

Date of Hearing: April 7, 2021

ASSEMBLY COMMITTEE ON EDUCATION  
Patrick O'Donnell, Chair  
AB 1055 (Ramos) – As Introduced February 18, 2021

**[This bill has been double referred to the Committee on Human Services and will be heard by that Committee as it related to issues under its jurisdiction.]**

**SUBJECT:** Tribal foster youth

**SUMMARY:** Revises the definition of students in foster care, for purposes of the Local Control Funding Formula (LCFF) and for specified educational rights of students in foster care, to eliminate the requirement that a dependent child of the court of an Indian tribe also meet the definition of a dependent child of a county court, and to include a child of an Indian tribe who is the subject of a voluntary placement agreement. Specifically, **this bill:**

- 1) Deletes the requirement that, for purposes of identifying “unduplicated pupils” for the LCFF, a dependent child of the court of an Indian tribe, consortium of tribes, or tribal organization who is the subject of a petition filed in the tribal court pursuant to the tribal court’s jurisdiction in accordance with the tribe’s law would also meet one of the descriptions in Section 300 of the Welfare and Institutions Code (WIC) when a child may be adjudged a dependent child of the juvenile court.
- 2) Includes in the definition of “unduplicated pupils,” as used for purposes of the LCFF, a child of an Indian tribe who is the subject of a voluntary placement agreement, as defined in existing law.
- 3) States that, for the purpose of the data sharing agreement between the California Department of Education (CDE) and the California Department of Social Services (DSS) which allows for the identification of students in foster care:
  - a) For purposes of a dependent child of an Indian tribe, including those who are subjects of voluntary placements, the tribe may notify a local educational agency (LEA) about the pupil’s status as a dependent child under the court of an Indian tribe, consortium of tribes, or tribal organization.
  - b) States that an LEA shall not require an Indian tribe or tribal court representative to certify that any pupil is a dependent of an Indian tribe, consortium of tribes, or tribal organization.
  - c) Requires that the LEA include the information regarding the data match between CDE and DSS in notifications to parents as part of school-level parent and family engagement and annually required outreach to all parents and family members.
- 4) Provides the following educational rights afforded to students in foster care to a dependent child of the court of an Indian tribe, consortium of tribes, or tribal organization who is the subject of a petition filed in the tribal court pursuant to the tribal court’s jurisdiction in accordance with the tribe’s law, and to a child of an Indian tribe who is the subject of a

voluntary placement. These rights are summarized below and described in detail in the Existing Law section of this analysis:

- a) School placement;
- b) Right to remain enrolled in their school of origin when a placement change occurs;
- c) Support from the educational liaison for foster children;
- d) Transfer of records within specified timelines;
- e) Rights related to absences for court appearances;
- f) Right to full or partial credit for coursework satisfactorily completed while attending other schools, and the right to not be required to retake a course satisfactorily completed in another school;
- g) Exemption of students in foster care who transfer between schools any time after the completion of the student's second year of high school from all coursework and other requirements that are in addition to state graduation requirements, unless an LEA makes a finding that a student is reasonably able to complete the school district's graduation requirements in time to graduate from high school by the end of the student's fourth year of high school;
- h) The requirement that LEAs allow students who can meet local graduation requirements in five years to stay enrolled for a fifth year;
- i) Right to immediate enrollment in a new school of a student in foster care, even if the student has outstanding fees, fines, textbooks, or money due to the prior school, or is unable to produce clothing or records required for enrollment; and
- j) Right to meet residency requirements for participation in interscholastic sports or other extracurricular activities.

#### **EXISTING LAW:**

- 1) Establishes the LCFF, which provides school districts, charter schools, and county offices of education with a base level of funding plus additional funding based on the enrollment of pupils who are either English learners, low income, or in foster care. Pupils who fall into more than one category are counted only once for LCFF purposes, hence the term "unduplicated pupil."
- 2) Establishes supplemental grants, which are equal to 20% of the adjusted LCFF base grant multiplied by average daily attendance (ADA) and the percentage of unduplicated pupils in a school district or charter school.
- 3) Establishes concentration grants, which are equal to 50% of the adjusted LCFF base grant multiplied by ADA and the percentage of unduplicated pupils exceeding 55% of a school district's or charter school's enrollment.

