

Date of Hearing: April 10, 2024

ASSEMBLY COMMITTEE ON EDUCATION  
Al Muratsuchi, Chair  
AB 2226 (Muratsuchi) – As Introduced February 7, 2024

**SUBJECT:** Elementary education: kindergarten

**SUMMARY:** Requires a child to complete one year of kindergarten prior to enrolling in first grade in a public school, including a charter school, beginning with the 2026-27 school year, thereby making kindergarten a mandatory grade level. Specifically, **this bill:**

- 1) Requires a child to complete one year of kindergarten prior to enrolling in first grade in a public school, including a charter school, beginning with the 2026-27 school year, thereby making kindergarten a mandatory grade level.
- 2) Clarifies that a student is to be admitted to the first grade if the student has their sixth birthday on or before September 1 and that the student has completed one year of kindergarten.
- 3) Clarifies that the exiting authority for a kindergarten student to be placed in first grade if judged ready for first grade work applies to a student who has not completed one school year of kindergarten, subject to the discretion of the school administration and with the consent of the child's parent or guardian, provided the child is at least five years of age.
- 4) Extends to charter school governing bodies the existing authority for a school district governing board to admit a student of a proper age to a class after the first month of school.
- 5) States legislative intent that a parent or legal guardian of a pupil eligible for kindergarten maintain the discretion to enroll the pupil in either public school kindergarten or private school kindergarten, which includes home schooling, before enrolling the pupil in the first grade of a public elementary school.

**EXISTING LAW:**

- 1) Requires every person between the ages of 6 and 18 years of age to attend school full-time (at least the minimum school day as required by statute and school districts). (Education Code (EC) 48200)
- 2) Requires a student to be admitted to kindergarten if the student will have their fifth birthday on or before September 1. (EC 48000)
- 3) Authorizes school districts to admit to kindergarten, on a case-by-case basis, a student who will have their fifth birthday during the school year, subject to the following conditions:
  - a) The governing board of the school district determines that the admittance is in the best interest of the student; and
  - b) The parent is given information regarding the advantages and disadvantages and any other explanatory information about the effect of this early admittance. (EC 48000)

- 4) Requires a student to be admitted to the first grade if the student will have their sixth birthday on or before September 1. (EC 48010)

**FISCAL EFFECT:** The Office of Legislative Counsel has keyed this bill as a possible state-mandated local program.

**COMMENTS:**

***Need for the bill.*** According to the author, “AB 2226 requires that, starting with the 2026-27 school year, children would be required to complete one year of kindergarten before being admitted to first grade, thereby making kindergarten mandatory. Although kindergarten is not currently mandatory in California, it is considered an essential component of early education as it builds the foundation of early literacy and numeracy, as well as important socialization skills for young children. Students who do not attend kindergarten are likely to be at a disadvantage as they enter first grade. AB 2226 will ensure all children have the opportunity to gain the critical skills they need as they move on to first grade and beyond.”

***Kindergarten is not currently mandatory in California.*** Kindergarten is mandatory in 19 other states and the District of Columbia (DC). 17 states and the DC require full-day kindergarten, and 39 states plus the DC require districts to offer kindergarten either full or half day (Education Commission of the States (ECS) 2020). In California, kindergarten is considered a grade level, is factored in the calculation of average daily attendance (ADA), and is included in the academic content standards, curriculum frameworks and instructional materials. However, attendance in kindergarten is not mandatory, and compulsory education laws begin at age 6, so parents must enroll their children in school once they reach the age of 6. It is currently a local decision, with parental input, whether a 6-year old student will be enrolled in kindergarten or be eligible for first grade.

***Kindergarten enrollment has declined in recent years.*** The CDE estimates that, prior to the COVID pandemic, approximately 95% of eligible students attended a public or private kindergarten program, suggesting that approximately 5% of students were not attending kindergarten. In reviewing enrollment numbers for kindergarten and first grade in California public schools in recent years and comparing the total number of students in first grade in a given year to the total number of students in kindergarten in the prior year, we can estimate the number and percentage of children attending first grade for the first time. This data suggests that approximately 3-4% of children may not have attended kindergarten in recent years. Clearly, this is a rough estimate.

