

Date of Hearing: March 15, 2017

ASSEMBLY COMMITTEE ON EDUCATION  
Patrick O'Donnell, Chair  
AB 185 (O'Donnell and Irwin) – As Amended March 7, 2017

**SUBJECT:** School attendance: pupil transfer options: school districts of choice

**SUMMARY:** Revises provisions of the District of Choice (DOC) program and extends the program through July 1, 2023. Specifically, **this bill**:

- 1) Requires, on or before July 1, 2018, a school district that chooses to be a DOC, to register this status with the Superintendent of Public Instruction (SPI) through the existing school data system (CALPADS) or another system specified by the SPI. Prohibits a district from enrolling students through the DOC program unless the district has registered with the SPI.
- 2) Requires a DOC to post student transfer information online, including any applicable forms or timelines and an explanation of the DOC selection process for admittance. Requires communications to be provided in all languages, consistent with provisions of existing law regarding translations. Requires the DOC to make public announcements about programs and policies during the enrollment period.
- 3) Requires that a DOC to give first priority for attendance to siblings of children already in attendance at the district and to give second priority for attendance to pupils eligible for free or reduced-price meals.
- 4) Replaces the 10% hard cap on transfers from a district of residence with a 6% rolling cap. A school district of residence must authorize additional students to participate in the DOC program when current program participants leave or graduate, provided that the total number of pupils does not exceed the school district's 6% cap. Grandfathers in students enrolled prior to the 2018-19 school year without regard to the 6% cap.
- 5) Authorizes a school district of residence with a negative fiscal status, by resolution at a public meeting, to limit the number of students who may transfer out of the district in that fiscal year and restrict any further pupils from transferring for the upcoming school year.
- 6) Eliminates the 70% apportionment of state funds for average daily attendance for DOC students enrolled at a basic aid school district.
- 7) Provides for an appeal process through the county board of education for students that are denied a transfer, similar to the current interdistrict transfer appeals process and authorizes a district of residence or a DOC to file complaints of law violations with the county board.
- 8) Requires the DOC to provide free transportation assistance to students eligible for free and reduced price meals starting July 1, 2020, if the parent requests the transportation and the student lives not more than 10 miles from the school district boundary.
- 9) Requires the SPI to maintain and post a list of all DOCs in the state; collect specified transfer data from each DOC and post information on the department website. Specifies Legislative intent that the SPI collect data in the manner that minimizes the administrative burden for

school districts and the state. Requires the SPI to report their plan for collecting data to the Legislature, Governor, and Legislative Analyst's Office by July 1, 2018.

- 10) Shifts annual reporting requirements, such as pupil performance and the costs of providing transportation, from the LAO to the SPI, but continues to require the LAO to provide a comprehensive evaluation of the program. The LAO report is due January 31, 2021.
- 11) Requires the SPI to conduct a review of not fewer than 100 randomly selected school districts to determine whether the school district is operating as a DOC; and if the SPI finds that the school district is operating as a DOC or is not reporting the required data, the SPI shall withhold from the district's apportionment an amount attributable to the average daily attendance of pupils enrolled through the DOC program.

#### **EXISTING LAW:**

- 1) Under the DOC authorization, established by AB 19 (Quackenbush), Chapter 160, Statutes of 1993, a school board may declare the district to be a DOC willing to accept a specified number of inter-district transfers. A DOC is not required to admit pupils but it is required to select those pupils that it does elect to admit through a random process that does not choose pupils based upon academic or athletic talent. Either the district of residence or DOC may prevent a transfer under this law if the transfer would exacerbate racial segregation. Each DOC is required to keep records of: 1) The number of requests granted, denied, or withdrawn as well as the reasons for the denials; 2) The number of pupils transferred out of the district; 3) The number of pupils transferred into the district; 4) The race, ethnicity, gender, socioeconomic status and the district of residence for each student in #2 and #3 above; and, 5) The number of pupils in #2 and #3 above who are English Learners or individuals with exceptional needs. The DOC program becomes inoperative on July 1, 2017 and repealed on January 1, 2018. (Education Code Section 48300-48316)
- 2) Requires a DOC to give priority for attendance to siblings of children already in attendance in that district, and authorizes a DOC to give priority for attendance to children of military personnel. (Education Code 48306)

**FISCAL EFFECT:** Unknown

**COMMENTS:** Under the DOC law, the governing board of any school district may declare the district to be a DOC willing to accept a specified number of inter-district transfers. A DOC is not required to admit pupils but is required to select those pupils that it does elect to admit through a random process and they are prohibited from choosing pupils based upon academic or athletic talent.

