²⁴ The school should notify the parent or guardian of the request, unless the warrant or court order prohibits notification to the parent. The superintendent or designee should also be notified in this circumstance or if an immigration officer seeks to gain access to a school site or other district or county office facility.

If an immigration enforcement officer seeks access to a school site or other district or county facility, including a school bus or other school transportation or an area where a school-sponsored activity is

being held, staff should obtain identification information from the officer and any documentation that authorizes the officer's access to the school site. If the officer does not produce a warrant, but states that exigent circumstances require access to the school site or other facility, staff should comply with the officer's orders and contact the superintendent or designee.

If the officer does not state that exigent circumstances exist, staff should respond based on the documents provided:

- If the officer has an ICE administrative warrant, district staff shall inform the agent that they cannot consent to any request without first consulting with the district's legal counsel or other designated district official. Staff should be aware that AB 495 does not permit LEAs to consent to allowing immigration officers into nonpublic areas or to access students without a warrant or other court order. Administrative warrants do not meet this requirement.
- If the officer has a federal judicial warrant, such as a search and seizure warrant or an arrest warrant signed by a federal judge or magistrate, district staff shall promptly comply with the warrant. If feasible, district staff shall consult with the district's legal counsel or designated administrator before providing the officer with access to the person or materials specified in the warrant.
- If the officer has a subpoena for production of documents or other evidence, district staff shall inform the district's legal counsel or other designated official of the subpoena and await further instructions as to how to proceed.

Administration and staff should not attempt to physically impede any immigration enforcement officer, even if the officer appears to be exceeding autho-

rization of the officer's office or the documents presented. Staff should document the officer's actions while on campus.

The district's legal counsel or other designated official must submit a timely report to the governing board regarding the officer's requests and actions and the district's responses.²⁵

Schools must update their Comprehensive School Safety Plans (CSSPs) to include notification procedures when the presence of immigration enforcement is confirmed

SB 98 requires schools, by March 1, 2026, to include in their CSSP procedures for notifying parents and members of the school community when the school has confirmed the presence of immigration enforcement at the school. Immigration enforcement includes "any and all efforts to investigate, enforce, or assist in the investigation or enforcement of" any federal civil or criminal immigration law. This includes any federal criminal immigration law that penalizes a person's presence in, entry, or re-entry to, or employment in, the United States.²⁶

While SB 98 does not mandate specific content or a timeline for issuing the notification, when developing procedures regarding the notification, schools must consider the "safety and well-being of the pupils, employees, and community members" of the school. The notification may, but is not required to, include a hyperlink to additional resources for families with information about their educational rights, state laws that protect their privacy and confidentiality, and, if available, counseling or support services, which may include services that support families impacted by immigration enforcement.

Governing boards must provide information related to immigration such as the Attorney General's "Know Your Educational Rights" materials to parents and guardians

Since 2018 when Education Code Section 234.7 was implemented through the passage of AB 699, LEAs have been required to provide information regarding immigration rights to all families regardless of immigration status or religious beliefs. This information described the right to a free public education regardless of immigration status and included the "Know Your Educational Rights" handout produced by the Attorney General. As described, AB 495 made amendments to Education Code Section 234.7, which add to these notification requirements. Now LEAs must post, in all languages provided by the Attorney General, the updated "Know Your Educational Rights" document in all LEA administrative buildings, and on the websites for the district or county office and each school.²⁷ Additionally, LEAs are required to share information found in the Attorney General's "[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](#)" including, but not limited to, information regarding family safety, caregiver's authorization affidavits, and the importance of providing and updating emergency contact information.²⁸ This information may be provided in the annual notification to parents and guardians pursuant to Education Code Section 48980 or any other cost-effective means determined by the LEA.

SB 98, described previously in more detail, requires LEAs to update their Comprehensive School Safety Plans to include a notice process when immigration enforcement is on campus. That notice process may also include information about families' educational rights, state laws that protect parents' and students' privacy and confidentiality, and, if available, counseling or support services, which may include services that support families impacted by immigration enforcement and model policies adopted by the LEA.

