

## CONCURRENCE IN SENATE AMENDMENTS

AB 1348 (Bains)

As Amended August 29, 2025

Majority vote

**SUMMARY**

Adds immigration enforcement activity to the list of emergencies that may justify a waiver of average daily attendance (ADA) losses for local educational agencies (LEAs) funding purposes through June 30, 2029.

**Senate Amendments**

- 1) Require that for affidavits submitted for immigration enforcement activity occurring on or after January 1, 2025, but on or before June 30, 2026, the independent study plan to do one of the following:
  - a) Require the offering of live interaction or synchronous instruction to pupils, as provided in Education Code.
  - b) Or, if live or synchronous instruction is not offered, include a description of the extenuating circumstances preventing it and explain what pupil engagement, services, and instruction will be provided during or immediately after the period of closure or material ADA loss.

**COMMENTS**

*School attendance decreases, school closure, and school apportionment.* Current law provides that a school district, COE, or charter school may obtain approval of attendance and instructional time credit from the SPI due to a material decrease in attendance due, via a CDE form J-13A, to 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. California public school apportionment is largely calculated based on student attendance, and unless a J-13A is submitted by a school district, COE, or charter school and granted by the CDE, their apportionment will be ratably reduced.

Since January 2025, some school districts report that student attendance has decreased due to the increased attention to immigration enforcement. Some schools report that families are not sending their children to school due to the fear that in doing so they may put themselves or family members at risk of encountering immigration enforcement personnel. It may be challenging to identify which students are not attending school due to fear of immigration enforcement, or due to the impact of an immigration enforcement order directed to specific students or their parents. If it is the former, a school district, COE, or charter school is authorized under current law to offer independent study to the student. This will have the dual benefit of both keeping the student and family engaged with school and related academic instruction, and schools may receive full apportionment for students participating in independent study.

*CDE form J-13A.* The Request for Allowance of Attendance Due to Emergency Conditions (Form J-13A) is used to obtain approval of attendance and instructional time credit in the event

of an emergency when one or more schools were closed, when schools were kept open but experienced a material decrease in attendance, or when attendance records have been lost or destroyed. Current regulations define a decrease in attendance as material when at least 10% of the students who would normally attend a school do not attend on any one day (California Code of Regulations, Title 5, Section 428). The CDE's approval of the Form J-13A, combined with other attendance records, serves to document the LEA's compliance with instructional time laws and provide authority to maintain school for less than the required instructional days and minutes without incurring a fiscal penalty.

SB 153 (Committee on Budget and Fiscal Review), Chapter 38, Statutes of 2024, and AB 176 (Committee on Budget), Chapter 998, Statutes of 2024, made two significant changes to the Form J-13A submittal process in upcoming years.

- 1) The requirement to include the Certification Form for Independent Study and a certified independent study plan with Form J-13A submissions will end on June 30, 2026; and
- 2) In place of the independent study plan and certification process, starting July 1, 2026, LEAs will include an instructional continuity plan as part of their school safety plan. This plan must address how the LEA will continue to provide instruction to students affected by emergency events. Specifically, the plans are required to include a procedure to provide two-way communication with families and students within five days of the emergency event, and include a plan to provide in-person or remote instruction (via independent study) within 10 days of the emergency event.

*Increased immigration enforcement activity.* Since 1993, the Department of Homeland Security (DHS), formerly known as the Immigration and Naturalization Service, has had a policy to "attempt to avoid apprehension of persons and to tightly control investigative operations on the premises of schools, places of worship, funerals and other religious ceremonies." In 2011, the DHS reaffirmed the policy of avoiding enforcement actions at "sensitive locations" such as schools and churches, unless exigent circumstances exist, a law enforcement action leads to a sensitive location, or prior approval is obtained. A 2021 memo from the U.S. DHS reiterated guidance for Immigration and Customs Enforcement (ICE) and Customs and Border Protection (CBP) in or near sensitive locations and included the following statement:

To the fullest extent possible, we should not take an enforcement action in or near a location that would restrain people's access to essential services or engagement in essential activities. Such a location is referred to as a protected area.

The memo includes examples of protected areas, including "a school, such as a pre-school, primary or secondary school, vocational or trade school, or college or university." It also included "a place where children gather, such as a playground, recreation center, childcare center, before- or after-school care center, foster care facility, group home for children, or school bus stop."

