



SCHOOL & COLLEGE LEGAL SERVICES OF CALIFORNIA

*A Joint Powers Authority
serving school and college
districts throughout the
state.*

5350 Skylane Boulevard
Santa Rosa, CA 95403

Tel: (707) 524-2690
Fax: (707) 578-0517
santarosa@scscal.org
www.scscal.org


General Counsel
Carl D. Corbin

Attorneys
Ellie R. Austin
Monica D. Batanero
Jennifer Henry
Sarah Hirschfeld-Sussman
Nancy L. Klein
Damara L. Moore
Jennifer E. Nix
Steven P. Reiner
Kaitlyn A. Schwendeman
Loren W. Soukup
Erin E. Stagg

Of Counsel
Robert J. Henry
Margaret M. Merchat
Patrick C. Wilson
Frank Zotter, Jr.

LEGAL UPDATE

August 21, 2019

To: Superintendents, Member School Districts (K-12)
From: Sarah Hirschfeld-Sussman, Schools Legal Counsel 
Subject: Know Your Rights Notification Regarding Immigrant Pupils
Memo No. 20-2019

In April 2018, our office notified clients of a new law designed to enhance protections for immigrant students and students with immigrant family members served by local educational agencies (“LEAs”), which went into effect beginning in the 2018-2019 school year.¹ In addition to revising several Education Code laws to include protections for these students, the law also requires that schools provide “know your rights” information to parents/guardians related to education rights for immigrant students and students with immigrant family members. The law specifies that LEAs must:

Provide information to parents and guardians, as appropriate, regarding their children’s right to a free public education, regardless of immigration status or religious beliefs. This information shall include information relating to “know your rights” immigration enforcement established by the Attorney General and may be provided in the annual notification to parents and guardians pursuant to Section 48980 or any other cost-effective means determined by the local educational agency.²

Our 2019-2020 Annual Notice to Parents, Legal Update Memo No. 10-2019, incorporated the main points of the “know your rights” immigration enforcement document established by the Attorney General in 2018, in compliance with this law. However, we did not attach the entire “know your rights” document, which the law indicates must be distributed by LEAs to parents and guardians.

¹ See School and College Legal Services Legal Update Memo No. 09-2018: AB 699 – Required Policies Protecting Immigrant Students.

² Education Code § 234.7, subd. (d)(1) [emphasis added].



To rectify this, we have provided the entire “know your rights” document established by the Attorney General in both English and Spanish, attached to this Legal Update. If your LEA has not already sent out its Annual Notice to Parents, the LEA should consider including this document when you send out the Notice. If your LEA has already sent out your Annual Notice to Parents, we recommend making this document available to parents and guardians by any other cost-effective means. For example, LEAs may wish to send the document out with other back to school materials sent home with students, or attach the material to a newsletter or email that goes out to all parents and guardians.

Please contact our office with questions regarding this Legal Update or any other matter.

The information in this Legal Update is provided as a summary of law and is not intended as legal advice. Application of the law may vary depending on the particular facts and circumstances at issue. We, therefore, recommend that you consult legal counsel to advise you on how the law applies to your specific situation.

© 2019 School and College Legal Services of California

All rights reserved. However, SCLS grants permission to any current SCLS client to use, reproduce, and distribute this Legal Update in its entirety for the client’s own non-commercial purposes.

Know Your Rights

Your Child has the Right to a Free Public Education

- All children in the United States have a Constitutional right to equal access to free public education, regardless of immigration status and regardless of the immigration status of the students' parents or guardians.

- In California:
 - All children have the right to a free public education.
 - All children ages 6 to 18 years must be enrolled in school.
 - All students and staff have the right to attend safe, secure, and peaceful schools.
 - All students have a right to be in a public school learning environment free from discrimination, harassment, bullying, violence, and intimidation.
 - All students have equal opportunity to participate in any program or activity offered by the school, and cannot be discriminated against based on their race, nationality gender, religion, or immigration status, among other characteristics.

Information Required for School Enrollment

- When enrolling a child, schools must accept a variety of documents from the student's parent or guardian to demonstrate proof of child's age or residency.
- You never have to provide information about citizenship/immigration status to have your child enrolled in school. Also, you never have to provide a Social Security number to have your child enrolled in school.

