

Date of Hearing: April 20, 2022

ASSEMBLY COMMITTEE ON EDUCATION
Patrick O'Donnell, Chair
AB 1777 (Aguiar-Curry) – As Introduced February 3, 2022

SUBJECT: Migrant education: average daily attendance

SUMMARY: Authorizes up to two local educational agencies (LEAs) to receive funding for ADA to operate a program to serve pupils of migrant agricultural workers between school years, commencing in the 2022-23 fiscal year. Specifically, **this bill:**

- 1) Authorizes up to two LEAs, that have instructional days between the first day of a fiscal year to the first apportionment of a fiscal year and that serve pupils of migrant agricultural workers in transitional kindergarten through grade 8, inclusive, between the second principal apportionment of a fiscal year to the last day of that fiscal year, to submit a request to the county superintendent of schools to receive ADA funding for the annual apportionment for that fiscal year, beginning in the 2022-2023 fiscal year.
- 2) Authorizes an LEA that does not include pupils of migrant agricultural workers enrolled in grades 7 and 8 in its request for funding to be eligible and considered for funding.
- 3) Requires LEAs that receive this funding to provide a standard instructional program in a manner similar to other pupils during the period of time in which the student resides in the LEA.
- 4) Requires the county superintendent of schools to notify the Superintendent of Public Instruction (SPI) of a request for funding by an LEA.
- 5) Requires the SPI to establish a process to determine the LEAs that will receive the ADA funding pursuant to this schooling period if more than two LEAs apply.
- 6) Authorizes LEAs to enter into a memorandum of understanding in order to transfer funds generated by the attendance of pupils of migrant agricultural workers in multiple school districts to an LEA that has received the funding pursuant to the act.
- 7) Authorizes LEAs to enter into interdistrict transfer agreements to enroll migrant agricultural students in the school program who reside outside the boundaries of the LEA operating the program.
- 8) Requires a participating LEA to report annually to the California Department of Education (CDE) the following:
 - a) The characteristics of pupils enrolled;
 - b) Academic and other support services provided;
 - c) Academic and other outcomes for pupils enrolled in the program; and
 - d) The financing for the schooling, including local, state, federal, or nongovernmental funding sources used.

- 9) Makes findings and declarations that California has the highest number of students who have parents that are migrant agricultural workers in the United States, that over half of these students are English learners (ELs), they have lower scores on state assessments, and miss critical class instruction due to multiple moves in order to follow their parents' work.

EXISTING LAW:*State Law*

- 1) Defines "currently migratory child" as a child who has moved with a parent or guardian from one school district to another, either within the State or from another state, within the 12-month period immediately preceding his or her identification as such a child. Includes a child who has continued to migrate annually to secure temporary or seasonal employment in an agricultural or fishing activity. (EC 54441)
- 2) Authorizes a child to be identified as a "migrant child", with the concurrence of the child's parent, for a period no longer than three years, during which the child resides in an area where programs are provided for migrant children. (EC 54441.5)
- 3) Requires the State Board of Education (SBE) to adopt a state master plan for services to migrant children that includes instructional activities on a regular and extended year basis designed to provide treatment of academic deficiencies, health and welfare services, preservice and in-service education of professional and nonprofessional personnel to meet the special needs of migrant children, support services such as transportation and family liaison, and other services necessary to the success of the programs, and child development activities for infants and prekindergarten children. Requires active involvement of parents, teachers, and community representatives in the local implementation of migrant education programs. (EC 54442)
- 4) Requires migrant education programs to include content such as an individual assessment of educational and relevant health needs of each participating pupil, a general needs assessment developed in compliance with federal requirements, a comprehensive program to meet the educational, health, and related needs of participating pupils, and acquisition of instructional materials and equipment to provide appropriate services. Authorizes school districts and other education agencies to be eligible to apply for funding to serve migrant pupils upon application to their respective region to the CDE. (EC 54443.1)
- 5) Requires the fiscal year ADA computed under Section 42238.05 to be increased by the number of days of attendance of pupils enrolled in eligible schools in the school district who are currently migratory children and who are residing in state-operated migrant housing projects between the second principal apportionment and the end of the regular school year, divided by the number of days school was actually taught in the regular day for schools of the district, excluding weekends, for school districts that meet the following conditions:
 - a) Have one or more state-operated migrant housing projects that are located within the attendance area of the school; and
 - b) The maximum number of pupils enrolled in the school in the relevant fiscal year who are currently migratory children, constitutes not less than one-third of the total pupil

enrollment of the school. Requires the SPI to establish rules and regulations for implementation. (EC 42238.053)

