

# CLIENT NEWS BRIEF

## Legislative Update: New Immigration Laws Protect Undocumented Students

On October 5, 2017, Governor Jerry Brown signed a package of bills aimed at enhancing protections for immigrants. Three of the bills have significant implications for schools and students. The three bills become effective January 1, 2018.

### **Assembly Bill 699: Mandates New Supports and Policies for Immigrant Families**

Assembly Bill (AB) 699 requires schools and school districts to provide an array of new supports for immigrant families and limits the assistance schools may provide with immigration enforcement activities. The bill's major provisions are described below.

**Discrimination:** The bill expressly prohibits discrimination on the basis of immigration status. Immigration status cannot be used as a basis to deny students access or opportunity within public schools.

**Collection of private information:** School officials are prohibited from collecting or requesting information or documents regarding the citizenship or immigration status of students or their family members unless required by law, such as for student work permits or the federal school lunch program. The bill restates a recently enacted prohibition on asking for Social Security numbers or the last four digits of Social Security numbers.

**Detained and deported parents:** A school should not contact Child Protective Services (CPS) to assist students whose parents have been detained or deported by immigration officials until it has exhausted all other avenues to ensure their care. Schools are required to pursue all contacts on the child's emergency card or any other instructions provided by a parent or guardian prior to contacting CPS. The intent of this provision is to avoid the unnecessary placement of children in foster care.

**Student and family support:** Schools must provide "Know Your Rights" information to parents. For example, students have the right to a free public education regardless of immigration status, and schools must advise parents of this right. This information and notification may be provided in a school or school district's annual notice to parents, or by any other cost-effective means. The California Attorney General's website includes Know Your Rights resources at <https://oag.ca.gov/immigrant/rights>.

**Bullying and harassment education:** Under AB 699, schools must educate students about the negative impacts of bullying based on a student's actual or perceived immigration status or their religious beliefs or customs. According to a Legislative analysis, there have been hundreds of reported incidents of bullying, harassment and intimidation across the country based on these factors this year. The California Department of Education is now required to ensure school districts adopt policies prohibiting discrimination and establish procedures for reporting and addressing such incidents. Schools may need to

October 2017  
Number 64



Sarah L. Garcia  
Partner and Co-Chair  
Student Practice Group  
Walnut Creek Office  
[sgarcia@lozanosmith.com](mailto:sgarcia@lozanosmith.com)



Sara E. Santoyo  
Associate  
Fresno Office  
[ssantoyo@lozanosmith.com](mailto:ssantoyo@lozanosmith.com)



*As the information contained herein is necessarily general, its application to a particular set of facts and circumstances may vary. For this reason, this News Brief does not constitute legal advice. We recommend that you consult with your counsel prior to acting on the information contained herein.*

modify anti-bullying curricula and provide additional professional development to staff in order to address immigration status and religious practices and customs.

**Safe Haven Policies:** By April 1, 2018, the California Attorney General must create model policies that address immigration agents' requests to access school sites or for information about students or their family members. Schools must implement equivalent policies by July 1, 2018.

**Report to Board:** Superintendents or charter school principals are required to timely report to their governing boards any law enforcement request for student information or for school site access for immigration enforcement.

## **Senate Bill 54: "Sanctuary State" Bill Limits Assistance with Immigration Enforcement**

Informally known as the "Sanctuary State" law, Senate Bill (SB) 54 prohibits state and local law enforcement agencies, including school police and security departments, from assisting immigration enforcement in any way. Specifically, law enforcement agencies may not use money or personnel to investigate, interrogate, detain, detect or arrest persons for immigration-related offenses.

By October 1, 2018, the state Attorney General must publish model policies for limiting assistance to immigration enforcement and to ensure that public schools, public health agencies and courthouses remain safe and accessible to all California residents, regardless of immigration status. All public schools, California Community Colleges, California State Universities, public health centers and courthouses must adopt these policies and become "safe zones" for immigrants. Other organizations that provide services related to education or physical and mental health such as libraries, shelters and the University of California system, are encouraged to adopt similar policies.

SB 54 does not prevent Immigration and Customs Enforcement or the Department of Homeland Security from doing their work by using their own resources to enforce immigration laws. The law seeks to ensure effective policing to protect the safety, well-being, and constitutional rights of the people of California, and to direct the state's limited resources to matters of greatest concern to state and local governments. Nothing in the new law prohibits California law enforcement agencies from asserting its own jurisdiction over criminal law enforcement matters.

## **Senate Bill 257: Residency Retention for Students Whose Parents are Detained or Deported**

Existing law generally requires students to attend school in the district in which their parent or legal guardian resides. Senate Bill (SB) 257 adds section 48204.4 to the Education Code permitting students to meet residency requirements when both of the following requirements are met:

- (1) The student's parent or guardian has departed California against his or her will, and the student can provide official documentation evidencing the departure; and
- (2) The student moved outside of California as a result of his or her parent leaving the state against his or her will, and the student lived in California immediately before moving outside the state. The student must provide evidence of enrollment at a public school in California immediately before moving outside of the state.

SB 257 also allows a parent who must depart against his or her will to designate another adult to attend school meetings and to serve as an emergency contact.

The bill defines a person who has departed against their will as either:

- A person in the custody of a government agency who is transferred to another state;

# CLIENT NEWS BRIEF

October 2017  
Number 64

- A person subject to a lawful removal order, who was either removed or was permitted to voluntarily leave California before being removed; or
- A person subject to any additional circumstances consistent with these purposes, as determined by the school district.

If you have questions about these new laws and their impact on schools, please contact the authors of this Client News Brief or an attorney at one of our [eight offices](#) located statewide. You can also visit our [website](#), follow us on [Facebook](#) or [Twitter](#) or download our [Client News Brief App](#).

*As the information contained herein is necessarily general, its application to a particular set of facts and circumstances may vary. For this reason, this News Brief does not constitute legal advice. We recommend that you consult with your counsel prior to acting on the information contained herein.*