

SENATE JUDICIARY COMMITTEE
Senator Thomas Umberg, Chair
2025-2026 Regular Session

AB 1348 (Bains)
Version: May 5, 2025
Hearing Date: July 8, 2025
Fiscal: Yes
Urgency: No
ID

SUBJECT

Average daily attendance: emergencies: immigration enforcement activity

DIGEST

This bill permits school districts, county offices of education, and charter schools to request the Superintendent of Public Instruction adjust their average daily attendance for funding purposes when immigration enforcement activities materially decrease attendance.

EXECUTIVE SUMMARY

The Trump Administration seems to be fulfilling its promise to ramp up immigration enforcement and greatly increase deportations. Shortly after taking office, long-standing federal policy that limited immigration enforcement activity at “sensitive locations” like schools was ended by the administration. In recent months, there have been numerous reports of immigration authorities attempting to carry out immigration enforcement activities at or near schools across the country, including a report of immigration agents who attempted to enter two Los Angeles elementary schools in April. Consequently, many schools have reported experiencing considerable drops in school attendance as students and their families fear being stopped or questioned by immigration authorities at or on their way to school. These increases in school absences can negatively impact school budgets, as current law apportions funding to local educational agencies on the basis of schools’ average daily attendance. AB 1348 provides a process by which a school district, county office of education, or charter school may request their average daily attendance for funding purposes be adjusted when immigration enforcement activities materially decrease attendance. AB 1348 also provides a limitation on the public’s access to the documentation that a school district, county office of education, or charter school submits to request this adjustment. AB 1348 is author-sponsored, and is supported by a large coalition of cities, school districts, and other organizations. The Committee has received no timely letters of opposition. AB 1348 previously passed out of the Senate Education Committee by a vote of 5 to 2.

PROPOSED CHANGES TO THE LAW

Existing law:

- 1) States 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 characteristic that is contained in the definition of hate crimes set forth in Section 422.55 of the Penal Code, including immigration statutes, equal rights and opportunities in the educational institutions of the state. (Ed. Code § 200.)
- 2) Provides funding to local educational agencies (LEAs) on the basis of average daily attendance (ADA). (Ed. Code § 42238.05.)
- 3) Allows school districts to claim the greater of current year, prior year, or three prior years' ADA for apportionment purposes as a buffer against declining enrollment. (Ed. Code § 42238.05.)
- 4) Permits a school district, county office of education, or a charter school to request an adjustment of their ADA from the Superintendent when the school district or school experienced a material loss of ADA due to one of the following reasons, and requires the Superintendent to approve the adjustment if its eligibility is established to the satisfaction of the Superintendent:
 - a) fire;
 - b) flood;
 - c) impassable roads;
 - d) epidemic;
 - e) earthquake;
 - f) the imminence of a major safety hazard as determined by the local law enforcement agency;
 - g) a strike involving transportation services to pupils provided by a non-school entity;
 - h) an order of any military officer of the United States or of the state to meet an emergency created by war, or of any civil officer of the United States, of the state, or of any county, city and county, or city authorized to issue that order to meet an emergency created by war, or because of other extraordinary conditions; or
 - i) snowstorms. (Ed. Code § 46392.)
- 5) Allows LEAs unable to maintain schools for at least 180 days (for a school district or county office of education) or 175 days (for a charter school) due to various reasons such as fire, flood, earthquake, epidemic, emergencies declared by military or civil officers, teacher shortages, or teacher illness to receive the same state funding amount as if they had operated for the full required days. This is contingent upon

satisfying certain conditions, including providing affidavits from relevant governing bodies and superintendents to justify the circumstances preventing the maintenance of schools. (Ed. Code § 46392.)

