

Date of Hearing: April 6, 2022

ASSEMBLY COMMITTEE ON EDUCATION
Patrick O'Donnell, Chair
AB 2038 (Gipson) – As Introduced February 14, 2022

SUBJECT: School finance: administrative employees to teacher ratio

SUMMARY: Defines “administrative employee” and “classified employee,” and adds specified exclusions related to the calculation of the maximum ratios of administrative employees to teachers in school districts. Specifically, **this bill:**

- 1) Defines, for the purpose of calculating the maximum ratios of administrative employees to teachers in school districts, the following:
 - a) “Administrative employee” means an employee of a school district, employed in a position requiring administrative certification qualifications, who does not come within the definition of a “pupil services employee” or a “teacher”.
 - b) “Classified employee” means an employee of a school district, employed in a position not requiring administrative certification qualifications.
- 2) Requires, for purposes of determining the allowable ratio of administrative employees to teachers for the Los Angeles Unified School District (LAUSD) and the San Diego City School District, the number of employees and the full-time equivalent of all of the fractional time of employees serving the district in positions mandated as the result of the school district’s court-ordered integration plan is excluded from the ratio calculation.

EXISTING LAW:

- 1) Defines, for the purpose of calculating the maximum ratios of administrative employees to teachers in school districts, the following:
 - a) “Administrative employee” means an employee of a school district, employed in a position requiring certification qualifications, who does not come within the definition of a “pupil services employee” or a “teacher”.
 - b) “Classified employee” means an employee of a school district, employed in a position not requiring certification qualifications.
 - c) “Pupil services employee” means an employee of a school district, employed in a position requiring a standard designated services credential, health and development credential, or a librarian credential, who performs direct services to pupils. “Pupil services employee” includes, but is not limited to, in-school librarians, school nurses, assistant in-school librarians, audiovisual personnel, counselors, psychologists, psychometrists, guidance and welfare personnel, attendance personnel, school social workers, and all other certificated personnel performing pupil-personnel, health, or librarian services.

- d) “Teacher” means an employee of a school district, employed in a position requiring certification qualifications, whose duties require him or her to provide direct instruction to pupils in the schools of that district for the full time for which he or she is employed. “Teacher” includes, but is not limited to, teachers of special classes, teachers of exceptional children, teachers of pupils with physical disabilities, teachers of minors with intellectual disabilities, substitute teachers, instructional television teachers, specialist mathematics teachers, specialist reading teachers, home and hospital teachers, and learning disability group teachers. Requires instructional preparation time to be counted as part of the teacher full-time equivalent, including, but not limited to, mentor teacher or department chairperson time. (Education Code (EC) 41401)
- 2) Establishes maximum ratios of administrative employees to each 100 teachers in the various types of school districts, as follows:
 - a) In elementary school districts—9:100;
 - b) In unified school districts—8:100; and
 - c) In high school districts—7:100. (EC 41402)
 - 3) Requires the Superintendent of Public Instruction (SPI) to determine, for each current fiscal year, for each school district in the state, to two decimal points, the following:
 - a) The total number of administrative employees, except those serving in positions that are supported by categorical grants from any source and are in programs that require specific teacher/administrator ratios, or that are supported by federal funds;
 - b) The total number of teachers except those serving in positions that are supported by federal funds or by categorical grants from any source and are in programs that require specific teacher/administrator ratios;
 - c) The total maximum number of administrative employees that should be employed by the district based upon the application of the appropriate ratio to the number of teachers; and
 - d) The number of administrative employees in excess of the number allowable without penalty as determined by subtracting the number of administrative employees from the number of teachers.
 - 4) Requires, for purposes of determining the allowable ratio of administrative employees to teachers for the San Diego City School District, the number of employees and the full-time equivalent of all of the fractional time of employees serving the district in positions mandated as the result of the district’s court-ordered integration plan is excluded from the ratio calculation. (EC 41403)
 - 5) Requires the SPI to determine the reduction in state support resulting from excess administrative employees as follows:
 - a) Compute the ratio which total state support to the district general fund bears to the total general fund income of the district;