This bill extends the sunset date for the DOC program, and makes several changes to the program to provide more equitable access for all students to the transfer opportunities within the DOC program.

***Racial Inequities in the DOC program:*** Azusa Unified School District has collected data to show that there is a significant difference in the percentages for low-income students who utilize this program--only 18% of students that used DOC were low-income vs 82% total of students in Azusa are considered low-income as they qualify for the free and reduced priced meal program

(FRPM). Azusa Unified's data also shows an overrepresentation of White and Asian students that utilize DOC, and underrepresentation of Hispanic students that utilize DOC. According to Glendora Unified School District, they receive 37% low income students from Azusa Unified School District, not the 18% that was reported by Azusa Unified.

Other districts of residence can demonstrate similar variances in the demographics of the students who transfer out of their district to attend DOCs. **Rowland Unified School District** borders Walnut Valley Unified School District, which is a DOC. As of 2009, 1,649 students had transferred out of Rowland Unified and transferred into Walnut Valley Unified under the DOC law. According to CDE data, the overall demographic characteristics of Rowland Unified in 2008-09 included 60.9% Hispanic students and 20.9% Asian students. Rowland Unified School District calculated, based on 727 students of the 1,649 total students who had transferred out of the district under the DOC law in 2009, that Walnut Valley had enrolled 52% Asian students and only 20% Hispanic students from Rowland Unified. One could argue that the percentages of students, by ethnic background, who transferred out of Rowland Unified do not appear to be random since they do not reflect the demographic characteristics of the district overall. In fact, the percentage of Asian students who transferred out of Rowland Unified was more than twice the total percentage of Asian students in the entire district. Conversely, the percentage of Hispanic students who transferred out of Rowland Unified was 1/3 of the total percentage of Hispanic students in the entire district. In 2006-07, Rowland Unified reached the maximum cap of 10%, and the district utilized the authority granted in statute to stop any future students from transferring out of their district under the DOC law, due to concerns that Walnut Valley's DOC program had negatively impacted the demographic profile of Rowland Unified.

**Kern County Office of Education:** Data from several Districts of Choice in Kern County show that Hispanic students and low income (Free and Reduced Price eligible) students are not utilizing the District of Choice program at the same rates as wealthy students.

***Elk Hills School District:***

Elk Hills receives approximately 5% Hispanic students from Taft City, but the population of Hispanic students at Taft City is approximately 54%. Similarly, Elk Hills receives approximately 57% low income students from Taft City, but the population of low income students at Taft City is 83%.

***McKittrick Elementary School District:***

McKittrick receives approximately 10% low income students from Taft City, but the population of low income students at Taft City is 83%.

***Maple Elementary School District:***

Maple receives approximately 30% low income students from Wasco, but Wasco's population is 89% low income. Similarly, Maple receives approximately 47% low income students from Richland, but Richland's population of low income students is approximately 87%.

These examples are consistent with the 2016 analysis done by the LAO, and they highlight the long time concerns of the DOC program, that low income and minority students are not able to access to benefits of the program due to a lack of transportation and other program challenges. Based on this evidence, one could argue that the DOC program is segregating California public schools.

**Transportation.** Pond Union School District is a District of Choice and the data from their district tells a different story. In some cases, Pond enrolls a *higher* percentage of low income and Hispanic students than the sending district's corresponding percentage of those student populations. Pond pays for a bus to pick up students in the districts where they enroll children. Pond receives 94% Hispanic students from Delano, and the population of Hispanic students in Delano is 88%. Pond also receives 96% low income students from Delano, and the population of low income students at Delano is 92%. Pond receives 80% low income students from McFarland, and the population of low income students at McFarland is 87%. Pond receives 76% Hispanic students from McFarland, and the population of Hispanic students at McFarland is 98%.

This bill requires DOC's to provide free transportation to students eligible for the free and reduced priced meal program who live within 10 miles of the district boundary, which will assist in providing equitable access to the District of Choice program. It is the author's intent that districts have the discretion to design their own transportation program to provide reasonable access to all students who qualify for transportation. The transportation program could include any combination of district busses or public transportation.