- 4) Defines “foster youth” for purposes of the LCFF to mean any of the following:
  - a) A child who is the subject of a petition filed pursuant to Section 300 of the Welfare and Institutions Code, whether or not the child has been removed from his or her home by the juvenile court pursuant to Section 319 or 361 of the Welfare and Institutions Code;
  - b) A child who is the subject of a petition filed pursuant to Section 602 of the Welfare and Institutions Code, has been removed from his or her by the juvenile court pursuant to Section 727 of the Welfare and Institutions Code, and is in foster care as defined by subdivision (d) of Section 727.4 of the Welfare and Institutions Code; or
  - c) A nonminor under the transition jurisdiction of the juvenile court, as described in Section 450 of the WIC, who satisfies the following criteria:
    - i. He or she has attained 18 years of age while under an order of foster care placement by the juvenile court, and is not more than 19 years of age on or after January 1, 2012, not more than 20 years of age on or after January 1, 2013, and not more than 21 years of age, on or after January 1, 2014, and as described in Section 10103.5 of the WIC;
    - ii. He or she is in foster care under the placement and care responsibility of the county welfare department, county probation department, Indian tribe, consortium of tribes, or tribal organization that entered into an agreement pursuant to Section 10553.1 of the WIC; and
    - iii. He or she is participating in a transitional independent living case plan pursuant to Section 475(8) of the federal Social Security Act, as contained in the federal Fostering Connections to Success and Increasing Adoptions Act of 2008 (Public Law 110-351), as described in Section 11403 of the WIC.
- 5) A dependent child of the court of an Indian tribe, consortium of tribes, or tribal organization who is the subject of a petition filed in the tribal court pursuant to the tribal court’s jurisdiction in accordance with the tribe’s law, provided that the child would also meet one of the descriptions in Section 300 of the WIC describing when a child may be adjudged a dependent child of the juvenile court.
- 6) Defines, for purposes of educational rights of foster youth, foster youth to mean a child who has been removed from his or her home and is the subject of a petition filed under Section 300 or 602 of the WIC.
- 7) Requires that a student in foster care who resides in a licensed children’s institution attend a school operated by the LEA except under specified circumstances.
- 8) Requires LEAs to allow students in foster care to remain enrolled in their school of origin when a placement change occurs.
- 9) Requires LEAs to designate a staff person as the educational liaison for foster children, who ensures the proper educational placement and enrollment of students, assists in school transfer, and coordinates with other personnel regarding expulsion proceedings.

- 10) Requires that the transfer of a student in foster care and his or her records between LEAs occur within two business days of receipt of a transfer request.
- 11) Requires that an LEA ensure that if a student in foster care is absent due to a placement change made by the court or placing agency, or a court required appearance or activity, the student's grades and credits will not be lowered due to this absence.
- 12) Requires LEAs to accept and award full or partial credit for coursework satisfactorily completed by students in foster care or students who are homeless while attending other schools, even if the students do not complete an entire course.
- 13) Prohibits LEAs from requiring such a student retake some or all of a course which the student satisfactorily completed in another school, or from retaking an "A to G" course.
- 14) Requires that when a student is awarded partial credit, he or she must be enrolled in the same course in order to complete it.
- 15) Exempts students in foster care who transfer between schools any time after the completion of the students' second year of high school from all coursework and other requirements that are in addition to state graduation requirements, unless a school district makes a finding that a student is reasonably able to complete the school district's graduation requirements in time to graduate from high school by the end of the student's fourth year of high school.
- 16) Requires LEAs to allow students who can meet these graduation requirements in five years to stay enrolled for a fifth year.
- 17) Prohibits the transfer of students to other schools in order to qualify them for exemption from local graduation requirements.
- 18) Requires that the educational liaison for foster youth transfer all academic and other records within two business days of a foster child's request for enrollment.
- 19) Provides for the right of a student in foster care to remain in his/her school of origin pending the resolution of a dispute regarding educational placement.
- 20) Requires LEAs to ensure the immediate enrollment in a new school of a student in foster care, even if the student has outstanding fees, fines, textbooks, or money due to the prior school, or is unable to produce clothing or records (such as academic, medical, immunization, and residency records) required for enrollment.
- 21) Requires that a foster child who changes residences pursuant to a court order or decision of a child welfare worker be immediately deemed to meet all residency requirements for participation in interscholastic sports or other extracurricular activities.
- 22) Requires pupils, educators, county placing agencies, care providers, advocates, and the juvenile courts to work together to maintain stable school placements and to ensure that each pupil is placed in the least restrictive educational programs, and has access to the academic resources, services, and extracurricular and enrichment activities that are available to all pupils, including, but not necessarily limited to, interscholastic sports administered by the California Interscholastic Federation.