- b) Multiply the ratio by the average salary of administrative employees; and
 - c) Multiply the product by the number of administrative employees converted to the nearest whole number in excess of the maximum number, as specified.
- 6) Requires the amount of the second principal apportionment made to the district for the current fiscal year pursuant to Section 41335 to be reduced by the product so produced. (EC 41404)
- 7) Exempts a school district with an average daily attendance (ADA) of more than 400,000 as of the 2016–17 second principal apportionment from any reduction in state support, as specified, for the 2019–20 fiscal year to the 2021–22 fiscal year, inclusive. Requires a school district subject to this exemption to submit the following to the SPI, the Department of Finance, and the budget committees of both houses of the Legislature:
- a) By September 1, 2019, a report containing the administrator-to-teacher ratio for the 2011–12 fiscal year to the 2019–20 fiscal year, inclusive, a description of the reasons for not meeting the ratio requirement for each fiscal year in which the ratio was not met, including the estimated impact on pupils, and a plan setting out goals for meeting the ratio by the 2023–24 fiscal year; and
 - b) By each September 1 from 2020 to 2022, inclusive, a report detailing the administrator-to-teacher ratio for the prior fiscal year and the progress towards meeting the goals set out in the report. (EC 41404.5)

FISCAL EFFECT: Unknown

COMMENTS:

Need for the bill. According to the author, “With Los Angeles Unified School District being the largest public school system in California, we must do all that we can to continue to provide our teachers and students with the necessary resources needed to recover from learning losses due to the pandemic.

Administrators play a critical role in improving the learning environment and overall academic progress of a student by directly supporting teachers and students in the classroom, especially in districts like LAUSD that serve a high percentage of high-needs individuals who heavily rely on supplemental services.

For these reasons, reducing staff to adhere to the administrator teacher ratio (ATR) in a time when our teachers and students need it the most is not ideal. AB 2038 will make necessary clarifications to the term “administrator” in order to assure accuracy in the calculation of the ATR for all school districts in California and would align Los Angeles Unified School District with the San Diego Unified School District to exclude its magnet coordinators from the ATR.”

Administrator-to-teacher ratio. School districts are required to have maximum ratios of administrative employees to each 100 teachers in the various types of school districts, as follows: in elementary school districts—9:100; in unified school districts—8:100; and in high school

districts—7:100. Each year the CDE determines the ratio for each school district and for those that are over the ratio a fiscal penalty is imposed by reducing their principal apportionment.

LAUSD exemption to the administrator-to-teacher ratio. The education omnibus budget trailer bill of 2019 (SB 75 (Committee on Budget and Fiscal Review, Chapter 51, Statutes of 2019) authorized an exemption of the administrator-to-teacher fiscal penalty for the LAUSD for the 2019-20 fiscal year, to the 2021-22 fiscal year. Further, LAUSD is required to annually report to the SPI, the Department of Finance, and the budget committees of both houses of the Legislature on the administrator-to-teacher ratio calculation for each year a school district receives an exemption from the fiscal penalty, including historical information for past years and the school district's plan to meet the ratio requirements over time.

According to the LAUSD in the 2019 and 2020 reports, “The administrator-to-teacher ratio is a districtwide number and not a school site number as defined in EC 41402. This is a key distinction because the overall districtwide ratio does not accurately differentiate whether noncompliance is due to central office or school site administrators. Additionally, the narrow definition of what constitutes a ‘teacher’ results in a substantial number of teachers being defaulted to administrators. In the case of LAUSD, these examples include instructional coaches, magnet school coordinators, intervention coordinators, dean of students, college and career coaches, targeted student population advisors, and restorative justice coaches.”