- 6) Defines a “material decrease” in attendance as when at least 10% of the students who would normally attend a school do not attend on any one day. (Ed. Code § 46392; 5 Cal. Code Regs. § 428.)
- 7) Provides, pursuant to the California Constitution, that the people have the right of access to information concerning the conduct of the people’s business, and, therefore, that the meetings of public bodies and the writings of public officials and agencies are required to be open to public scrutiny. (Cal. const. art. I, § 3(b)(1).)
 - a) Requires a statute to be broadly construed if it furthers the people’s right of access, and narrowly construed if it limits the right of access. (Cal. const. art. I, § 3(b)(1).)
 - b) Requires a statute that limits the public’s right of access to be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest. (Cal. const. art. I, § 3(b)(1).)
- 8) Governs the disclosure of information collected and maintained by public agencies pursuant to the California Public Records Act. (Gov. Code §§ 7920.000 et seq.)
 - a) States that the Legislature, mindful of the individual right to privacy, finds and declares that access to information concerning the conduct of the people’s business is a fundamental and necessary right of every person in this state. (Gov. Code § 7921.000.)
 - b) Defines “public records” as any writing containing information relating to the conduct of the public’s business that is prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics. (Gov. Code § 7920.530.)
 - c) Provides that all public records are accessible to the public upon request, unless the record requested is exempt from public disclosure. (Gov. Code § 7922.530.)

This bill:

- 1) Requires that, if the ADA of a school district, county office of education or charter school has been materially decreased during the fiscal year because of an immigration enforcement activity, the Superintendent of Public Instruction estimate the ADA in a manner that credits to the school district, county office of education, or charter school, for the purpose of determining apportionments of funding, the total ADA that would have been credited to the educational entity had the immigration enforcement activity not occurred.

- 2) Requires the members of the governing board or body of the school district, county office of education, or charter school and the county superintendent of schools to establish that the ADA of the school district, county office of education, or charter school has been materially decreased because of an immigration enforcement activity, to the satisfaction of the Superintendent of Public Instruction by affidavit, and requires that the school district, county office of education, or charter school submit a form provided by the Department of Education that certifies compliance with the requirements that:
 - a) The school district, county office of education, or charter school offer an independent study program to all students consistent with specified requirements and provide parents and guardians of students with specified notice; and
 - b) The school district, county office of education, or charter school offer adopted written policies for providing instruction to students through independent study and have verifiable documentation regarding the provisions of living interaction and synchronous instruction, as specified.
- 3) Requires the Department of Education to make available a standardized certification form for (2), above, by May 1, 2026.
- 4) Defines “immigration enforcement activity” to include all efforts to investigate, enforce, or assist in enforcement of federal civil or criminal immigration law, and to include any and all efforts to investigate, enforce, or assist in the investigation or enforcement of, any federal criminal immigration law that penalizes a person’s presence in, entry or reentry to, or employment in the United States.
- 5) Requires the Controller to incorporate verification of compliance into the 2026–27 Guide for Annual Audits of K–12 LEAs.
- 6) Exempts documentation submitted to the Superintendent for the purposes of (2), above, from the California Public Records Act. Specifies the interest protected by this limitation is the interest in protecting the privacy and security of California residents.
- 7) Sunsets the authority to apply for an adjustment of a school district, county office of education, or charter school’s ADA due to immigration enforcement activity pursuant to this bill on June 30, 2029.

COMMENTS

1. Author's statement

According to the author:

Allowing federal immigration activities to defund our schools is unacceptable. We must ensure that our schools remain safe and fully funded to serve students from all backgrounders [sic]. As we continue to grapple with the elimination of the sensitive places policy, AB 1348 is a reasonable step to hold our schools harmless.

2. Immigration enforcement in the Trump administration is hurting student attendance at California schools

California is home to about 10.6 million immigrants, accounting for 22% of the foreign-born population nationwide.¹ In 2023, 27% of the state's population was foreign born, the highest of any state. There are an estimated 133,000 undocumented children in California public K-12 schools, and one in five California children live in a mixed-status household where at least one member is not a U.S. Citizen.² Undocumented and non-citizen Californians are important members of their communities who deserve just treatment and the right to reside in their communities without the fear of being forcibly deported to a foreign country. Moreover, in the case *Plyler v. Doe*, the Supreme Court ruled that all children in the United States, regardless of their immigration status, have a constitutionally-protected right to a free public education. (*Plyler v. Doe* (1982) 457 U.S. 202.)