LEAs should obtain updated emergency contact information for parents or guardians in the event a parent or guardian is detained or deported

Administration should encourage students and families to update their emergency contact information as needed throughout the school year and provide alternative contacts, such as a trusted adult who can care for the child should the parent or guardian be detained or otherwise unavailable. Administration should notify students' families that information provided on the emergency cards will only be used in response to specific emergency situations and not for any other purpose. Families should be notified that, in the event that a student's parent or guardian is detained or deported by federal immigration authorities, administration will release the student to the person(s) designated in the student's emergency contact information or to any individual who presents a caregiver's authorization affidavit on behalf of the student.

While caregiver authorization affidavits have been in effect for decades through the Family Code, AB 495 revised the Family Code definition of "relative" in the context of the caregiver's authorization affidavit. It now aligns with the definition that is found in the Welfare and Institutions Code and states a relative is "an adult who is related to the child by blood, adoption, or affinity within the fifth degree of kinship, including all stepparents, stepsiblings, and all relatives whose status is preceded by the words 'great,' 'great-great' or 'grand,' or the spouse of any of the persons specified in this definition, even after the marriage has been terminated by death or dissolution."

The superintendent or designee shall only contact a child protective services agency if district personnel are unable to arrange for the timely care of the student by the person(s) designated in the emergency contact information maintained by the school or identified on a caregiver's authorization affidavit.²⁹

Under current legal authorities, schools should not ask about a student's immigration status

To comply with federal civil rights laws and state anti-discrimination laws, as well as the holding of the Supreme Court in *Plyler v. Doe*, school districts must ensure that they do not discriminate on the basis of race, color, immigration status or national origin, and that students not be barred from enrolling in schools on the basis of their immigration status or that of their parents. Critically, LEAs may not request information regarding the immigration status of students or their family members, unless required by state or federal law.³⁰

LEAs should review their student enrollment, residency and data collection policies and procedures not only for compliance with federal and state laws, but also to ensure that the implementation of those policies and procedures will not inadvertently discourage immigrant or undocumented children from school enrollment and/or attendance.³¹ Thus, since residency can be established through other means such as utility bills, leases, pay stubs, correspondence from a government agency, or a declaration of residency by the parent or legal guardian, it is unnecessary to collect immigration status information from students. Any such inquiry risks violating federal law and may put the school in a position of being challenged by federal agents to release such information if collected.

Under current legal authorities, schools should not require a Social Security number or other documentation that discourages undocumented students from enrolling in school

A district may not deny enrollment to a student if the student (or the student's family) chooses not to provide a Social Security number for anyone in the family.³² Further, in California, LEAs are prohibited from collecting or soliciting Social Security numbers (or the last four digits) from students or their parents unless required by state or federal law.³³ Requiring Social Security numbers may discourage undocumented students from enrolling in school. A school cannot prevent a child from enrolling in or attending school if the student or parent declines to provide a Social Security number. Districts may require students or their parents to provide proof of residency within the district, including copies of phone or utility bills, lease agreements, etc. However, inquiring into students' citizenship or immigration status, or that of their parents by requesting copies of passports or visas, would not be relevant to establishing residency within the district. Districts should review their practices around establishing residency and ensure that any documents or information required for residency would not unlawfully bar or discourage a student who is undocumented or whose parents are undocumented from enrolling them in or attending school.

For additional guidance, contact CSBA's School District and County Office of Education Legal Services at 800-266-3382 or legalservices@csba.org.