A more recent communication from the U.S. Department of Justice was issued on January 21, 2025, which rescinded guidelines for ICE and CBP enforcement actions that prohibit law enforcement activity in or near so-called "sensitive areas." The memo notes that federal law prohibits state and local actors from resisting, obstructing, and otherwise failing to comply with lawful immigration-related commands and requests. A DHS spokesperson noted, "Criminals will no longer be able to hide in America's schools and churches to avoid arrest. The Trump

Administration will not tie the hands of our brave law enforcement, and instead trusts them to use common sense."

*Immigration status among California children and parents.* Approximately 4.2 million children in California had at least one immigrant parent in 2017-18, according to the Urban Institute. Of these children, 93% are U.S. citizens. Over one million children in California have at least one undocumented parent.

*Right to public education.* The U.S. Supreme Court, in a 1982 decision, *Plyler v. Doe*, upheld the right of undocumented children to free public education. The lawsuit stemmed from a 1975 Texas law that authorized school districts to deny enrollment of children and withhold state funds for the education of children not legally admitted to the U.S. The Supreme Court argued that the denial of public education would be a violation of the U.S. Constitution's Fourteenth Amendment, which does not allow states to deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws. In 1994, Proposition 187 was a statewide initiative that would have prohibited public health, social services, and education to undocumented immigrants and would have required law enforcement, teachers, social service and health care workers to verify a person's immigration status. A federal judge found the initiative unconstitutional.

*Independent study.* Due to the growing number of public health emergencies and natural disasters that have impacted the state in recent years, there is an increased need for LEAs to provide continuity of academic instruction for students who are unable to attend in-person instruction during an emergency event. Current law requires LEAs to certify offering independent study within ten days of the first day of a school closure or material decrease in attendance. LEAs are encouraged to provide access to instruction and the opportunity to earn academic credit through independent study for students who are excluded from school (or absent), or when school is closed. Providing independent study is crucial in mitigating the negative impact of lost learning time and supporting mental health.

### **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 backgrounds. As we continue to grapple with the elimination of the sensitive places policy, AB 1361 is a reasonable step to hold our schools harmless."

### **Arguments in Support**

The California Association for Bilingual Education (CABE) writes, "CABE believes that California must lead the nation in its vigilant protection and support for the safety and well-being of California's immigrant community who are already facing objectification and are beginning to face harassment and intimidation. Many fear separation from their families, despite their status as citizens or documented residents. Approximately 45% of children in our state have at least one immigrant parent. Additionally, 60% of children under the age of five speak a language other than English at home, meaning California must create policies that are more purposeful in supporting its students."

### **Arguments in Opposition**

None on file

**FISCAL COMMENTS**

According to the Senate Appropriations Committee, this bill could result in Proposition 98 General Fund costs ranging in the hundreds of thousands to potentially tens of millions of dollars in ADA credits each year. While some school districts have reported significant student attendance decreases as a result of immigration enforcement activities, the bill's exact costs will depend on several factors that are difficult to quantify. These factors include the number of Form J-13A waiver requests that are approved, the amount of ADA involved, and the amount of funding associated with the waiver requests. The bill's provisions would sunset on June 30, 2029.

**VOTES:****ASM EDUCATION: 7-2-0**

**YES:** Muratsuchi, Addis, Alvarez, Bonta, Garcia, Lowenthal, Patel

**NO:** Hoover, Castillo

**ASM APPROPRIATIONS: 11-3-1**

**YES:** Wicks, Arambula, Calderon, Caloza, Elhawary, Fong, Mark González, Hart, Pacheco, Pellerin, Solache

**NO:** Dixon, Ta, Tangipa

**ABS, ABST OR NV:** Sanchez

**ASSEMBLY FLOOR: 62-13-4**

**YES:** Addis, Aguiar-Curry, Ahrens, Alvarez, Arambula, Ávila Farías, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Caloza, Carrillo, Connolly, Davies, Elhawary, Fong, Gabriel, Garcia, Gipson, Mark González, Haney, Harabedian, Hart, Irwin, Jackson, Kalra, Krell, Lee, Lowenthal, McKinnor, Muratsuchi, Nguyen, Ortega, Pacheco, Papan, Patel, Pellerin, Petrie-Norris, Quirk-Silva, Ramos, Ransom, Celeste Rodriguez, Michelle Rodriguez, Rogers, Blanca Rubio, Schiavo, Schultz, Sharp-Collins, Solache, Soria, Stefani, Valencia, Wallis, Ward, Wicks, Wilson, Zbur, Rivas

**NO:** Castillo, DeMaio, Dixon, Ellis, Gallagher, Hadwick, Hoover, Lackey, Macedo, Patterson, Sanchez, Ta, Tangipa

**ABS, ABST OR NV:** Alanis, Chen, Flora, Jeff Gonzalez

**UPDATED**

VERSION: August 29, 2025

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