

Educational Equity: Immigration and Citizenship Status (AB 699) Policy



“Climbing Toward College & Career Readiness”

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Inspiring Collaboration, Innovation, & Empowerment

AB 699 Language Definitions

Discrimination:

Assembly Bill 699 (AB 699) added language to the Education Code expressly prohibiting discrimination on the basis of immigration status. Immigration status cannot be used as a basis to deny students access or opportunity within public schools. The bill also clarifies that the Safe Place to Learn Act, a requirement for the CDE to monitor LEAs' compliance with adoption of a policy that prohibits discrimination, harassment, intimidation, and bullying based on specified characteristics, expressly includes immigration status among those characteristics covered by the law.

Collection of Private Information:

School officials and employees of a school district or LEA are prohibited from collecting or requesting information or documents regarding the citizenship or immigration status of pupils or their family members, including Social Security numbers, unless required by law or required to administer a state or federally supported educational program.

Reporting to Governing Board:

Charter school administration is required to timely report to Ararat Charter School's Governing Board any requests for information or to access a school site by an officer or employee of a law enforcement agency for the purpose of enforcing the immigration laws. This must be reported in a timely manner to ensure the confidentiality and privacy of any potentially identifying information.

Bullying and Harassment Education:

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. 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 modify anti-bullying curricula and provide additional professional development to staff.

1. Policy for Collecting and Retaining Student Information

Ararat Charter School (ACS) shall maintain policies and procedures for gathering and handling sensitive student information and appropriate personnel shall receive training regarding those policies and procedures.

If the Charter School possesses information that could indicate immigration status, citizenship status, or national origin information, the Charter School shall not use the acquired information to discriminate against any students or families or bar children from enrolling in or attending school.

If parents or guardians choose not to provide information that could indicate their or their children's immigration status, citizenship status, or national origin information, Ararat Charter School shall not use such actions as a basis to discriminate against any students or families or bar children from enrolling or attending school.

Ararat Charter School shall not allow school resources or data to be used to create a registry based on race, gender, sexual orientation, religion, ethnicity, or national origin.

2. Policy for Inquiries Regarding Immigration Status, Citizenship Status, and National Origin Information

Ararat Charter School personnel shall not inquire specifically about a student's citizenship or immigration status or the citizenship or immigration status of a student's parents or guardians; nor shall personnel seek or require, to the exclusion of other permissible documentation or information, that may indicate a student's immigration status, such as a green card, voter registration, a passport, or citizenship papers.

Where any law contemplates submission of national origin related information to satisfy the requirements of a special program, Charter School personnel shall solicit that documentation or information separately from the school enrollment process.

Where permitted by law, Ararat Charter School shall enumerate alternative means to establish residency, age, or other eligibility criteria for enrollment or programs, and those alternative means shall include among them documentation or information that are available to persons regardless of immigration status, citizenship status, or national origin, and that do not reveal information related to citizenship or immigration status.

Where residency, age, and other eligibility criteria for purposes of enrollment or any program may be established by alternative documents or information permitted by law or the board resolution or this policy. Ararat Charter School's procedures and forms shall describe to the applicant, and accommodate, all alternatives specified in law and all alternatives authorized under the board resolution or this policy.

3. Policy for Inquiries about Social Security Numbers or Cards

Ararat Charter School shall not solicit or collect entire Social Security numbers or cards.

ACS shall solicit and collect the last four digits of an adult household member's Social Security number only if required to establish eligibility for federal benefit programs.

When collecting the last four digits of an adult household member's Social Security number to establish eligibility for a federal benefit program, the School shall explain the limited purpose for which this information is collected, and clarify that a failure to provide this information will not bar the student from enrolling in or attending the school.

The Charter School shall treat all students equitably in the receipt of all school services, including, but, not limited to, the gathering of student and family information for the free and reduced lunch program, transportation and educational instruction.

4. Policy and Procedures Regarding Information Sharing

The Charter School shall avoid the disclosure of information that might indicate a student's or family's citizenship or immigration status if the disclosure is not authorized by Family Educational Rights and Privacy Act (FERPA).

ACS personnel shall take the following action steps upon receiving an information request related to a student's or family's immigration or citizenship status:

- Notify a designated Ararat Charter School official about the information request.
- 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.
- Unless prohibited, provide students and parents/guardians with any documents issued by the immigration-enforcement officer.

Except for investigations of child abuse, child neglect, or child dependency, or when the subpoena served on the local educational agency prohibits disclosure, the Charter School shall provide parental or guardian notification of any court orders, warrants, or subpoenas before responding to such requests.

ACS shall require written parental or guardian consent for release of student information, unless the information is relevant for a legitimate educational interest or includes directory information only. Neither exception permits disclosing information to immigration authorities for immigration-enforcement purposes; no student information shall be disclosed to immigration authorities for immigration-enforcement purposes without a court order or judicial subpoena.

The School's request for written or parental or guardian consent for release of student information must include the following information: (1) the signature and date of the parent, guardian, or eligible student providing consent; (2) a description of the records to be disclosed; (3) the reason for release of information; (4) the parties or class of parties receiving the information; and (5) if requested by the parents, guardians or eligible student, a copy of the records to be released. ACS shall permanently keep the consent notice with the record file.