Endnotes

- 1 The Department of justice appears to have rescinded its guidance regarding *Plyler v. Doe*.
- 2 Cal. Const., art. I, § 28, subd. (f)(1).
- 3 Ed. Code § 48200 et seq.
- 4 Ed. Code §§ 220, 234 et seq.
- 5 Under FERPA and state law, a district may disclose appropriately designated “directory information” without written consent, unless a parent has opted out and filed a written objection not to disclose directory information. “Directory information” means the following items: student’s name, address, telephone number, date of birth, email address, major field of study, participation in officially recognized activities and sports, weight and height of members of athletic teams, dates of attendance, degrees and awards received, and the most recent previous public or private school attended by the student. (Ed. Code § 49061 and 34 CFR 99.37(d).) See also U.S. Department of Education Laws and Guidance, FERPA, at https://studentprivacy.ed.gov/sites/default/files/resource_document/file/A%20parent%20guide%20to%20ferpa_508.pdf.
- 6 See 20 U.S.C. § 1232g(a)(4)(A).
- 7 See 20 U.S.C. § 1232g(b)(2)(B); 34 C.F.R. § 99.31(a)(9).
- 8 Ed. Code, § 234.7(a).
- 9 Gov. Code § 8310.3.
- 10 This bill contains the same language as AB 49, also enacted. However, because AB 495 was enacted later, it is the operative bill. As a result, this guidance covers what was in AB 49.
- 11 Ed. Code, § 234.7(b).
- 12 “Personal information” is defined in Civil Code section 1798.3, subdivision (a), as “any information that is maintained by an agency that identifies or describes an individual, including, but not limited to, the individual’s name, Social Security number, physical description, home address, home telephone number, education, financial matters, and medical or employment history. It includes statements made by, or attributed to, the individual.”
- 13 This provision does not apply to the I-9 Employment Eligibility Verification forms or other documents requested in a Notice of Inspection.
- 14 Ed. Code § 234.7(b). The parent notification requirements under FERPA are found in 34 CFR 99.31(a)(9)(ii).
- 15 34 CFR 99.30; see also CSBA Sample Administrative Regulation 5125, Student Records for more information regarding consent to release student records.
- 16 Ed. Code, § 234.7(g).
- 17 The Attorney General has also issued a document entitled Guidance and Model Policies to Assist California’s K-12 Schools in Responding to Immigration Issues that provides additional information about the types of actions that can be carried out by immigration enforcement agencies. The guidance can be found at 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: <https://oag.ca.gov/sites/all/files/agweb/pdfs/bcj/school-guidance-model-k12.pdf>.
- 18 The upload can be completed at this link: <https://www3.cde.ca.gov/ImmigrationEnforcementPolicy/>
- 19 Ed. Code, § 234.7(b).
- 20 See October 27, 2021 Secretary Mayorkas Issues New Guidance for Enforcement Action at Protected Areas (archived content) <https://www.dhs.gov/archive/news/2021/10/27/secretary-mayorkas-issues-new-guidance-enforcement-action-protected-areas>
- 21 See January 20, 2025 Enforcement Actions in or Near Protected Areas: https://www.dhs.gov/sites/default/files/2025-03/25_0120_S1_enforcement-actions-in-near-protected-areas.pdf
- 22 See January 31, 2025 Common Sense Enforcement Action In or Near Protected Areas: <https://www.ice.gov/doclib/foia/policy/CommonSenseEnforcementActInNearProtectedAreas.pdf>
- 23 See September 9, 2025 DHS Sets the Record Straight: ICE Does Not Raid Schools: <https://www.dhs.gov/news/2025/09/09/dhs-sets-record-straight-ice-does-not-raid-schools>
- 24 See also 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: <https://oag.ca.gov/sites/all/files/agweb/pdfs/bcj/school-guidance-model-k12.pdf>.
- 25 Ed. Code, § 234.7
- 26 Ed. Code § 32282(a)(2)(N).
- 27 See Resources for California’s Immigrant Communities at <https://oag.ca.gov/immigrant/resources>
- 28 See December 2025 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 at <https://oag.ca.gov/system/files/media/school-guidance-model-k12.pdf>
- 29 Ed. Code, § 234.7(d).
- 30 Ed. Code, § 234.7(a).

- 31 School districts are not required to collect immigration information related to a student's immigration status except for nonimmigrant, international students in an education program under an F-1 or M-1 visa.
- 32 https://www.ssa.gov/OP_Home/comp2/F093-579.html#:~:text=Privacy%20Act%20of%201974&text=Sec.,his%20social%20security%20account%20number.
- 33 Ed. Code § 49076.7. While California law does not allow LEAs to require families provide Social Security numbers, some LEAs do request this information in order to establish eligibility for federal benefit programs. While it is best practice to use different information for establishing federal benefit eligibility, if a district chooses to request a Social Security number, it must inform the enrolling student/family that the disclosure is voluntary, provide the statutory or other basis upon which it is seeking the number, and explain what uses will be made of it.



California School Boards Association

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