The federal government, primarily through the Immigration and Customs Enforcement agency (ICE), enforces federal immigration laws in the interior of the country, primarily through placing individuals suspected of being deportable in deportation proceedings or executing deportation orders of an immigration judge. In order to be deported from the United States, an individual needs to be found to have triggered a ground of deportability. There are numerous grounds of deportability, such as making a false claim to U.S. Citizenship or being convicted of certain criminal offenses. An individual who is present in the United States without ever having been admitted or paroled into the United States by an immigration officer is deportable, as is an individual who has violated their immigration status or has had their immigration status expire. Thus, an undocumented person is always at risk of being subject to immigration enforcement

¹ Marisol Cuellar Mejia et al., Fact Sheet: Immigrants in California, Public Policy Institute of California (Jan. 2025), available at <https://www.ppic.org/publication/immigrants-in-california/>.

² Migrant Policy Institute, "Profile of the unauthorized population: California" (accessed Apr. 13, 2025), <https://www.migrationpolicy.org/data/unauthorized-immigrant-population/state/CA#>; Office of Digital Services, "Immigration and California families," Ca.gov (accessed Apr. 13, 2025), <https://www.ca.gov/immigration/>.

activities by the federal government. However, any person in the United States who is not a citizen has some level of risk that they could be deported from the United States.

If an individual is apprehended by an official for immigration enforcement purposes, and the officer believes the individual is undocumented or has done something to trigger a ground of deportability, they may be placed into a deportation proceeding before an immigration judge to determine their deportability and if they have any defenses to deportation. So serious are the consequences of deportation proceedings that one immigration judge has called deportation proceedings “death penalty cases heard in traffic court.”³ When an individual is stopped by an immigration officer and placed in a removal proceeding, they may be detained in immigration detention, sometimes indefinitely while awaiting their case or deportation.

3. Immigration enforcement is harming school attendance and immigrant communities

President Trump, since re-entering the office, has promised to ramp up immigration enforcement and greatly increase deportations, and in doing so has understandably stoked considerable fear among immigrant communities. Shortly after taking office, President Trump ended long-standing federal policy that limited immigration enforcement activity at “sensitive locations.”⁴ These “sensitive locations” traditionally included schools, places of worship, and funerals and other religious ceremonies.⁵ In 2021, the Biden administration strengthened this sensitive locations policy with new guidance that expanded what is considered a protected, sensitive location to include places like licensed daycare centers, medical facilities, places where children gather, crisis centers, disaster relief centers, community-based organizations, homeless shelters, and domestic violence shelters.⁶ However, on January 2025, the Trump Administration rescinded the sensitive locations policy, and instead explicitly permitted immigration enforcement officers to conduct enforcement activities in any location at their individual discretion.⁷

³ Dana Leigh Marks, “Immigration judge: death penalty cases in a traffic court setting,” CNN (Jun. 26, 2014), <https://www.cnn.com/2014/06/26/opinion/immigration-judge-broken-system/index.html>.

⁴ See Benjamin C. Huffman, Memorandum: Enforcement Actions in or Near Protected Areas, Dept. of Homeland Sec. (Jan. 20, 2025), available at <https://www.nafsa.org/regulatory-information/dhs-rescinds-biden-protected-areas-enforcement-policy> (*hereafter* Huffman memo).

⁵ James A. Puleo, Memorandum: Enforcement Activities at Schools, Places of Worship, or at funerals or other religious ceremonies, Imm. & Nationality Svcs., HQ 807-P (May 17, 1993); Dept. of Homeland Sec., “Secretary Mayorkas Issues New Guidance for Enforcement Action at Protected Areas,” (Oct. 27, 2021), available at <https://www.dhs.gov/archive/news/2021/10/27/secretary-mayorkas-issues-new-guidance-enforcement-action-protected-areas>.

⁶ Dept. of Homeland Sec., “Secretary Mayorkas Issues New Guidance for Enforcement Action at Protected Areas,” (Oct. 27, 2021), available at <https://www.dhs.gov/archive/news/2021/10/27/secretary-mayorkas-issues-new-guidance-enforcement-action-protected-areas>.

⁷ See, Huffman memo, *supra* note 4.