The parent, guardian, or eligible student is not required to sign the consent form. If the parent, guardian or eligible student refuses to provide written consent for the release of student information that this not otherwise subject to release, the Charter School shall not release the information.

5. Policy for Annual Information Notice to Parents and Guardians

General Information Policy

Ararat Charter School must provide an annual notice to parents and guardians of the school's general information policies that includes:

- Assurances that the ACS will not release information to third parties for immigration-enforcement purposes, except as required by law or court order.
- A description of the types of student records maintained by the School.
- A list of the circumstances or conditions under which the Charter School might release student information to outside people or entities.
- A statement that, unless ACS is providing information for a legitimate educational purpose under FERPA and the California Education Code or directory information, the Charter School shall notify parents or guardians and eligible students—and receive their written consent—before it releases a student's personally identifiable information.

Directory Information Policy

If Ararat Charter School decides to release directory information, the School shall provide an annual notice to parents and guardians, and "eligible students" in attendance, of the Charter School's directory information policy that includes:

- The categories of information that ACS has classified as public directory information that may be disclosed without parental consent and which should only include the information specifically identified in Education Code section 49061, subdivision (c).
- A statement that directory information does not include citizenship status, immigration status, place of birth, or any other information indicating national origin (except where the School receives consent as required under state law).
- The recipients of the directory information.
- A description of the parent's or guardian's abilities to refuse release of the student's directory information, and how to refuse release.
- The deadline in which the parent, guardian or student must notify the school in writing that he or she does not want the information designated as directory information.

6. Policy for Monitoring and Receiving Visitors onto Campus

No outsider—which would include immigration-enforcement officers—shall enter or remain on school grounds of Ararat Charter School during school hours without having registered with the Administration. If there are no exigent circumstances necessitating immediate action, and if the immigration officer does not possess a judicial warrant or court order that provides a basis for the visit, the officer must provide the following information to the Administration:

- Name, address, occupation;
- Age, if less than 21;
- Purpose in entering school grounds;
- Proof of identity; and
- Any other information as required by law.

Ararat Charter School shall adopt measures for responding to outsiders that avoids classroom interruptions, and preserves the peaceful conduct of the school's activities, consistent with local circumstances and practices.

The Charter School shall post signs at the entrance of its school grounds to notify outsiders of the hours and requirements for registration.

ACS personnel shall report entry by immigration-enforcement officers to any on-site school police or other appropriate administrator as would be required for any unexpected or unscheduled outside visitor coming on campus.

7. Policy for Responding to On-Campus Immigration Enforcement

As early as possible, School personnel shall notify the Administration of any request by an immigration-enforcement officer for school or student access, or any requests for review of school documents (including for the services of lawful subpoenas, petitions, complaints, warrants, etc.).

In addition to notifying the Administration, the Charter School personnel shall take the following action steps in response to an officer present on the school campus specifically for immigration-enforcement purposes:

1. Advise the officer that before proceeding with his or her request, and absent exigent circumstances, school personnel must first receive notification and direction from the Administration.
2. Ask to see, and make a copy of or note, the officer's credentials (name and badge number).
3. Ask for and copy or note the phone number of the officer's supervisor.
4. Ask the officer for his/her reason for being on school grounds and document it.
5. Ask the officer to produce any documentation that authorizes school access.
6. Make a copy of all documents provided by the officer. Retain one copy of the documents for school records.
7. If the officer declares that exigent circumstances exist and demands immediate access to the campus, Ararat Charter School personnel should comply with the officer's orders and immediately contact the Administration.
8. If the officer does not declare that exigent circumstances exist, respond according to the requirements of the officer's documentation. If the immigration-enforcement officer has:
 - ***An ICE (Immigrations and Customs Enforcement) administrative warrant***, Ararat Charter School's personnel shall inform the agent that he or she cannot consent to any request without first consulting with the School's legal counsel or attorney.
 - ***A federal judicial warrant (search-and-seizure warrant or arrest warrant)***, prompt compliance with such a warrant is usually legally required. If feasible, consult with the School's legal counsel or attorney, and/or designated administrator before providing the agent access to the person or materials specified in the warrant.
 - ***A subpoena for production of documents or other evidence***, immediate compliance is not required. Therefore, ACS personnel shall inform the School's legal counsel or other designated official of the subpoena and await further instructions on how to proceed.
 - While Ararat Charter School personnel should not consent to access by an immigration-enforcement officer, except as described above, he/she should not attempt to physically

impede the officer, even if the officer appears to be exceeding the authorization given under a warrant or other document. If an officer enters the premises without consent, the School personnel shall document his or her actions while on campus.