- 23) Requires that educational and school placement decisions be based on the best interests of the child and consider, among other factors, educational stability and the opportunity to be educated in the least restrictive educational setting necessary to achieve academic progress.
- 24) Requires that, at the initial detention or placement, or any subsequent change in placement of a foster child, the LEA serving the foster child allow the foster child to continue their education in the school of origin for the duration of the jurisdiction of the court.
- 25) Requires that as soon as the county placing agency or county office of education becomes aware of the need to transfer a pupil in foster care out of his or her current school, the county placing agency or COE contact the appropriate person at the LEA of the pupil. Requires the county placing agency to notify the LEA of the date that the pupil will be leaving the school and request that the pupil be transferred out.
- 26) Requires that, upon receiving a transfer request from a county placing agency or notification of enrollment from the new LEA, the LEA receiving the transfer request or notification, within two business days, transfer the pupil out of school and deliver the educational information and records of the pupil to the next educational placement.
- 27) Requires LEAs to ensure that, if a pupil in foster care is absent from school due to a decision to change the placement of a pupil made by a court or placing agency, the grades and credits of the pupil be calculated as of the date the pupil left school and no lowering of grades occur as a result of the absence of the pupil under these circumstances.
- 28) Requires that a student in foster care who resides in a licensed children's institution attend a school operated by the LEA except under specified circumstances.
- 29) Requires, on or before February 1, 2014, the CDE and the DSS to develop and enter into a memorandum of understanding that shall, at a minimum, require the DSS, at least once per week, to share with the CDE disaggregated information on children and youth in foster care sufficient for the CDE to identify pupils in foster care, and disaggregated data on children and youth in foster care that is helpful to county offices of education and other LEAs responsible for ensuring that pupils in foster care receive appropriate educational supports and services.
- 30) Requires that, to the extent allowable under federal law, the CDE regularly identify pupils in foster care and designate those pupils in the California Longitudinal Pupil Achievement System (CALPADS).
- 31) Requires that, to the extent allowable under federal law, the CDE, at least once per week, do all of the following:
  - a) Inform school districts and charter schools of any pupils enrolled in those school districts or charter schools who are in foster care;
  - b) Inform COEs of any pupils enrolled in schools in the county who are in foster care; and

- c) Provide school districts, COEs, and charter schools disaggregated data helpful to ensuring pupils in foster care receive appropriate educational supports and services.

32) Establishes of California American Indian education centers program, to be administered by any tribal group or incorporated American Indian association to meet specified objectives.

**FISCAL EFFECT:** This bill has been keyed a possible state mandated local program by the Office of Legislative Counsel.

**COMMENTS:**

***Need for the bill.*** The author states, “It is important to support students in foster care who are the most vulnerable and lowest performing students groups in California and nationwide. AB 1055 will ensure that youth under the authority of a Tribal Court will not only be included in the definition of a student in foster care, but that they also are eligible for the same support resources as their non-tribal counterparts. In addition, it will enable students all students in out of home placement and subject to a Voluntary Placement Agreement to also be included in the definition of a student in foster care. Lastly, the bill will require that LEAs include information regarding benefits to students in foster care as part of required annual information provided to families. In doing so, this bill will create better opportunities for support and resources be given to help improve the educational outcomes of tribal foster youth.”