	Kindergarten enrollment (not including TK)	1st grade enrollment	Increase in 1 <sup>st</sup> grade vs prior year Kindergarten enrollment	% of 1 <sup>st</sup> grade students estimated to be enrolled for first time
2022-23		408,992	14,529	3.6%
2021-22	394,463	408,671	15,200	3.1%
2020-21	393,471	426,963	-8,009	n/a
2019-20	434,972	444,120	9,021	2.0%
2018-19	435,099	448,028	5,237	1.2%
2017-18	442,791	456,175		

Source: CDE Dataquest

**Research demonstrates the effectiveness of kindergarten attendance, particularly for disadvantaged children.** According to the U.S. Department of Education’s (USDOE) *Early Childhood Longitudinal Study Kindergarten Class of 2010-11*, based upon a nationally representative sample of kindergarteners, Black and Latino children score significantly lower than White children in reading and math at kindergarten entry. One study found that, after controlling for child, family, and pre-K experiences, gaps do not significantly increase during kindergarten and the racial/ethnic differences in achievement and social-emotional skills are primarily a reflection of pre-K differences in these areas. (Iruka, 2022)

Further research looked at the benefits of the increased availability of kindergarten in the U.S. The author notes that low-income and Hispanic children were significantly less likely to be below grade level as a result of access to kindergarten programs, “...the children who benefited most were the children who received lower-quality care as a substitute for attending kindergarten or who were at a disadvantage at school start and were helped the most by having a transitional year prior to primary school education. In this sense, the subsidization of kindergarten helped level the playing field for those children least likely to receive high quality childcare in the absence of state-supported kindergarten.” (Dhuey, 2011)

Data from the Los Angeles Unified School District demonstrates that children who attend kindergarten do better on their year-end assessments (DIBELS) in first, second, and third grade and have higher scores on their Smarter Balanced tests as late as fifth grade.

**Lack of access to kindergarten contributes to opportunity gaps.** Mandatory kindergarten has the opportunity to reduce opportunity gaps for children of color. 2019 Data from the California Research Bureau shows that Latino children are the least likely to enroll in kindergarten. In 2019, 7.2% of Latino children ages 5 and 6 were not enrolled in kindergarten or first grade, compared to 6.1% of White children, 5.5% of Black children, and 5.2% of Asian/Pacific Islander children.

One study found that the adoption of mandatory kindergarten increased kindergarten enrollment by 12 percentage points. The authors found a marked differential benefit of mandatory kindergarten for non-White, Black, and Hispanic children in terms of educational attainment and income, including a 5% increase for college completion compared to White children, and a 6.7% increase in total income relative to White children. (Jenkins, 2019).

**Public or private school.** This bill does not require students to attend kindergarten at a public school. Parents retain the option to enroll their child at a public or private school, including the option for homeschooling, to fulfill the requirement for one year of kindergarten prior to entering first grade.

**Chronic absenteeism highest in kindergarten.** Chronic absenteeism is defined as missing 10% or more of schooldays for any reason. This can translate into students having difficulty learning to read by the third grade, achieving in middle school, and graduating from high school. Children living in poverty are two to three times more likely to be chronically absent—and face the most harm because their community lacks the resources to make up for the lost learning in school. Students from communities of color, as well as those with disabilities, are disproportionately affected. This isn’t simply a matter of truancy or skipping school. In fact, many of these absences, especially among our youngest students, are excused. Often absences are tied to health problems, such as asthma, diabetes, and oral and mental health issues. Other barriers including

lack of a nearby school bus, a safe route to school, or food insecurity make it difficult to go to school every day. Research has shown that kindergartners who miss 10% or more school days have lower academic performance when they reach 1st grade. (Attendance Works)

As shown in the table below, chronic absenteeism for students in kindergarten tends to be higher than the rates across all grades. This is especially pronounced in the 2022-23 school year when chronic absenteeism in kindergarten was 36.3%, compared to the statewide average across all grades of 24.9%.

	All Grades	Kindergarten
2016-17	10.8%	14%
2017-18	11.1%	14.2%
2018-19	12.1%	15.6%
2019-20	N/A	N/A
2020-21	14.3%	15.6%
2021-22	30%	40.4%
<b>2022-23</b>	<b>24.9%</b>	<b>36.3%</b>

Source: CDE Data quest

***Increased expectations for first grade.*** Over the years, the academic expectations of first grade have increased. With the passage of No Child Left Behind in 2002, the Common Core Standards in 2009 and the Every Student Succeeds Act in 2015, first-grade classrooms now expect students to arrive with basic literacy and numeracy skills – the exact skills that are taught in kindergarten.

As California expands transitional kindergarten (TK), many children will enter first grade with at least two years of formal education. Children who attended California State Preschool Program (CSPP), Head Start, or other high-quality early learning programs may have begun their education as early as age three, thereby providing them with 3 years of early learning prior to entering first grade. This has the potential to create first-grade classrooms in which some students have three years of learning experience while others have none. Clearly given the increased academic rigor of first grade, those children without this experience will be at a significant disadvantage.