- 6) Authorizes a school district with an increase in units of ADA from the second principal apportionment to the annual apportionment to request the county superintendent of schools to adjust the district's funding by utilizing the units of ADA for the annual apportionment instead of the units of ADA for the second principal apportionment. To qualify for the adjustment, the increase in ADA must be attributable to pupils of migrant agricultural workers, and: 1) equal to or greater than two percent, or 2) for the 1984-85 fiscal year and each fiscal year afterward, for school districts with less than 2,501 units of ADA, equal to or greater than 10 units of ADA. (EC 41601.5)

Federal Law

- 7) Defines a migratory child as one whose parent made a qualifying move in the preceding 36 months as a migratory worker within the agricultural or fishing industry or moved with or to join a parent or spouse who is employed in one of the stated fields of work.
- 8) Authorizes the Migrant Education Program (MEP), under the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the Every Student Succeeds Act (ESSA).
- 9) Authorizes the MEP by Part C of Title 1, which is designed to support high quality and comprehensive educational programs for migrant children to help reduce the educational disruption and related issues from repeated moves.
- 10) Authorizes the MEP to assist states in supporting high quality and comprehensive educational programs and services during the year, during summer or intersession periods, that address the educational needs of migratory children.
- 11) Authorizes the MEP to ensure migrant students who move among the states are not penalized by disparities among the states in curriculum, graduation requirements, and academic standards.
- 12) Authorizes the MEP to help migratory children overcome educational disruption, cultural and language barriers, social isolation, health-related problems, and other factors that inhibit the ability of such children to succeed in school.

FISCAL EFFECT: Unknown

COMMENTS:

Key provisions of the bill. This bill authorizes two LEAs, beginning in the 2022-23 fiscal year, that serve children of migrant agricultural workers that are in prekindergarten through eighth grade to request of the county superintendent of schools to collect ADA funding during the summer, between the period when an LEA's academic school year ends through the end of that fiscal year. The funds are to be used to serve children of migrant farmworkers to provide access to a standard program of instruction that is equivalent to the regular academic year.

Need for the bill. The author states, "One in three migrant students live in California, travelling frequently with their parents to follow seasonal work. Migrant workers are a significant part of

an agricultural workforce that helps grow over a third of the country's vegetables and two-thirds of the country's fruits and nuts. Yet, migrant families have extraordinary difficulties in providing what most families consider "normal" life conditions. Thousands of migrant students are enrolled in schools that don't align with the migration patterns of their parents and families. As migrant workers move to secure employment, they are repeatedly faced with associated challenges such as lack of available housing, food insecurity and limited linguistically and culturally accessible resources, which in turn serve as a barrier to migrant student success. The California Department of Education notes that as families relocate, migrant students are significantly less likely to meet high school graduation requirements, attend key instructional periods and assessment windows, make friends and join extra-curricular activities.

AB 1777 will expand education access to migrant students in grades pre-K through 8 by ensuring that at least two Local Education Agencies (LEAs) can provide continuous school instruction during summer months that migrant students are able to attend. Specifically, this bill will enable LEAs to access Average Daily Attendance funding to administer programming during summer months that align with the time during which migrant students are able to attend school, thereby providing migrant students with continuous access to equitable education that is both academically rigorous and comprehensive to foster their academic success and encourage future socioeconomic mobility."

Children of migrant workers in Davis Joint Unified School District. To illustrate, migrant students and their families arrive within the Davis Joint Unified School District (DJUSD) during the second week of April, stay throughout the summer, and remain until the end of October in order for their parents to harvest tomatoes, fruit, rice, and nut crops. The migrant families generally stay within the area for six months and when the harvest season ends, they move to other areas to secure employment. Consequently, the school schedule of migrant students that arrive in the district in the middle of April and stay until October of the same year do not align with the district calendar. For the 2021-22 school year, the DJUSD started classes on August 25, 2021 and is scheduled to have the last day of school on June 9, 2022. As a result, migrant students potentially miss a significant amount of school during the year due to the disruption of moving with their families.

