



How Will the Arizona Immigration Law Affect Education Law?

May 7, 2012

On April 25, 2012, the U.S. Supreme Court heard arguments regarding the constitutionality of the controversial Arizona immigration law. The Court's decision on the Arizona law will have broad implications on schools across the country, as the fate of similar immigration laws in states like Alabama also depends on the Court's decision.

In comparison to the Arizona law, the Alabama law is much broader, as it specifically requires every public elementary and secondary school in the state to document and report the immigration status of every student in the school. Schools are also required to report on the immigration status of every student's parents as well. Alabama state legislatures argue that the law is constitutional, because "pursuant to their longstanding and well-established police power, states have the authority to enact legislation that protects their citizens and lawful aliens within their jurisdiction."

Shortly after the law was passed in 2010, however, the US Department of Education sent a letter to Alabama schools, reminding them that "it's not only against the law to directly block a child's enrollment, but also to do things that could reasonably result in them not receiving a public education." Opponents of the law argue that the law serves as a barrier to education and that students are being denied their constitutional right, under *Plyler v. Doe*, 457 U.S. 202 (1982), to free public education. In response to the US Department of Education's letter and the opposition shown by the Obama administration, supporters of the Alabama law state that the law does not prevent enrollment in schools, but simply enables the state to track the number of illegal immigrant students and calculate the costs associated with educating them.

While the 11th Circuit Court of Appeals has temporarily halted the reporting requirement portion of the Alabama law, the law continues to have profound effects on schools across the state, with the Alabama Education Department reporting that thousands of Hispanic students have stopped showing up for school. Although Alabama lawmakers have assured parents that information gathered will only be used to compile statistics, not to make arrests or deportations, the verbal promise of legislatures to "not arrest" has not quieted the fears of parents or children. As a result of both children and parents being fearful that attendance at school might put them at a higher risk of deportation, school officials in Alabama have begun pleading with immigrant families, asking them to send their children back to school. On the day the law went into effect, "children arrived at school in tears because they thought their parents might not be home at the end of the day. Many families fled Alabama because they worried they would be separated from their children" says Principal Bill Lawrence, of Foley Elementary School in Baldwin County. Lari Valtierra, supervisor of the English as a second language department

for the Jefferson County schools, says that the “law has created a huge problem: the interruption of schooling has caused chaos.”

The Supreme Court’s decision in *Arizona v. United States* will likely decide the fate of the Alabama law and significantly affect schools across the state. If your institution has questions or concerns about this topic and you would like further information, please email Jim Ryan at jryan@cullenanddykman.com or call him at 516-357-3750. A special thanks to Hayley Dryer, a third-year law student at Benjamin N. Cardozo School of Law, for helping with this post.