The consequences of the threat of increased immigration enforcement activity are significant. Schools across the country have reported experiencing considerable drops in school attendance as students and their families fear being stopped or questioned by immigration authorities at or on their way to school.⁸ One report found that a 22 percent increase in school absences in Central Valley school districts coincided with recent increased immigration raids in those communities.⁹ There also have been numerous reports of immigration authorities attempting to carry out immigration enforcement activities at or near schools across the country, including a report of immigration agents who attempted to enter two Los Angeles elementary schools in April.¹⁰

4. AB 1348 would allow schools to adjust their average daily attendance numbers for school funding when they experience drops in attendance due to immigration enforcement

Current law apportions funding to local educational agencies (LEAs) on the basis of their schools' average daily attendance (ADA). (Ed. Code § 42238.05.) However, if a school has been experiencing declining enrollment, schools may claim the greater ADA of the current year, the previous year, or the previous three years' ADA. (Ed. Code § 42238.05.) In addition, if a school district, county office of education, or charter school experiences a material loss of ADA due to a disaster or similar major disruption, it may request that the Superintendent of Public Instruction estimate the ADA of the school had the emergency not occurred. (Ed. Code § 46392.) A material decrease for those provisions is considered a decrease of at least 10 percent in attendance due to the qualifying emergency. (*Id.*)

In order to utilize this process, an LEA must submit an affidavit to the Superintendent that demonstrates that the LEA is eligible for the ADA adjustment. The request is made through submitting the Form J-13A and supporting documents. In addition to showing a material loss in ADA, the request must show that the loss was due to the emergency conditions, and that the LEA will offer independent study to students. (Ed. Code § 46393.) This process helps ensure that a school does not receive less funding due to a disaster or other emergency situation that is beyond the school's control.

⁸ Jasmine Garsd, "The prospect of immigration agents entering schools is sending shockwaves among communities," NPR (Feb. 4, 2025), <https://www.npr.org/2025/02/04/nx-s1-5277170/schools-ice-immigration>.

⁹ Thomas Dee, *Recent Immigration Raids Increased Student Absences*, Annenberg Institute 25-1202 (Jun. 2025), available at <https://edworkingpapers.com/ai25-1202>.

¹⁰ Austin Turner, "Homeland security agents showed up at 2 L.A. schools. Here's what happened next," KTLA 5 (Apr. 10, 2025) <https://ktla.com/news/local-news/2-l-a-schools-deny-entry-for-federal-agents-as-immigration-enforcement-fears-ramp-up/>; Matt Masterson, "Immigration agents detain man outside Chicago charter school, officials say," WTTW (Feb. 27, 2025), <https://news.wttw.com/2025/02/27/immigration-agents-detain-man-outside-chicago-charter-school-officials-say>.

AB 1348 provides a similar process for when immigration enforcement activities materially decrease a school district, county office of education, or charter school's ADA. AB 1348 would require the submission of an affidavit and any accompanying documentation to the Superintendent to demonstrate to the Superintendent's satisfaction that the school meets the requirements for an ADA adjustment. This documentation would have to show that there was a 10 percent decrease in ADA as a result of immigration enforcement activities. In addition, AB 1348 would require the school to submit a form created by the Department of Education by May 1, 2026 for certifying that it offered an independent study program and adopted written policies for this program. For its purposes, AB 1348 defines "immigration enforcement activity" as including: "any and all efforts to investigate, enforce, or assist in the investigation or enforcement of any federal civil immigration law, [and] any and all efforts to investigate, enforce, or assist in the investigation or enforcement of any federal criminal immigration law that penalizes a person's presence in, entry, or reentry to, or employment in, the United States."

5. AB 1348 includes a limitation on public access to the documents that a school submits to receive the average daily attendance adjustment

The California Constitution and laws generally recognize that public access to information regarding the conduct of the people's business is a fundamental right. However, this right must be balanced against the right to privacy. Thus, the general right of access to public records may be limited where the Legislature finds a public policy justification necessitating limiting access.

AB 1348 also includes provisions that limit the public's access to any documentation submitted to the Superintendent for the purposes of requesting the bill's ADA adjustment. AB 1348 asserts that this limitation is necessary to protect the privacy and safety of California residents, because this documentation may include records of students who miss school due to immigration actions. This information could be sensitive and personally-identifying information that should not be made public. This documentation also may include information other than personal information of students or their families; however, it may likely still be sensitive information regarding the school and its student population as a whole. Thus, given the important privacy and safety considerations for a school's student body, the limitation in the public's access to these records seems reasonable.