Table 1: LAUSD administrator-to-teacher ratio trend

Fiscal Year	LAUSD Ratio (%)	Required Ratio (%)	Difference
2011-12	7.70%	8%	-0.30%
2012-13	7.30%	8%	-0.70%
2013-14	7.90%	8%	-0.10%
2014-15	7.90%	8%	-0.10%
2015-16	8.00%	8%	0.00%
2016-17	8.50%	8%	0.50%
2017-18	8.60%	8%	0.60%
2018-19	12.10%	8%	4.10%
2019-20	12.10%	8%	4.10%
2020-21*	9.50%	8%	1.50%

*Preliminary audits

Source: LAUSD 2021 Legislative Report

The LAUSD uses non-charter school enrollment when calculating the administrator-to-teacher ratio.

Los Angeles Unified School District overview. The LAUSD is the second largest school district in the nation and in the 2020-21 school year enrolled approximately 419,000 students in kindergarten through 12th grade (this figure does not include charter school enrollment). The district covers 710 square miles and includes the City of Los Angeles as well as all or parts of 31 smaller municipalities plus several unincorporated sections of Los Angeles County.

Table 2: 2020-21 LAUSD Enrollment by Subgroup for Charter and Non-Charter Schools

Subgroup	Charter School Enrollment	Non-Charter School Enrollment	Total Enrollment
English Learners	24,459	83,513	107,972
Foster Youth	665	3,343	4,008
Homeless Youth	2,179	4,498	6,677
Migrant Education	8	892	900
Students with Disabilities	18,912	58,407	77,319
Socioeconomically Disadvantaged	111,329	357,850	469,179
All Students	155,553	419,443	574,996

Source: CDE

Table 3: 2020-21 Enrollment by Ethnicity for Charter and Non-Charter Schools

Ethnicity	Charter School Enrollment	Non-Charter School Enrollment	Total Enrollment
African American	11,311	32,404	43,715
American Indian or Alaska Native	421	483	904
Asian	6,740	14,124	20,864
Filipino	2,691	8,142	10,833
Hispanic or Latino	102,849	323,648	426,497
Not Reported	1,406	1,254	2,660
Pacific Islander	184	1,063	1,247
Two or More Races	3,591	5,874	9,465
White	26,360	32,451	58,811
Total	155,553	419,443	574,996

Source: CDE

Definitions. In order to calculate the administrator-to-teacher ratio, an administrative employee is defined as an employee of a school district, employed in a position requiring certification qualifications, who does not come within the definition of a “pupil services employee” or a “teacher.”

A “Pupil services employee” is defined as an employee of a school district, employed in a position requiring a standard designated services credential, health and development credential, or a librarian credential, who performs direct services to pupils. “Pupil services employee” includes, but is not limited to, in-school librarians, school nurses, assistant in-school librarians, audiovisual personnel, counselors, psychologists, psychometrists, guidance and welfare personnel, attendance personnel, school social workers, and all other certificated personnel performing pupil-personnel, health, or librarian services.

A “Teacher” is defined as an employee of a school district, employed in a position requiring certification qualifications, whose duties require him or her to provide direct instruction to pupils in the schools of that district for the full time for which he or she is employed. “Teacher” includes, but is not limited to, teachers of special classes, teachers of exceptional children, teachers of pupils with physical disabilities, teachers of minors with intellectual disabilities, substitute teachers, instructional television teachers, specialist mathematics teachers, specialist reading teachers, home and hospital teachers, and learning disability group teachers.

This bill would make two significant changes to existing definitions used to calculate the administrator-to-teacher ratio. First, administrative employees would be required to have *administrative* certification qualifications, otherwise known as an administrative credential. This change would remove certain other employee types, such as a teacher on special assignment (TOSA), from the administrator-to-teacher ratio calculation and therefore lowering the ratio. TOSAs are often instructional coaches, providing job-embedded and ongoing professional development for teachers. Second, the definition for a classified employee would be changed to not require *administrative* certification qualifications. By broadening the definition of classified employee, school districts will likely be about to attribute more staff to this employee type, rather than as an administrative employee.