Confidentiality of Personal Information

- Federal and state laws protect student education records and personal information. These laws generally require that schools get written consent from parents or guardians before releasing student information, unless the release of information is for educational purposes, is already public, or is in response to a court order or subpoena.
- Some schools collect and provide publicly basic student "directory information." If they do, then each year, your child's school district must provide parents/guardians with written notice of the school's directory information policy, and let you know of your option to refuse release of your child's information in the directory.

Family Safety Plans if You Are Detained or Deported

- You have the option to provide your child's school with emergency contact information, including the information of secondary contacts, to identify a trusted adult guardian who can care for your child in the event you are detained or deported.
- You have the option to complete a Caregiver's Authorization Affidavit or a Petition for Appointment of Temporary Guardian of the Person, which may enable a trusted adult the authority to make educational and medical decisions for your child.

Right to File a Complaint

- Your child has the right to report a hate crime or file a complaint to the school district if he or she is discriminated against, harassed, intimidated, or bullied on the basis of his or her actual or perceived nationality, ethnicity, or immigration status.

Conozcan sus Derechos

Su Hijo/a tiene Derecho a una Educación Pública Gratuita

- Todos los niños en los Estados Unidos tienen un derecho Constitucional a un acceso igualitario a la educación pública gratuita, independientemente de su estatus migratorio y del estatus migratorio de los padres o tutores de los estudiantes.
- En California:
 - Todos los niños tienen derecho a una educación pública gratuita.
 - Todos los niños con edades entre 6 y 18 años deben estar matriculados en la escuela.
 - Todos los estudiantes y miembros del personal tienen derecho a asistir a escuelas adecuadas, seguras y pacíficas.
 - Todos los estudiantes tienen el derecho a estar en un entorno de aprendizaje de una escuela pública libre de discriminación, acoso, abuso, violencia e intimidación.
 - Todos los estudiantes tienen igualdad de oportunidades para participar en cualquier programa o actividad ofrecida por la escuela, y no puede existir discriminación en base a su raza, nacionalidad, género, religión ni estatus migratorio, entre otras características.

Información Requerida para la Matriculación Escolar

- Cuando se matricula a un niño/a, las escuelas deben aceptar diversos documentos de los padres o tutores del estudiante, para demostrar prueba de edad o residencia del niño/a.
- Ustedes nunca tienen que proporcionar información sobre su estatus de ciudadanía/migratorio para que su hijo/a se matricule en la escuela. Asimismo, ustedes nunca tienen que proporcionar un número de Seguridad Social para que su hijo/a se matricule en la escuela.

Confidencialidad de la Información Personal

- Las leyes federales y estatales protegen los registros educativos e información personal de los estudiantes. Estas leyes requieren que las escuelas obtengan permiso por escrito de los padres o tutores antes de publicar información estudiantil, a menos que la publicación de información sea con propósitos educativos, ya sea pública, o como respuesta a una orden judicial o requerimiento legal.
- Algunas escuelas reúnen información y proporcionan públicamente “información de directorio” básica de los estudiantes. Si lo hacen, entonces, cada curso, el distrito escolar de su hijo/a debe proporcionar a los padres/tutores notificación por escrito sobre la normativa de información del directorio del distrito, e informarles sobre su opción de negarse a publicar la información de su hijo/a en el directorio.

Planes de Seguridad Familiar si son Detenidos o Deportados

- Ustedes tienen la opción de proporcionar a la escuela de su hijo/a información de contacto en caso de emergencia, inclusive la información de contactos secundarios, para identificar un adulto de confianza que puede cuidar de su hijo/a en el caso de que sean detenidos o deportados.
- Ustedes tienen la opción de completar una Declaración Jurada de Autorización de Cuidador o una Petición de Nombramiento de Tutor Temporal de la Persona, que puede permitir a un adulto de confianza tomar decisiones educativas y médicas en nombre de su hijo/a.

Derecho a Presentar una Reclamación

- Su hijo/a tiene derecho a informar sobre un crimen de odio o presentar una reclamación ante el distrito escolar si se está viendo discriminado, intimidado o acosado en base a su nacionalidad, etnia o estatus migratorio real o percibido.