***Current law authorizes tribal foster youth to be counted for LCFF purposes but does not function as intended.*** AB 1962 (Wood), Chapter 748, Statutes of 2018, amended the definition of foster youth for purposes of the LCFF by including a student who is in foster care under the placement and care responsibility of an Indian tribe *provided that* the child would also meet one of the descriptions in Section 300 of the WIC describing when a child may be adjudged a dependent child of the juvenile court. Prior to this bill the definition of foster youth in existing law included non-minors who had been so designated by an Indian tribe, consortium of tribes, or tribal organization, but excluded students under 18 years of age. The requirement that students also meet one of the descriptions in Section 300 of the WIC was intended to provide consistency in the identification of foster youth for purposes of this entitlement.

AB 1962 was intended to ensure that the attendance of students in foster care who were dependents of a court of an Indian tribe would generate the same additional LCFF funding other as students in foster care who were dependents of a county juvenile court. However, according to the author, tribal courts’ processes do not meet the descriptions in Section 300 of the WIC, and as a result existing law does not function as intended.

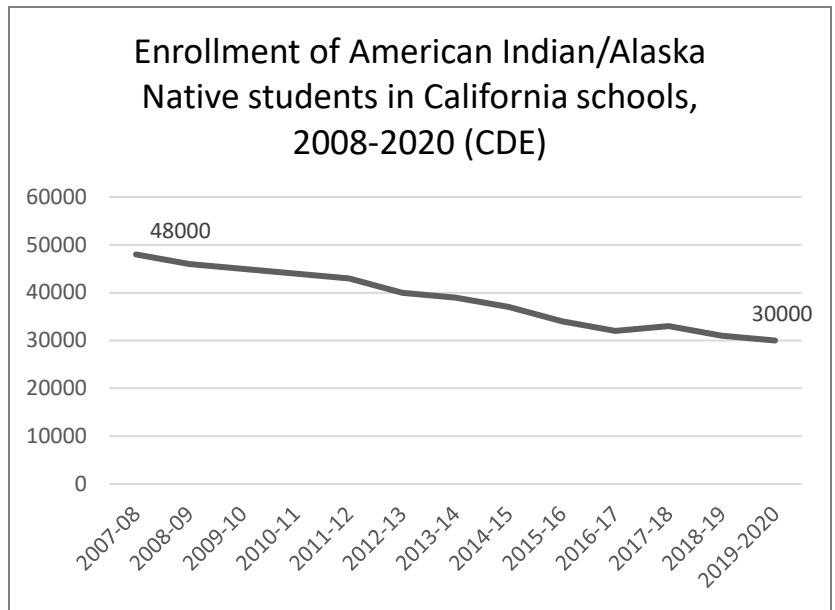
***CDE-DSS match to include voluntary placements.*** Current law requires the CDE and the Department of Social Services (DSS) maintain a data matching system through which, at least once per week, DSS shares with the CDE disaggregated information on children and youth in foster care sufficient for the CDE to identify pupils in foster care, and disaggregated data on children and youth in foster care that is helpful to county offices of education and other LEAs responsible for ensuring that pupils in foster care receive appropriate educational supports and services.

To date, voluntary placements have not been part of the data match between the two departments, but that is about to change. The CDE anticipates that the necessary changes will be

made to add these students to CALPADS for the 2021-22 school year. When this match is established, all voluntary placements will become part of the data match, not just those related to students who are dependents of a court of an Indian tribe. **Staff recommends that the bill be amended** to include all students subject to voluntary placement agreements, instead of those dependents of a court of an Indian tribe, in the definition of foster youth for LCFF and other purposes proposed by the bill.

This bill also requires that requires that specified LEAs include information about the requirements of the CDE-DSS data match in notifications to parents as part of school-level parent and family engagement and annually required outreach to all parents and family members. **Staff recommends that the bill be amended** to remove this requirement.

