

Date of Hearing: April 10, 2019

ASSEMBLY COMMITTEE ON EDUCATION  
Patrick O'Donnell, Chair  
AB 1127 (Luz Rivas) – As Introduced February 21, 2019

**SUBJECT:** Interdistrict attendance: prohibition on transfers by a school district of residence

**SUMMARY:** Prohibits a school district of residence from denying the transfer of a homeless youth, migratory child, foster youth, or victim of an act of bullying if the school district of proposed enrollment approves the application for transfer. Requires the school district of enrollment to enroll students based on an unbiased process. Requires a school district of enrollment to provide transportation for a pupil who has transferred and is eligible for free or reduced-price meals, at the request of the parent. Specifically, **this bill:**

- 1) Prohibits a school district of residence, notwithstanding any other law and regardless of whether an agreement exists or a permit is issued, from denying the transfer of a pupil to a school district of proposed enrollment if the school district of proposed enrollment approves the application for transfer and the pupil is any of the following:
  - a) Currently, or at any time within the previous five school years, a homeless child or youth, as defined in the federal McKinney-Vento Homeless Assistance Act
  - b) A currently migratory child or former migratory child
  - c) A foster youth
  - d) A victim of an act of bullying
- 2) Requires a school district of proposed enrollment that elects to accept an interdistrict transfer to accept all pupils who apply to transfer until the school district is at maximum capacity and must ensure that pupils admitted are selected through an unbiased process that prohibits an inquiry into or evaluation or consideration of whether or not a pupil should be enrolled based on academic or athletic performance, physical condition, proficiency in English, family income, or any of the individual characteristics including: race or ethnicity, gender, gender identity, gender expression, and immigration status.
- 3) Defines a “victim of an act of bullying” to mean a pupil who has been determined to have been a victim of bullying by an investigation pursuant to the complaint process described in current law and the bullying was committed by any pupil in the school district of residence, and the parent of the pupil has filed a written complaint regarding the bullying with the school, school district personnel, or a local law enforcement agency.
- 4) Requires a school district of enrollment to provide transportation assistance to any pupil admitted under this law who is eligible for free or reduced-price meals upon request of the parent or guardian on behalf of a pupil eligible for transfer pursuant to this subdivision.
- 5) Permits a school district of enrollment to provide transportation assistance to any pupil admitted under this law.

**EXISTING LAW:***Residency requirements*

- 1) Requires each person between the ages of 6 and 18 years to attend public school for the full length of the schoolday as designated by the governing board of the school district in which the residency of either the parent or legal guardian is located. (Education Code Section 48200)
- 2) Requires a parent or guardian of a minor between the ages of 6 and 16 years who removes the minor from a school district before the completion of the current school term to enroll the minor in a public full-time school of the school district to which the minor is moved. (EC Section 48201)
- 3) Provides that a student complies with the residency requirements for school attendance in a school district if he or she is any of the following:
  - a) A student placed within the boundaries of that school district in a regularly established licensed children's institution, a licensed foster home, or a family home.
  - b) A student who is a foster child who remains in his or her school of origin.
  - c) A student for whom interdistrict attendance has been approved.
  - d) An emancipated student whose residence is located within the boundaries of that school district.
  - e) A student who lives in the home of a caregiving adult that is located within the boundaries of that school district.
  - f) A student residing in a state hospital located within the boundaries of that school district. (EC Section 48204) Existing law provides that a student with a temporary disability residing in a hospital or other residential health facility, excluding a state hospital, which is located outside of the school district in which the parent or guardian resides is deemed to have complied with the residency requirements for school attendance in the school district in which the hospital is located. (EC Section 48207)
  - g) A student whose parent or legal guardian resides outside of the boundaries of that school district but is employed and lives with the student at the place of his or her employment within the boundaries of the school district for a minimum of three days during the school week. (EC Section 48204)
- 4) Authorizes a school district to deem a student to have complied with the residency requirements for school attendance if at least one parent or the legal guardian is physically employed within the boundaries of that school district for a minimum of 10 hours during the school week. (EC Section 48204)
- 5) Provides that a student complies with the residency requirements for school attendance in a school district if he or she is a student whose parent is transferred or is pending transfer to a military installation within the state while on active military duty pursuant to an official military order. Existing law requires a school district to accept applications by electronic

means for enrollment, including enrollment in a specific school or program within the school district, and course registration. (EC Section 48204.3)