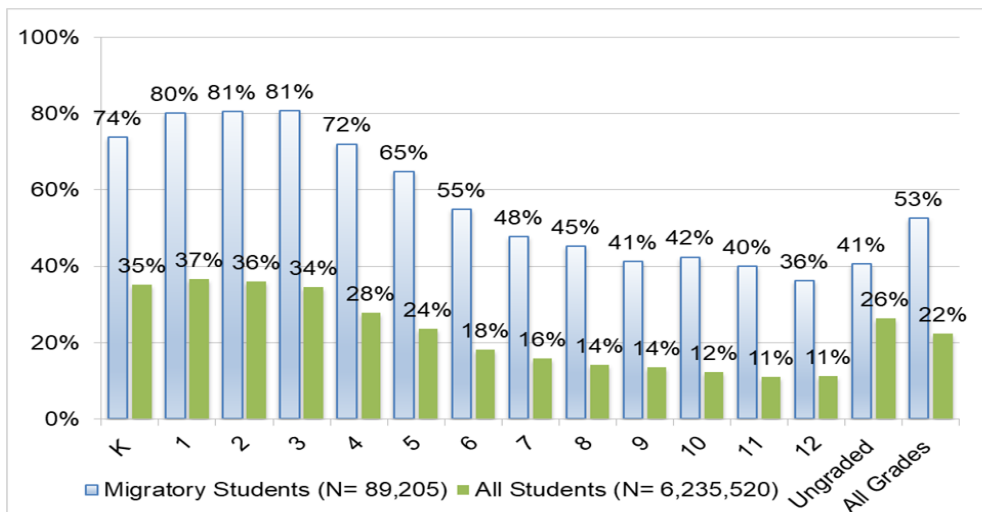
Hardships that affect the migrant student school experience. Research (Free, 2014) has found that migrant students face five major challenges that negatively impact their education and social mobility: (1) cultural barriers, including language and students' and parents' knowledge, interactions and involvement with school; (2) challenges related to family and care, such as parental absence and working conditions, family structure, children's care responsibilities for younger siblings; (3) material needs, especially poverty, hunger, housing, underage child labor, transportation, and health issues; (4) educational challenges as a result of students' migratory lifestyles, lack of school supplies and teachers' lack of knowledge about and attitudes towards migrant students; and (5) hardships related to undocumented legal status. The combination of these adversities result in practical, physical, social, and emotional consequences that adversely affect their education.

The need to follow employment opportunities within the agricultural industry is dependent on the season as well as the productivity of the crops the families are helping to harvest. Consequently, children of migrant families may end up enrolling in a school towards the end of one year and leave the school early the next school year. They may not be able to maintain relationships with peers or participate in extracurricular activities due to the timing the student is

enrolled. Schools may not have updated records of the student’s credits and transcripts, resulting in students not being placed in appropriate courses, which can lead to students disengaging from school or not graduating.

Migrant students and educational outcomes. Longitudinal data on migrant students is not available, and since students are limited to three years of eligibility, students may move in and out of migrant status over the course of their education, posing challenges for data collection and analysis. However, the following data, made available by the CDE, reveal disparities in educational outcomes. Unless otherwise noted, these data are related to students who meet the definition of a “currently migratory” student:

- In the 2018-19 school year, 70% of migrant students did not meet the standard for the English Language Arts and 78% of migrant students did not meet the standard for math for the Smarter Balanced Summative Assessments compared with 49% and 60% for the statewide rate in the respective tests.
- In the 2018-19 school year, 87% of migrant students did not meet the standard for the California Science Test (CAST) compared with 70% for all students.
- The graduation rate for migrant students in 2020 was 81.6% compared with 84.3% for the statewide rate.
- The dropout rate for migrant students in the 2019-20 school year was at 11.2% compared with the statewide dropout rate at 8.9%.
- The chronic absenteeism rate for migrant youth in the 2018-19 school year was at 17.7% while the statewide rate for all students was at 14.3%
- Suspension rates for migrant youth in the 2018-2019 school year was at 15.3% while the statewide rate was at 13.8%
- 81,815 youth between the ages of 3-21 were identified as migratory youth for the 2017-18 school year of which 31,855 also identified as EL during the school year, with Spanish as the main home language. The chart below illustrates the higher concentration of migratory youth classified as EL in early elementary grades.