***Arguments in support.*** The Los Angeles Unified School District, a co-sponsor, writes “Early education is essential for the physical, intellectual, and social-emotional development of children, and provides students with the fundamental skills and tools needed for academic success. Kindergarten is critical to closing the opportunity gap and furthering equity. Research demonstrates that children exposed to kindergarten are more likely to attend college, earn more, and are less likely to experience poverty as adults. These impacts are larger for Black and Hispanic youth than for their white peers (Jenkins and Rueda, 2019). Despite these well-documented benefits, the current voluntary participation of kindergarten allows parents to delay their child’s entrance into school until the first grade, which could leave that student unprepared for the educational environment they will encounter in elementary school and worsen the already troubling achievement gap.

Mandatory kindergarten helps prevent chronic absenteeism. Research from the Center for Great Public Schools indicates that kindergartners who miss 10% or more of school days have lower academic performance when they reach the first grade. In 2022-23, 36.3% of kindergarten students in California were chronically absent, the highest percentage of any grade. This may be

attributed, at least partially, to the fact that kindergarten attendance is not mandatory. California is a leader in early learning, and the passage of AB 2226 presents an opportunity to build on the State's investments in early childhood education by ensuring that all children enter first grade ready to learn."

***Arguments in opposition.*** One individual writes, "Children develop at different rates, and mandating kindergarten for all may ignore the natural variability in early childhood development. Some children may benefit from an additional year at home or in a less structured educational setting. Families have diverse needs and circumstances that a one-size-fits-all approach fails to accommodate. The decision about when and how a child should begin their formal education should largely rest with their parents or guardians, who are most familiar with their child's development and readiness for school."

***Related legislation.*** SB 1056 (Susan Rubio) of the 2023-24 Session is identical to this bill.

SB 767 (Susan Rubio) of the 2023-24 Session was virtually identical to this bill, other than the implementation date. This bill was held in the Senate Appropriations Committee.

SB 70 (Susan Rubio) of the 2021-22 Session was virtually identical to this bill other than the implementation date. SB 70 was vetoed by the Governor, with the following message:

The learning that happens during the early years of a child's life is critical to their long-term success and happiness. It's why I worked with the Legislature to provide universal access to quality pre-kindergarten education, including transitional kindergarten, the California State Preschool Program, and other state-subsidized early learning programs. Making sure all kids begin their school careers ready to learn on par with their peers is one of the most impactful things we can do to combat societal inequities.

While the author's intent is laudable, SB 70 is estimated to have Prop. 98 General Fund cost impacts of up to \$268 million ongoing, which is not currently accounted for in the state's fiscal plan. With our state facing lower-than-expected revenues over the first few months of this fiscal year, it is important to remain disciplined when it comes to spending, particularly spending that is ongoing. We must prioritize existing obligations and priorities, including education, health care, public safety and safety-net programs.

The Legislature sent measures with potential costs of well over \$20 billion in one-time spending commitments and more than \$10 billion in ongoing commitments not accounted for in the state budget. Bills with significant fiscal impact, such as this measure, should be considered and accounted for as part of the annual budget process. For these reasons, I cannot sign this bill.

SB 1153 (Rubio, 2020) was identical to this bill, other than the implementation date. SB 1153 was not heard due to the compressed 2020 legislative session.

AB 713 (Weber, 2015) would have required, beginning with the 2017-18 school year, a student to have completed one year of kindergarten before being admitted to the first grade. AB 713 was held in the Senate Appropriations Committee.

AB 1444 (Buchanan, 2014) would have required, beginning with the 2016-17 school year, a student to have completed one year of kindergarten before being admitted to the first grade. AB 1444 was vetoed by Governor Brown, whose veto message read:

Most children already attend kindergarten, and those that don't may be enrolled in other educational or developmental programs that are deemed more appropriate for them by their families.

I would prefer to let parents determine what is best for their children, rather than mandate an entirely new grade level.

AB 1772 (Buchanan, 2012) would have required, beginning with the 2014-15 school year, a student to have completed one year of kindergarten before being admitted to the first grade. This bill was held in the Assembly Appropriations Committee.

AB 2203 (V. Manuel Perez, 2012) would have expanded compulsory education laws to include five-year olds. This bill was held in the Assembly Appropriations Committee.

AB 1236 (Mullin, 2008) would have expanded compulsory education laws to include five-year olds. This bill was held in the Assembly Appropriations Committee.

#### **REGISTERED SUPPORT / OPPOSITION:**

##### **Support**

California Association for Bilingual Education  
California Charter Schools Association  
California Kindergarten Association  
California Retired Teachers Association  
California School Employees Association  
California State Parent Teacher Association  
California Teachers Association  
Communities in Schools of Los Angeles  
Covina-Valley Unified School District  
Early Edge California  
Los Angeles Unified School District  
San Diego Unified School District

##### **Opposition**

1 individual

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