Court-ordered desegregation. According to information provided by the LAUSD, in 1970, the Los Angeles Superior Court issued a finding that the District operated impermissibly segregated schools, and the California Supreme Court ultimately affirmed that judgment (*Crawford v. Board of Education* (1980) 17 Cal. 3d 280). In 1978, the court ordered the District to reassign pupils on the basis of race/ethnicity, and the court approved the District's Plan for Desegregation in 1981.

A key component of this Plan is the Magnet Program, which provides choice to families with a Priority Point System that takes race and ethnicity into account when assigning schools. LAUSD has employed magnet school coordinators to support student integration and school choice models. The Magnet Program, and specifically the Priority Point System, have faced legal challenges over the years.

In 2008, the California Court of Appeals found that the 1981 Order had never been reversed, vacated, or overruled and therefore remained in effect (*American Civil Rights Foundation v. Los Angeles Unified School District* (2008) 169 Cal.App.4th 436, 452). If this Order were not still in effect, the Magnet Program would not be able to consider race or ethnicity in school assignments under Proposition 209 (Cal. Const., Art. I, section 31), which prohibits government preferences on the basis of race or ethnicity. The Magnet Program provides Court-Ordered voluntary integration opportunities available to students in grades K-12 living within the LAUSD. Currently there are 330 LAUSD Magnet programs, including 56 gifted/highly gifted programs. Magnet Schools and Centers operate throughout the District with a variety of themes.

In 1967, a group of parents concerned about the segregation of schools in the San Diego Unified School District (SDUSD) filed a class action lawsuit against the district for alleged inequalities of educational opportunities for students of all ethnic backgrounds, formally titled *Kari Carlin et al v. Board of Education, SDUSD*. Due to several delays, including the outcome of the *Crawford v. Los Angeles Board of Education* case, it was not until 1976 that the California Supreme Court ruled that segregation, "regardless of its cause," must be rectified, thus making San Diego's segregation illegal.

For purposes of determining the allowable ratio of administrative employees to teachers in the SDUSD, the number of employees and the full-time equivalent of all the fractional time of employees serving the district in positions mandated because of the district's court-ordered integration plan is excluded. It is unclear why the LAUSD was not also provided the same exclusion.

Recent district actions to reduce ratio. In 2021, the LAUSD retained School Services of California Inc. (SSC) to perform a review and analysis of the District's administrator-to-teacher

ratio, and to establish a standardized way of evaluating and classifying positions. After a review of LAUSD's job descriptions, SSC recommended approximately 1,000 full-time equivalent employees (FTEs) for reclassification to teacher. This resulted in a lower preliminary ratio for 2020-21. Despite this reclassification, according to information provided by the district, the ratio continues to exceed the statutory requirement by about 417 employees – 230 TOSAs and 187 magnet coordinators.

The LAUSD has also engaged other school districts to understand how their methodology to classify positions for the calculation of this ratio. The district has plans to continue to review its internal hiring and classification practices, and worked with SSC to conduct a staff training on employee classifications for the calculation of the ratio. Additional measures include a communication campaign and plan to make ratio data available to stakeholders, school leaders, and administrators for decision-making as it relates to staffing and compliance of the ratio requirement. LAUSD plans to reach compliance by 2023-24.

Despite modest efforts by the LAUSD to reduce the administrator-to-teacher ratio, and a three-year exclusion from the fiscal penalties, the school district remains above the allowable ratio and could be subject to fiscal penalties based on compliance in the 2022-23 fiscal year. Exceeding the ratio remains a persistent problem for the LAUSD, and as of this writing, the district estimates it will be subject to penalties in excess of approximately \$36 million per year.