**Racial Segregation in Schools.** According to an April 2016 Government Accountability Office report entitled, *Better Use of Information Could Help Agencies Identify Disparities and Address Racial Discrimination*, "The percentage of K-12 public schools in the United States with students who are poor and are mostly Black or Hispanic is growing and these schools share a number of challenging characteristics. From school years 2000-01 to 2013-14 (the most recent data available), the percentage of all K-12 public schools that had high percentages of poor and Black or Hispanic students grew from 9 to 16 percent, according to GAO's analysis of data from the Department of Education (Education). These schools were the most racially and economically concentrated: 75 to 100 percent of the students were Black or Hispanic and eligible for free or reduced-price lunch—a commonly used indicator of poverty. GAO's analysis of Education data also found that compared with other schools, these schools offered disproportionately fewer math, science, and college preparatory courses and had disproportionately higher rates of students who were held back in 9th grade, suspended, or expelled."

**Priority Enrollment.** This bill requires DOC's to provide first priority for attendance to siblings of children already in attendance at the district and to give second priority for attendance to pupils eligible for free or reduced-price meals.

**Communication to Parents.** This bill regulates how DOC's communicate with parents of prospective students with the intent that DOC's not target recruitment efforts to any particular neighborhood or any student with particular demographics, academic or athletic achievement level. The bill specifies that DOC's must communicate with parents in all languages for which translations are required in the district of residence.

**History of District of Choice Evaluations.** Under current law, districts establish themselves as a DOC by adopting a local school board resolution. Since in 2008, DOCs have been required to collect data on the numbers of transfers they accept or deny and this data is required to be reported to the Superintendent of Public Instruction (SPI), the county board of education and the Department of Finance annually.

SB 80 (Committee on Budget and Fiscal Review), Chapter 174, Statutes of 2007, required the California Department of Education (CDE) to report to the Legislature by November 30, 2008 on the effectiveness of the interdistrict transfer program using data provided by school districts to the SPI on the disposition of all interdistrict transfer requests. CDE did not provide the complete report due to lack of funding. In lieu of the report, CDE conducted a survey of 100 schools that receive the most inter-district transfers in the state and found only three districts that have elected to declare themselves a DOC. It is important to note the survey was not a complete assessment of all DOCs. The CDE report recommends, however, "Given that only 3.9% of the responding districts indicated an active participation in the DOC program, it seems to be a small program with very limited impact. The CDE sees no significant negative consequences to the program's lapse as scheduled for July 1, 2009."

Interestingly, in a report by the CDE in 2003, the only solid indicator of a district being a DOC was if the district was a basic aid district that received state apportionment for its transfer students. CDE had to use district self-identification and a survey done by the California Association of School Business Officials to determine the total number of DOCs. As of 2002, CDE was able to identify 18 small, mostly rural districts as DOCs. One-half of these districts were basic aid districts. In 2007, it was reported that there were 11 basic aid districts that were DOCs, according to CDE.

An evaluation was due to the Legislature by the Legislative Analyst's Office (LAO) on November 1, 2014. Due to lack of data sharing between various agencies, the evaluation did not get completed. In 2015, the sunset date of the DOC program was extended by one year, so that the LAO's evaluation could be completed by January 31, 2016.

**2016 LAO Evaluation:** As the LAO compiled the 2016 report, once again, insufficient data was collected due to DOC's not reporting the required data to the State. The LAO's report found there to be 47 DOC's statewide and the report recommends the program's sunset date be extended. Because the data in the report was collected by statewide survey and direct communication between the LAO and 100 districts, it is unclear whether the number of DOCs statewide is an accurate number. Despite the potentially limited data, the LAO found evidence of higher rates of student transfers among certain racial populations. The LAO report states, "Overall, participating transfer students tend to mirror the profile of the Districts of Choice they attend. Some differences emerged when we compared these students with their home districts. As shown...Hispanic students transfer at relatively low rates compared with their share of home district enrollment. These students account for 66 percent of the students attending home districts but only 32 percent of participating transfer students. Conversely, white students and Asian students transfer at relatively high rates."

One could argue that if DOC's are failing to report the transfer data that has been required to be reported annually since 2008, that the program may not be having a significant impact at the local level, and should be allowed to sunset. This bill requires the SPI to withhold the school district's apportionment equivalent to the average daily attendance of the students enrolled through the DOC program, if the district does not report the required data or if they do not register as a DOC.

***Differences between the DOC program and other interdistrict transfer options.*** Unlike the main interdistrict transfer law, the DOC law does not require agreement between the district of residence and the receiving district in order for the receiving district (DOC) to admit interdistrict

transfers. The district of residence has little say in the transfer process, except, districts with 50,000 or less ADA may limit the maximum number of transfers each year to 3% of their ADA and may limit transfers for the duration of the program to 10% of their ADA. Districts with more than 50,000 pupils in attendance may refuse to transfer more than 1% of their ADA. A district of residence may also prevent a transfer under this law if the transfer would have a negative impact on a court-ordered or voluntary desegregation plan or the racial and ethnic balance of the district.