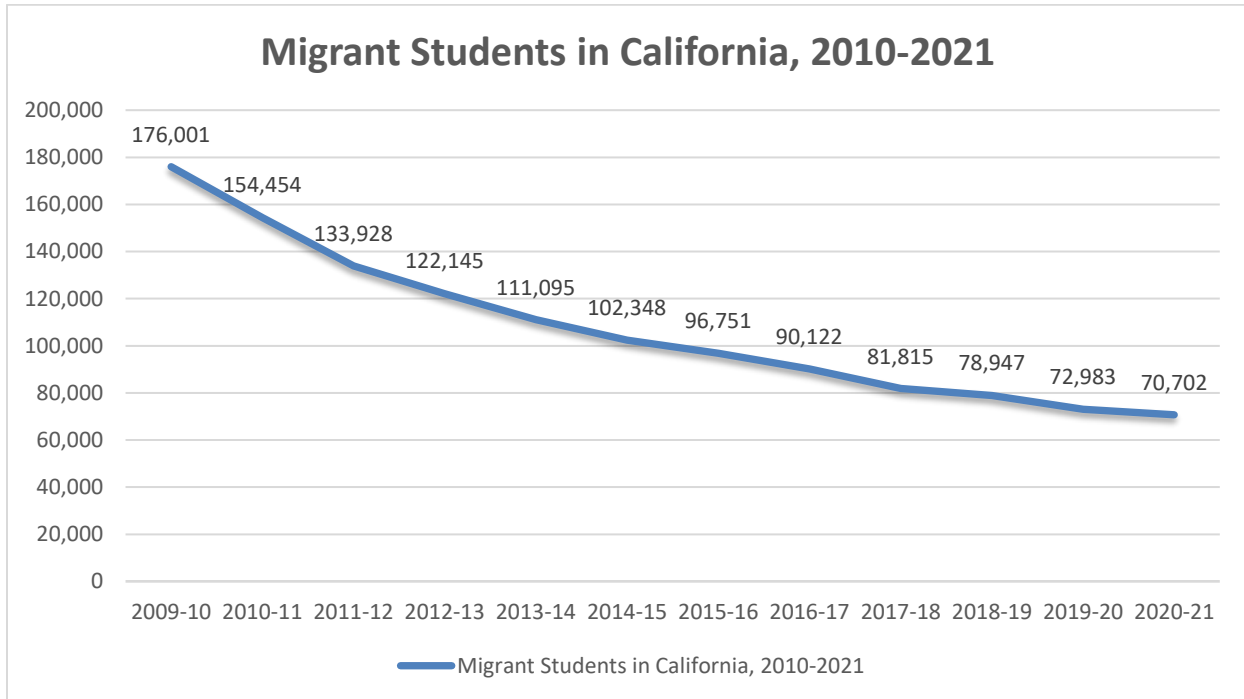


Percent of Students Who Are English Learners, by Grade, Migratory and All Students, 2014–15

Source: Migratory Student Profile, 2017, California Department of Education

Notable decline in the number of migrant students in California. As the graph below illustrates, there has been a marked decline in the number of migrant students in California in recent years from 176,001 students in the 2009-10 school year to 70,702 in the 2020-21 school year.

This represents a decline of nearly 60% since 2009-10. According to the CDE, this downward trend is consistent across all age groups of migrant students, with the largest population declines among out-of-school youth ages 19 to 21 years.



Source: California Department of Education

There are a number of factors that have been offered as possible explanations for this decline, including: the aging of the farmworker workforce, improved employment opportunities in Mexico, automation of farm work, immigration policy and political climate, increased residential stability of farmworker children (in which one adult family member may migrate for work while the children remain with other family members, which may affect identification as a migrant student).

Migrant Education Program. The Migrant Education Program (MEP) is a federal program, which provides grants to support high quality, comprehensive educational programs and services during the school year and school breaks throughout the school calendar to support the needs of migratory youth of 3-21 years of age. The California MEP sets out the administrative framework for delivering MEP services through regional offices.

The purpose of the MEP is to:

- 1) Assist states in supporting high quality and comprehensive educational programs during the school year and, as needed, during summer or intersession periods;

- 2) Ensure migratory youth who move among the states are not penalized by disparities in curriculum, graduation requirements, and state academic standards;
- 3) Help migratory children overcome educational disruption, cultural and language barriers, various health-related problems, social isolation, and other factors that inhibit the ability to succeed in school;
- 4) Ensure that migratory children receive full and appropriate opportunities to meet the same challenging state academic standards that all children are expected to meet;
- 5) Help migratory children benefit from State and local systemic reforms;

Eligibility requirements for participation in MEP includes a child to be identified as “migratory” if the parent is a migratory worker in the agricultural, dairy, lumber, or fishing industries and has moved during the past three years. Moving from one residence to another or across school district boundaries due to economic need can be considered a “qualifying” move. Young adults may also qualify if they move on their own within the past three years to engage in or pursued eligible employment. Eligibility is established through an interview conducted by a Migrant Education recruiter who visits both the home and employment locations where migrant workers are employed. California law includes a priority for students who have made a qualifying move within the previous one-year period and who are failing, are most at risk of failing to meet state academic standards, or who have dropped out of school.