*Interdistrict transfer*

- 6) Authorizes two or more school districts to enter into an agreement, for a term not to exceed five school years, for the interdistrict attendance of students to a school district other than the school district of residence. Existing law requires the agreement to stipulate the terms and conditions under which interdistrict attendance shall be permitted or denied. (EC Section 46600)
- 7) Requires that a student who has been determined by personnel of either the school district of residence or the receiving school district to have been the victim of an act of bullying committed by a student of the school district of residence to be given priority for interdistrict attendance under any existing interdistrict attendance agreement or, in the absence of an agreement, be given additional consideration for the creation of an interdistrict attendance agreement. (EC Section 46600)
- 8) Prohibits a school district of residence, regardless of whether an agreement exists or a permit is issued pursuant to the school district of choice program, from denying the transfer of a student who is a child of an active military duty parent if the receiving school district approves the application for transfer. (EC Section 46600)
- 9) Requires each school district of residence and school district of enrollment to post on its web site the procedures and timelines regarding a request for an interdistrict transfer permit. (EC Section 46600.2)
- 10) Provides for a process to appeal a request for an interdistrict transfer. (EC Section 46601)
- 11) Authorizes a unified school district, whose boundaries are coterminous with the boundaries of a county and is contiguous to an adjoining state, to provide for the education of all or any number of the high school students who reside in the district by the attendance of these students at the schools of an adjoining state by agreement. (EC Section 46609)
- 12) Authorizes the school district of residence or the receiving school district to prohibit the transfer if the school district determines that the transfer would negatively impact the court-ordered or voluntary desegregation plan of the school district. (EC Section 48204)
- 13) Authorizes the receiving school district to prohibit the transfer if the school district determines that the additional cost of educating the student would exceed the amount of additional state aid received as a result of the transfer. (EC Section 48204)

*Intradistrict transfer*

- 14) Requires the governing board of each school district, as a condition for the receipt of school apportionments from the state school fund, to adopt rules and regulations establishing a policy of open enrollment within the district for residents of the district. This requirement does not apply to a school district that has only one school or a school district with schools that do not serve any of the same grade levels. The policy must provide that a pupil who

currently resides in the attendance area of a school shall not be displaced by pupils transferring from outside the attendance area. (EC Section 35160.5)

*Federal law*

- 15) Permits a local educational agency (LEA) to provide all students enrolled in schools identified for comprehensive support and improvement (CSI) with the option to transfer to another public school served by the LEA, unless such an option is prohibited by state law. (Every Student Succeeds Act, Section 1111(d)(1)(D)(i))
- 16) Requires LEAs serving homeless youth, according to the youth's best interest, to continue the youth's education in the school of origin for the duration of homelessness, or enroll the youth in any public school that nonhomeless students who live in the attendance area in which the child or youth is actually living are eligible to attend.

**FISCAL EFFECT:** Unknown

**COMMENTS:** *Need for the bill.* According to the author, "There are some groups of students that experience the need to transfer schools more often. For example, students who are bullied are less likely to reach academic achievement and are more likely to experience depression, anxiety, and in severe cases may even commit suicide. Removing a student from this type of environment can be critical to healthy development. Additionally, homeless and foster youth have little control over their living situations."

**Expands existing law.** Existing law prohibits a school district of residence, regardless of whether an interdistrict transfer agreement or permit exists, from prohibiting the transfer of a student who is a child of an active military duty parent. Existing law requires schools to give priority for interdistrict attendance to a student who has been the victim of bullying. This bill prohibits schools from denying the interdistrict transfer of students who have been victims of bullying, as well as students who are homeless, migratory, or in foster care. Further, this bill requires that the school district of choice provide transportation for children with accepted transfer requests who qualify for the free and reduced price meal program.

**Existing school choice options.** This bill relates to interdistrict transfers. Existing law provides the following public school options:

- 1) *Charter Schools.* There are over 1,000 public charter schools in the state that provide instruction in any combination of grades kindergarten through grade 12. Parents, teachers, or community members may initiate a charter petition, which includes the specific goals and operating procedures for the charter school. While most charter schools offer traditional, classroom-based instruction, about 20 percent offer some form of independent study, such as distance learning or home study.
- 2) *Magnet Schools.* Magnet schools are designed by local authorities to attract parents, guardians, and students who are free to choose the school in which they enroll. These programs and schools are established by district governing boards that can make a wide range of choices depending upon their local needs and resources. Magnet schools and programs include those that provide unique instruction in the arts, in various sciences, and in career education. Others reflect a district strategy to achieve racial and ethnic balance. When

one or more magnets are established at a particular school, students from across the district may select the magnet subject to available space.