Other differences include: A DOC that is also a basic aid district is apportioned 70% of the amount the state revenue limit for ADA that otherwise would have gone to the district of residence. Transfer priority is given to the siblings of transfer students already attending school in the DOC. Students with special needs are admitted despite additional incurred costs unless the transfer of those students would require the creation of a new program. This exception does not apply to special education students or English learners.

***Basic Aid Districts.*** This bill conforms the DOC program to the interdistrict transfer law with regard to funding for students transferring into a basic aid district. The bill eliminates the 70% apportionment of state funds for average daily attendance for DOC students enrolled at a basic aid school district. Basic aid school districts generate more revenue through local property taxes than the district would generate through the local control funding formula (LCFF). Therefore, these school districts do not receive a LCFF apportionment. Under current law, if a basic aid district is a DOC, they receive 70% of the LCFF base grant for the students they enroll through that program. Non-DOC basic aid districts do not receive this incentive funding for transfer students. Because basic aid districts generate more local revenue than they would receive under LCFF, the author argues that these districts do not need a financial incentive to enroll more students. Many basic aid districts are high wealth districts, some that receive well over \$100,000 per student in local property taxes. It is hard to argue why such districts need 70% of the LCFF base grant (which is approximately \$5,000-6,100) to enroll each additional student through the DOC program. The financial incentive basic aid districts receive under the DOC program isn't necessary.

***Repealing the 10% Lifetime Cap.*** The bill repeals the authorization for districts with less than 50,000 ADA to cap the maximum number of students transferring out at 10% for the duration of the program and instead makes the cap a 6% rolling cap. This means that as seniors graduate, more students could transfer out of the district. Without a maximum cap for the duration of the program, districts will be unable to cap the total number of students transferring out of their district over time. The committee should consider the negative fiscal impacts on districts this change will bring. A handful of districts have hit the 10% lifetime cap and have stopped transfers. For those districts, this policy change would be like pulling the fiscal rug out from under them. Their enrollment has only recently started to recover and this will end that financial stability. The committee should consider whether to reinstate the 10% lifetime cap or reduce the rolling cap to a lower percentage of ADA.

***Previous legislation:*** SB 1432 (Huff) from 2016, was held on the Assembly Appropriations Committee Suspense file, would have revised and recasted provisions of the District of Choice (DOC) program and extended the program through January 1, 2022.

SB 597 (Huff), Chapter 421, Statutes of 2015, provided a one year extension of the sunset date for the District of Choice (DOC) Program and requires the Legislative Analyst Office (LAO) to complete their evaluation of the program by January 31, 2016.

SB 680 (Romero & Huff), Chapter 198, Statutes of 2009, extended the sunset and repeal date for the School District of Choice (DOC) program from July 1, 2009 to July 1, 2016 and January 1, 2010 to January 1, 2017, respectively; repealed the prohibition on new districts electing to become DOCs; and, required the Legislative Analyst (LAO) to complete an evaluation of the DOC program and report to the Legislature by November 1, 2014.

AB 1407 (Huffman) from 2009, was held on the Assembly Appropriations Committee Suspense file, would have extended the sunset and repeal dates for the DOC program for 5 years and required a census report on DOC by CDE by November 2010.

AB 270 (Huff) from 2007, extended the authority for DOC inter-district transfers from July 1, 2007 to July 1, 2009, prohibited additional districts from becoming DOCs, and required school districts (electing to accept transfers) to maintain records on the number of requests it receives and annually report the number of requests it receives to the SPI. The language in this bill was incorporated into SB 80 (Committee on Budget and Fiscal Review), Chapter 174, Statutes of 2007.

AB 97 (Nation), Chapter 21, Statutes of 2004, extended the sunset date for one year for the DOC authorization and required the SPI to continue the calculation for the Special Disabilities Adjustment using the current incidence multiplier to allow special education local plan areas to continue to receive funds provided through 2003-04 until a new multiplier is calculated.

AB 1993 (Quackenbush), Chapter 160, Statutes of 1993, established school DOC and allowed the governing board of any school district to declare the district to be a DOC willing to accept a specified number of inter-district transfers.

## **REGISTERED SUPPORT / OPPOSITION:**

### **Support**

None on file

### **Opposition**

None on file

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