SUPPORT

California Association for Bilingual Education (CABE)

California Charter Schools Association

Cft- a Union of Educators & Classified Professionals, Aft, AFL-CIO

City of Alameda

Delta Kappa Gamma International - Chi State

Edtrust-west

Los Angeles County Office of Education

Loyola Marymount University - the Center for Equity for English Learners

Oakland Unified School District

Partnership for Los Angeles Schools

San Francisco Unified School District

Small School Districts Association

Sobrato Early Academic Language (SEAL)

The Education Trust - West

United Administrators of Southern California

OPPOSITION

None received

RELATED LEGISLATION

Pending Legislation:

SB 98 (Cervantes, 2025) requires the governing bodies of local educational agencies and California State Universities, community colleges, and specified independent institutions of higher education, and requests the Regents of the University of California, to notify students or their parents and guardians, teachers, and other specified school community members when immigration enforcement activity is confirmed on the schoolsite or campus. SB 98 is currently pending before the Assembly Education Committee.

SB 48 (Gonzalez, 2025) prohibits a local educational agency from granting an immigration authority access to a schoolsite, providing a pupil for questioning, consenting to a search of the schoolsite, or disclosing student, staff, or teacher information without a valid judicial warrant, as provided. SB 48 is currently pending before the Assembly Education Committee.

AB 419 (Connolly, 2025) requires the governing board or body of a local educational agency to post the “Know Your Educational Rights” guide developed by the Attorney General in the administrative buildings and on the website of the local educational agency and at each of its schoolsites, including in each language other than English that the school is required to translate documents into pursuant to existing law. AB 419 is currently pending before this Committee and is set to be heard the same day as this bill.

AB 49 (Muratsuchi, 2025) prohibits school officials and employees of a local educational agency, or employees of a day care facility, from allowing a federal immigration officer to enter a schoolsite or day care facility for any purpose without providing valid identification, a written statement of purpose, and a valid judicial warrant, and without

receiving approval from specified school officials, and limits an approved official's access to only facilities where students or children are not present. AB 49 is currently pending before the Senate Education Committee.

Prior Legislation:

SB 153 (Committee on Budget and Fiscal Review, Ch. 38, Stats. 2024) ended, on June 30, 2026, the requirement that an LEA include the Certification Form for Independent Study and a certified independent study plan with Form J-13A submissions, and instead require LEAs to include an instructional continuity plan as part of their school safety plan. Requires the plan to address how the LEA will continue to provide instruction to students affected by emergency events.

AB 1429 (Ochoa Bogh, Ch. 477, Stats. 2024) added snowstorms to the list of specified emergency situations for which a school district, county office of education, or charter school may obtain an adjustment of their ADA when the emergency situation resulted in a material decrease in the ADA, among other things.

SB 114 (Committee on Budget and Fiscal Review, Ch. 48, Stats. 2023) made various changes to instructional time requirements and apportionment in response to the COVID-19 pandemic.

AB 167 (Committee on Budget, Ch. 252, Stats. 2021) made various changes to instructional time requirements and apportionment in the 2021-22 school year in response to the COVID-19 pandemic.

AB 699 (O'Donnell, Ch. 493, Stats. 2017) included immigration status in the list of specified characteristics for which law states it is the policy of the State of California to provide equal rights and opportunities in the state's educational institutions, and prohibited school officials and employees of a school district, county office of education, or charter school from collecting information or documents regarding the citizenship or immigration status of pupils or their family members. Required specified school officials to take certain actions in response to requests for information or access to a schoolsite by an immigration officer for the purposes of immigration enforcement, required the Attorney General to publish, by April 1, 2018, model policies limiting assistance with immigration enforcement at public schools, and required all local educational agencies to adopt these model policies or equivalent policies.

PRIOR VOTES:

Senate Education Committee (Ayes 5, Noes 2)

Assembly Floor (Ayes 62, Noes 13)

Assembly Appropriations Committee (Ayes 11, Noes 3)

Assembly Education Committee (Ayes 7, Noes 2)