- 3) *District of Choice (DOC) Program.* This program allows a student to transfer to any district that has deemed itself a DOC and agreed to accept a specified number of transfers. DOC may not use a selective admissions process. Transfer students generally do not need the consent of their home districts.
- 4) *Interdistrict Permits.* These allow a student to transfer from one district to another district provided both districts consent to the transfer and the student meets any locally determined conditions. Districts receiving these transfer students may require students to meet certain attendance and/or academic standards.
- 5) *Parental employment transfers.* These allow a student to transfer into a district if at least one parent is employed within the boundaries of that district and that district has chosen to accept parental employment transfers. Transfer students generally do not need the consent of their home districts.
- 6) *The Open Enrollment Act.* This option, for low-performing schools, allows a student attending a school with low performance on state tests to transfer to another school inside or outside the district that has a higher level of performance and space available. Transfer students generally do not need the consent of their home districts.

Beyond the public school options, California students may enroll in private schools.

***Committee amendments.*** ***Staff recommend that the bill be amended*** to remove pupils that are identified as homeless, foster youth, and migratory. Current state and federal law provides several options and rights for pupils that are identified as homeless and foster youth to remain in their school of origin or school of best interest to maintain stability for these student groups. ***Staff recommend*** that migrant pupils student group be removed from the bill until further evidence of a problem can be produced.

Further, ***staff recommend*** the bill be amended to require school districts of residence to approve intradistrict transfer requests for victims of an act of bullying, as defined, and remove the requirement for a school district of proposed enrollment to approve an application for transfer. If the school district of residence only has one school and therefore there is no additional school within the district for the victim of an act of bullying to transfer to, then the victim of an act of bullying may apply for a transfer to another school district and the school district of proposed enrollment may elect to accept the interdistrict transfer.

***Prior and related legislation.*** AB 1319 (Bonta) of this Session, would require LEAs to allow migrant students to continue their education in their school of origin, regardless of any change of residence during that school year, and would require that a migrant student be immediately enrolled in a new school. This bill is pending before this Committee.

AB 3086 (Kiley) of the 2017-18 Session would have extended inter-district, open enrollment to pupils who are either homeless, in foster care, migrant, or victims of bullying. This bill was vetoed by the Governor with the following message, in pertinent part:

It is unclear what problem this bill is trying to solve and whether there is a statewide issue requiring a solution. There are already many other existing school choice options available to parents. This bill will only further complicate an already complicated array of statutes without evidence that parents need or will utilize this option.

AB 1482 (Kiley) of the 2017-18 Session. Would have prohibited a school district of residence from denying the transfer of a student who is an English learner, eligible for a free or reduced-price meal, or a foster youth to a district of proposed enrollment if the school district of proposed enrollment approved the application for transfer. AB 1482 failed passage in the Assembly Education Committee.

AB 2826 (Friedman), Chapter 550, Statutes of 2018. Requires each school district of residence and school district of proposed enrollment to post on its web site the procedures and timelines regarding a request for an interdistrict transfer permit. Further requires a school district that denies a request for an interdistrict transfer to advise the parent, in writing, of the right to appeal to the county board of education within 30 calendar days from the date of the final denial.

SB 455 (Newman), Chapter 239, Statutes of 2017. This bill provides that a pupil complies with the residency requirements if the pupil's parent is transferred or is pending transfer to a military installation within the state while on active military duty pursuant to an official military order, and would require a parent to provide proof of residence in the school district within 10 days after the published arrival date provided on official documentation.

AB 99 (Committee on Budget), Chapter 15, Statutes of 2017, the education omnibus trailer bill significantly changed the requirements for districts that elected to participate in the school DOC program. Under these new provisions, the DOC determines the number of transfer students it is willing to accept and must ensure that students admitted are selected through a random, unbiased process. The admission process prohibits an evaluation of whether or not the student should be enrolled based on his or her academic or athletic performance, physical condition, or proficiency in English.

## **REGISTERED SUPPORT / OPPOSITION:**

### **Support**

California Catholic Conference  
Disability Rights California  
Govern For California

### **Opposition**

None on file.

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