**Demographics of American Indian students in California.** This bill pertains to the educational rights of, and dedicated funding for, students who are dependents of the court of an Indian tribe. The demographics of American Indian/Alaska Native students in California are presented below:



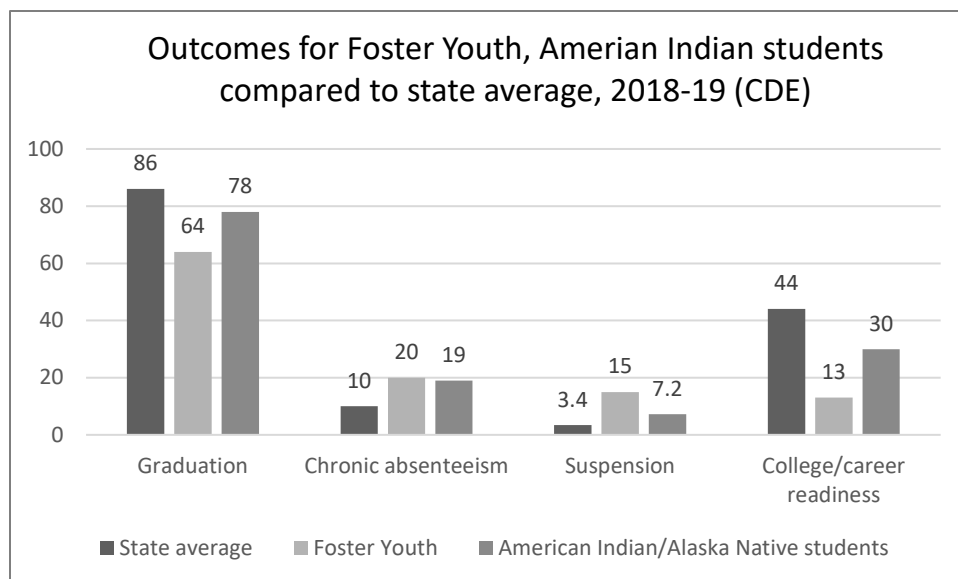
- California schools enrolled 30,000 American Indian/Alaska Native students during the 2019-20 school year, representing 0.5% of total enrollment. This number represents the number of students who reported American Indian as their sole race; those indicating more than one race were not included in this number. The enrollment of American Indian/Alaska Native students has declined significantly in recent years, as shown in the chart above.

- As of 2016, California had third largest population of American Indian students in the country, but a below average percentage enrollment of American Indian students (National Center for Education Statistics).
- According to the CDE, enrollment of American Indian students is more concentrated in rural areas. While the number of American Indian students is highest in large population centers such as Los Angeles and San Diego, some rural areas have higher numbers and percentages of students. For example, in 2014-15, rural and sparsely populated Humboldt County had American Indian enrollment (1,754) exceeding that of Los Angeles Unified School District (1,309), the second largest school district in the country. While statewide American Indian enrollment is just over one half of one percent, in Humboldt County American Indian students comprise nearly 10% of enrollment.
- 32.1% of California American Indian/Alaska Native children living in regions of 10,000 or more are living in poverty.

***Data show achievement gap between Native American, students in foster care, and their peers.***

Data from the CDE show a significant achievement gap between American Indian students, students in foster care, and statewide averages. In addition to the gaps in graduation, absenteeism, suspension, and college/career readiness, CDE academic data are shown in the chart below. In addition, data from the state summative assessment in English language arts and mathematics show:

- On the 2019 administration of the California Assessment of Student Performance and Progress (CAASPP) test of English language arts, 38% of American Indian/Alaska Native students scored at “met standard” or above, compared to 51% of all students.



- On the 2019 administration of the CAASPP) test of mathematics, 26% of American Indian/Alaska Native students scored at “met standard” or above, compared to 40% all students.

***Effect of high mobility on academic success.*** This bill extends specified educational rights to students in foster care which were established to mitigate the effect of school instability which many students in foster care face due to changing residential placements.

Numerous studies indicate that student mobility is associated with poor educational outcomes. One meta-analysis (Mehana, 2004) on the effects of school mobility on reading and math achievement in the elementary grades found the equivalent of a 3–4 month performance disadvantage in achievement. Another (Reynolds, 2009) found that frequent mobility was associated with significantly lower reading and math achievement by up to a third of a standard deviation, and that students who moved three or more times had rates of school dropout that was nearly one-third of a standard deviation higher than those who were school stable. One longitudinal study (Temple, 1999) found that half of the one year difference between mobile and non-mobile students could be attributed to mobility, and that it is “frequent, rather than occasional, mobility that significantly increases the risk of underachievement.” Another longitudinal study (Herbers, 2014) found that students who experience more school changes between kindergarten and twelfth grade are less likely to complete high school on time, complete fewer years of school, and attain lower levels of occupational prestige, even when controlling for poverty. Results of this study indicated more negative outcomes associated with moves later in the grade school career, particularly between fourth and eighth grade.