In California, the MEP offers supplemental educational services through a network of 15 county offices of education and 212 school districts. Twenty-four regional programs work in collaboration with nearby school districts to provide to the various ages, grades, and academic needs of migrant youth. They range from prekindergarten through high school graduation requirements. The services are may be offered as after school programs, throughout intersession school breaks (including summer) and, at times, on weekends.

Academic services provided by the MEP are supplemental and remedial in nature. The CDE reviews applications and awards over \$120 million in federal funds to the subgrantees, which operate the programs that serve migrant students. The State Service Delivery Plan (SSDP) identifies the state priorities and requires subgrantees to provide services to preschool children, instructional intervention programs on English language arts and mathematics, instructional programs to support high school graduation, educational and support services for out-of-school youth, and support services to assist with parental involvement and health-related needs, such as dental services, vision needs, and other social welfare needs.

To address the federal requirements, each state is required to develop an SSDP that identifies the targeted program service areas and measurable outcomes. In California, the SSDP requires services to address needs in the following areas: preschool, English language arts, mathematics, out-of-school youth (OSY), high school graduation, and parental involvement.

Recommended Committee amendments. Currently, the bill as written does not achieve the intended goal of receiving funding. ***Staff recommends that the bill be amended to*** instead, commencing on January 1, 2023, would:

- Authorize up to two LEAs to request authorization from the CDE to provide an extended school year for students who are children of migrant agricultural farmworkers and to report

ADA attributable to this program to the CDE in the year in which the program ends if certain conditions are met.

- Authorize the extended school year period to be between the end of the regular school year and the start of the subsequent school year.
- Authorize migrant pupils who enroll into an LEA for the program to arrive in the LEA on or after March 1st of one school year and who depart on or before December 1st of the subsequent school year.
- Require instruction by LEAs to be in person and not through independent study.
- Authorize LEAs to supplement the extended school year program with funding appropriated for migrant summer school.

Arguments in support. Woodland Joint Unified School District writes, “These pilots would determine if significantly increased academic achievement occurs as a result of AB 1777 funding a continuous full day of school from April through October. Those academic achievement results would help us determine whether permanently changing the ADA law to fund a full day of continuous school that corresponded to when migrant students were here would be worth considering in the future. I encourage you to vote in favor of AB 1777 so that we can have a data-based approach to consider if ADA law should be modified to provide more equitable opportunities for migrant children relative to what most other California children receive. Superintendents have been frustrated for decades by these terms of the existing ADA law. These terms have prevented superintendents from creating and operating fully funded days of school continuously during the time when the children of farm workers live in our service areas... It is expected that migrant students would demonstrate substantially increased academic achievement than migrant students not in these two pilots. Those results would provide data to determine if a more permanent change in the ADA law should occur to enable more migrant students to have fully funded full days of school in a continuous time span during months that corresponded to when those migrant children were living here.”

Related legislation. AB 1319 (Arambula and Bonta) Chapter 458, Statutes of 2019, requires 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 requires that a migrant student be immediately enrolled in a new school.

AB 2121 (Caballero), Chapter 581, Statutes of 2018, extends to migrant students and students enrolled in newcomer programs certain rights currently afforded to other groups of highly mobile students regarding exemptions from local graduation requirements and acceptance of partial credit, and clarifies that these requirements apply to charter schools.

AB 192 (Medina) Chapter 78, Statutes of 2017, modified meeting and reporting requirements for the SPAC of the MEP.

AB 275 (Alejo) of the 2015-16 Session, would have made changes to the meetings of the SPAC, and other changes to the MEP. This bill was held in this Committee.

SB 331 (Romero) Chapter 274, Statutes of 2010, reduced the number of years a child may be deemed a migrant child from 5 years to 3 years, deleted provisions regarding service priorities,

required that priority for services be consistent with federal law, and expanded the scope of a status report produced by the SPAC.

REGISTERED SUPPORT / OPPOSITION:

Support

American Academy of Pediatrics, California, Chapter 2
California Association for Bilingual Education (CABE)
California Association of Latino Superintendents and Administrators
California Catholic Conference
Californians Together
Courage California
Empower Yolo
Napa County Office of Education
National Farm Worker Ministry
Salinas City Elementary School District
United Farm Workers
Ventura County Office of Education
Woodland Joint Unified School District
Yolo County Concilio
Yolo County Office of Education
Yuba Community College District
One individual, David Murphey (Sponsor)

Opposition

None on file

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