9. After the encounter with the officer, the School's personnel shall promptly take written notes of all interactions with the officer. The notes shall include the following items:
 - List or copy of the officer's credentials and contact information;
 - Identity of all school personnel who communicated with the officer;
 - Details of the officer's request;
 - Whether the officer presented a warrant or subpoena to accompany his/her request
 - What was requested in the warrant/subpoena, and whether the warrant/subpoena was signed by a judge;
 - ACS personnel's response to the officer's request;
 - Any further action taken by the agent; and
 - Photo or copy of any documents presented by the agent.
10. Ararat Charter School personnel shall provide a copy of those notes, and associated documents collected from the officer, to the School's legal counsel.
11. In turn, the School's legal counsel shall submit a timely report to Ararat Charter School's Governing Board regarding the officer's requests and actions and the School's response(s).
12. E-mail the ***Bureau of Children's Justice*** in the ***California Department of Justice***, at ***BCJ@doj.ca.gov***, regarding any attempt by a law-enforcement officer to access a school site or a student for immigration-enforcement purposes.

8. Policy for Parental Notification of Immigration-Enforcement Actions

Ararat Charter School personnel must receive consent from the student's parent or guardian before a student can be interviewed or searched by any officer seeking to enforce the civil immigration laws at the school, unless the officer presents a valid, effective warrant signed by a judge, or presents a valid, effective court order.

The School's personnel shall immediately notify the student's parents or guardians if a law-enforcement officer requests or gains access to a student for immigration- enforcement purposes, unless such access was in compliance with a judicial warrant or subpoena that restricts the disclosure of the information to the parent or guardian.

9. Policy for Responding to The Detention or Deportation of A Student's Family Member

The Charter School shall encourage that families and students have and know their emergency phone numbers and know where to find important documentation, including birth certificates, passports, Social Security cards, doctors' contact information, medication lists,

ACS shall permit students and families to update students' emergency contact information as needed throughout the school year, and provide alternative contacts if no parent or guardian is available.

- The School shall ensure that families may include the information of an identified trusted adult guardian as a secondary emergency contact in case a student's parent or guardian is detained.

- Ararat Charter School shall communicate to families that information provided within the emergency cards will only be used in response to specified emergency situations, and not for any other purpose.

In the event a student’s parent/guardian has been detained or deported by federal immigration authorities, the School shall use the student’s emergency card contact information and release the student to the person(s) designated as emergency contacts. Alternatively, the Charter School shall release the student into the custody of any individual who presents a Caregiver’s Authorization Affidavit on behalf of the student. Ararat Charter School shall only contact Child Protective Services if the School’s personnel are unsuccessful in arranging for the timely care of the child through the emergency contact information that the school has, a Caregiver’s Authorization Affidavit, or other information or instructions conveyed by the parent or guardian.

10. Policy for Responding to Hate Crimes and Bullying

Adopting and Publicizing Anti-Bullying and Anti-Harassment Policy

Ararat Charter School shall adopt and publicize policies that prohibit discrimination, harassment, intimidation, and bullying on the basis of a student’s actual or perceived nationality, ethnicity, or immigration status. Those policies must be translated in the student’s primary language if at least 15 percent of the students enrolled in the school speak a single primary language other than English.

The Charter School shall notify parents and guardians of their children’s right to a free public education, regardless of immigration status or religious beliefs.

- This information shall include information related to the “Know Your Rights” immigration enforcement established by the Attorney General (see Appendix G).
- The School shall inform students who are victims of hate crimes of their right to report such crimes.

Processing Complaints of Harassment and Bullying

The Charter School shall adopt a process for receiving complaints of and investigating complaints of discrimination, harassment, intimidation, and bullying based on any of the following actual or perceived characteristics:

- disability
- gender
- gender identity
- gender expression
- nationality
- race or ethnicity
- religion
- sexual orientation
- association with a person or group with one or more of the aforementioned characteristics
- immigration status
- The complaint process must include, but is not limited to, the following steps:
- A requirement that, if school personnel witness an act of discrimination, harassment, intimidation, or bullying, they shall take immediate steps to intervene when safe to do so;

- A timeline to investigate and resolve complaints of discrimination, harassment, intimidation, or bullying that shall be followed by all schools under the jurisdiction of the local educational agency; and
- An appeal process afforded to the complainant should he or she disagree with the resolution of a complaint.
- ACS shall ensure that complaint procedures contain confidentiality safeguards for immigration status information.
- The School shall prohibit retaliation against a person who submits a complaint of discrimination, harassment, intimidation, or bullying.

Training Students, Teachers, and Staff on Anti-Bullying and Anti-Harassment Policy

Ararat Charter School shall educate students about the negative impact of bullying other students based on their actual or perceived immigration status or their religious beliefs or customs.

The Charter School shall also train teachers, staff, and personnel to ensure that they are aware of their legal duty to take reasonable steps to eliminate a hostile environment and respond to any incidents of harassment based on the actual or perceived characteristics noted above. Such training should, at minimum, provide agency personnel with the skills to do the following:

- Discuss the varying immigration experiences among members of the student body and school community;
- Discuss bullying-prevention strategies with students, and teach students to recognize the behavior and characteristics of bullying perpetrators and victims;
- Identify the signs of bullying or harassing behavior;
- Take immediate corrective action when bullying is observed; and
- Report incidents to the appropriate authorities, including law enforcement in instances of criminal behavior.