***Additional policy issues for the Legislature to consider.*** Current law establishes the American Indian Education Centers (AIEC) program. CDE's 2016 report on the AIEC program raises several policy considerations regarding American Indian students:

- *Should AIEC program be expanded to serve more than 4% of eligible students?* The CDE, in its 2016 report to the Legislature, recommended that the AIEC program be expanded to serve all eligible students. Any such future decision is likely to involve review of outcomes for students participating in the current program, but such information appears to be lacking at the state level. In a related recommendation, the CDE proposed that outcome data for students participating in the AIEC program be included in state data systems and projects, including the CALPADs, the California Healthy Kids Survey, and the Smarter Balanced Assessment System.
- *Should the state restore the American Indian Education Unit within the CDE, as established in statute?* Current law establishes an American Indian Education Unit within the CDE to provide technical assistance and oversight for the AIEC program, led by a manager appointed by the Superintendent of Public Instruction. According to the CDE, prior to the recession and associated budget cuts and categorical program flexibility, the department was staffed with a manager and two program staff to oversee the AIEC program. They currently have a .6 position to run the program. In its 2016 report to the Legislature the CDE recommended the reestablishment of the American Indian Education Unit as created in statute.

***Arguments in support.*** The Yurok tribe writes, "AB 1055 will ensure that students in foster care under the authority of a Tribal Court are afforded equitable access to statutory entitlements. In addition to the benefits that run to specifically American Indian students in foster care, this bill also protects all students in out of home placement through a Voluntary Placement Agreement. This is a change in state law that our Tribe supports for all students in foster care."

***Related legislation.*** AB 1962 (Wood), Chapter 748, Statutes of 2018, amended the definition of foster youth for LCFE purposes to include a dependent child of the court of an Indian tribe, consortium of tribes, or tribal organization who is the subject of a petition filed in the tribal court pursuant to the tribal court's jurisdiction in accordance with the tribe's law, provided that the child would also meet one of the descriptions in Section 300 of the WIC describing when a child may be adjudged a dependent child of the juvenile court.

AB 945 (Ramos) of this Session would establish the Task Force to Study and Develop Best Practices to Protect Pupil Rights to Wear Traditional Tribal Regalia or Recognized Objects of Religious or Cultural Significance as an Adornment at School Graduation Ceremonies.

SB 911 (Hertzberg), Chapter 490, Statutes of 2016, deleted the January 1, 2017 sunset of the AIEC program.

AB 854 (Weber) Chapter 781, Statutes of 2015, restructured the existing Foster Youth Services program by shifting the primary function from direct services to coordination, and allows program funds to be used to support all students in foster care, irrespective of placement.

AB 379 (Gordon) Chapter 772, Statutes of 2015, makes complaints regarding the educational rights of students in foster care subject to the Uniform Complaint Procedures process.

AB 224 (Jones-Sawyer) Chapter 554, Statutes of 2015, requires that a notice of educational rights of foster youth be created and disseminated.

AB 490 (Steinberg) Chapter 862, Statutes of 2003, expands and stipulates authority for school records of foster, homeless, and incarcerated youth.

SB 1677 (Alpert) Chapter 785, Statutes of 2002, strengthened and clarified requirements regarding surrogate parents and responsible adults who make educational decisions for children.

AB 2453 (Runner), Chapter 67, Statutes of 2000, gave foster family agencies access to records of grades and transcripts and individualized education programs maintained by districts or private schools.

**REGISTERED SUPPORT / OPPOSITION:**

**Support**

California Charter Schools Association  
Children Now  
Morongo Band of Mission Indians  
Yurok Tribe

**Opposition**

None on file

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