Committee Amendments. *Staff recommends* the bill be amended to:

- Remove changes to the definitions of “administrative employee” and “classified employee” in order to restore the definitions to current law. By proposing to change these definitions, all school districts would be authorized to modify the types of staff included in the calculation of the administrator-to-teacher ratio and in most cases, would allow for an increased number of administrators-to-teachers across the state.
- For the LAUSD, for school years 2022-23 to 2024-25, inclusive, update the definition of “teacher” to also include subject matter courses and specialists that spend a majority of their time with pupils, or mentoring other teachers on a school campus. This proposed amendment would allow teachers that may not always be assigned to their own classroom but rather placed to support several classrooms or groups of teachers, to be attributed as teachers rather than administrators for purposes of the ratio calculation.
- Authorize the LAUSD to exclude the number of employees and the full-time equivalent of all the fractional time of employees serving the district in positions mandated because of the district's court-ordered integration plan to align with the existing authorization for the SDUSD.
- Require the LAUSD to submit the following to the SPI, the Department of Finance, and the budget committees of both houses of the Legislature:
 - By September 1, 2023, a report containing the administrator-to-teacher ratio for the 2011–12 fiscal year to the 2022–23 fiscal year, inclusive, a description of the reasons for not meeting the ratio requirement for each fiscal year in which the ratio was not met, including the estimated impact on pupils and the number of

teachers and administrators above the required ratio, and a plan setting out goals for meeting the ratio by the 2024–25 fiscal year.

- By each September 1 from 2024 to 2025, a report detailing the administrator-to-teacher ratio, including the number of teachers and administrators above the required ratio, for the prior fiscal year and the progress towards meeting the goals set out in the 2023 report.

State Board of Education waivers. The State Board of Education (SBE) considers requests from LEAs to waive statutory and regulatory requirements. According to the CDE, ten requests for waivers from this provision in the Education Code (EC 41402(a)) were received for consideration by the SBE from 2011-2020, the majority of which were requested in the years 2016 -2018. Of the ten waiver requests: four were approved, four were approved with conditions, one was denied, and one resulted in no action.

Arguments in support. The Los Angeles Unified School District writes, “Current law requires school districts to meet a certain R2 ratio with the intent resources are dedicated to classroom supports and instruction. However, since the enactment of that law, there have been many changes in education policy and funding and in school districts’ approaches to supporting the whole child by taking into account the academic, social-emotional and health needs of every student. In 2019, Los Angeles Unified received a three-year waiver from meeting the R2 requirements as an opportunity for the District to reassess local programs and move towards compliance. Despite the ongoing COVID-19 pandemic posing unprecedented challenges for the 2020-21 school year, Los Angeles Unified staff has continued its commitment to examine existing processes and analyze job descriptions, including interpretation of the law as it relates to our staffing needs in educating the whole child.”

While the district continues to examine its hiring practices and impact of the Community of Schools model, it is necessary to pursue the clarification of the definition of “administrator” in order to assure accuracy in the calculation of the R2 ratio. AB 2038 clarifies the definition of “administrator” is intended to include only staff employed in a position requiring an administrative certification qualification. It also exempts Los Angeles Unified – similar to the provision added to state law in 1976 for the San Diego Unified School District – from counting magnet school coordinators in its calculation since these positions support compliance with a court desegregation order.”

Related legislation. SB 75 (Committee on Budget and Fiscal Review), Chapter 51, Statutes of 2019, the education omnibus budget trailer bill of 2019, provides an exemption for a school district with average daily attendance of more than 400,000 from administrator-to-teacher ratio penalties (calculated pursuant to EC 41404) for the 2019-20 through 2021-22 fiscal years. Requires annual reporting on the administrator-to-teacher ratio calculation for each year a school district receives a waiver under this provision, including historical information for past years and the school district's plan to meet the ratio requirements over time.

REGISTERED SUPPORT / OPPOSITION:

Support

Association of California School Administrators
Los Angeles Unified School District (sponsor)

Opposition

None on file

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