

Date of Hearing: March 22, 2023

ASSEMBLY COMMITTEE ON EDUCATION
Al Muratsuchi, Chair
AB 237 (Wallis & Hoover) – As Introduced January 13, 2023

SUBJECT: Intradistrict and interdistrict transfers: low-performing pupils

SUMMARY: Prohibits a school district from denying an interdistrict transfer request for a low performing pupil who attends a low performing school; and, requires if a school district of enrollment accepts transfers, the school district shall have an unbiased selection process, accept all pupils until they reach maximum enrollment, and provide transportation for pupils who qualify for the free and reduced price meal program. Specifically, **this bill:**

- 1) Requires a school district of residence to approve an intradistrict transfer request for a low-performing pupil if the school of attendance is in the red or orange performance band in two or more of the state measures for three consecutive years on the California School Dashboard unless the requested school is at maximum capacity, in which case, requires the school district to accept an intradistrict transfer request for a different school in the school district.
- 2) Authorizes a low-performing pupil, if the school of attendance is in the red or orange performance band in two or more of the state measures for three consecutive years on the California School Dashboard, to apply for an interdistrict transfer and the school district of residence shall not prohibit the transfer if the school district of proposed enrollment approves the application for transfer.
- 3) Defines “Low-performing pupil” as a pupil that does not meet academic achievement standards based on the most recently available results of the California Assessment of Student Performance and Progress (CASPP), in any of the following ways:
 - a) The pupil does not meet the achievement standard, also referred to as “level 1,” in both English language arts (ELA) and mathematics;
 - b) The pupil does not meet the achievement standard, also referred to as “level 1,” in either ELA or mathematics, and nearly meets the achievement standard, also referred to as “level 2,” in the other subject; or
 - c) The pupil does not meet the achievement standard, also referred to as “level 1,” in either ELA or mathematics, and does not have a valid score for the other subject.

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 (EC) 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 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. 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; and (EC 48204 & 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 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 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 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. Requires the agreement to stipulate the terms and conditions under which interdistrict attendance shall be permitted or denied. (EC 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 46600)
- 8) Prohibits a school district of residence from denying the transfer of a child of an active military family or a victim of an act of bullying if the school district of proposed enrollment approves the application for transfer as follows:
 - a) States that if the school district of residence has only one school offering the grade level of the victim of an act of bullying and therefore there is no option for an intradistrict transfer, the victim of an act of bullying may apply for an interdistrict transfer and the school district of residence shall not prohibit the transfer;
 - b) Requires a school district of proposed enrollment that elects to accept an interdistrict transfer, for a child of an active military family or a victim of an act of bullying, to accept all pupils who apply to transfer until the school district is at maximum capacity;
 - c) Requires a school district of proposed enrollment to 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 set forth in Section 220, including, but not limited to, race or ethnicity, gender, gender identity, gender expression, and immigration status; and
 - d) Requires a school district of proposed 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. (EC 46600)
- 9) Requires each school district of residence and school district of enrollment to post on its website the procedures and timelines regarding a request for an interdistrict transfer permit. (EC 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 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 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 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 35160.5)
- 15) Requires a school district of residence to approve an intradistrict transfer request for a victim of an act of bullying unless the requested school is at maximum capacity, in which case the school district shall accept an intradistrict transfer request for a different school in the school district. (EC 46600)

Federal law

- 16) 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))
- 17) 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, "We all share the goal of providing our children the best education possible, because education represents the key to a brighter future. We know that many children are being left behind in situations that are out of the control of the parents and child. One situation is a child, who is struggling academically, stuck in a low performing school. They do not stand a chance. AB 237 takes a laser-like approach to give parents of low performing students in low performing schools, an option to transfer their children to a better performing school in or out of their district. The Legislature previously established the Open Enrollment Act (OEA) with the goal to improve student achievement and to enhance parental choice in education by providing additional options to pupils to enroll in public schools without worrying about which zip code they're in. However, the OEA became so complex that it became obsolete. Few school districts suffer any uncomfortable consequences for their lack of performance. While we work to provide parents options when dissatisfied with the academic performance of schools, we have to act now to help this group of students because their futures depend on it."

What does this bill do? Existing law prohibits a school district of residence from prohibiting the transfer of a student whose parent is an active member of the military. Existing law requires schools to give priority for *interdistrict* attendance to a student who has been the victim of bullying. Existing law prohibits schools from denying *intradistrict* transfer request for a victim

of an act of bullying. States that if the school district of residence has only one school offering the grade level of the victim of an act of bullying and therefore there is no option for an *intradistrict* transfer, the school district is prohibited from denying an *interdistrict* transfer. Further, existing law requires that if a school district accepts these transfers, the district shall have an unbiased selection process, accept all pupils until they reach maximum enrollment, and provide transportation for children with accepted transfer requests who qualify for the free and reduced price meal program.

This bill would expand the transfer options, while meeting the requirements listed above, by prohibiting a school district from denying an *interdistrict* transfer request for a low performing pupil at a low performing school.

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

- 1) *Charter Schools.* There are over 1,300 public charter schools in the state that provide instruction in any combination of grades transitional 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% offer nonclassroom based instruction through independent study, such as home study.
- 2) *Magnet Schools.* Magnet schools are designed by local school districts 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 magnet schools are established, 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. DOCs may not use a selective admissions process. Transfer students 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 is based on the former accountability system, the Academic Performance Index (API), and 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 do not need the consent of their home districts. As of the adoption of the new state accountability system in 2017 based on the California School Dashboard, this program is no longer in operation.

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

Interdistrict transfers compared to districts of choice. Existing law authorizes school districts to enter into interdistrict attendance agreements whereby a pupil may enroll in a district other than his or her district of residence. Such agreements must stipulate the terms and conditions under which interdistrict attendance shall be permitted or denied.

Existing law prohibits a district of residence from denying an interdistrict transfer request in specific instances including a child of an active duty military parent, homeless youth, migratory child, foster youth, and victims of bullying for which an intradistrict transfer is not an option. In these instances, a school district of enrollment that elects to accept interdistrict transfer students must accept all pupils until they reach maximum capacity. The district must ensure that pupils are selected through an unbiased process and is required to provide transportation for a pupil who has transferred and is eligible for free or reduced price meals, at the request of the parent.

Absent an interdistrict attendance agreement, and the specific instances listed above, a district of residence can deny a request to transfer to another district, unless the district of proposed attendance is a district of choice. If a district declares itself to be a district of choice, then the district of residence cannot deny a transfer request. A district that elects to operate as a district of choice must register as such with the Superintendent of Public Instruction and accept all pupils who apply to transfer until it is at maximum capacity. If the number of transfer requests exceeds the district's capacity, then the transfers must be selected through a random drawing. Districts of choice are specifically prohibited from accepting transfers on the basis of academic performance, athletic performance, physical condition, or English proficiency.

Existing law also governs the manner in which a district of choice can market itself to neighboring districts. Specifically, all communications must be factual and cannot target individual parents or neighborhoods on the basis of students' actual or perceived academic or athletic ability or other personal characteristics. To prevent discrimination against students receiving special education services, districts of choice are prohibited from denying a transfer based on a determination that the cost of servicing a student would exceed the funding received for that student.

Recommended Committee Amendments. *Staff recommends that the bill be amended as follows:*

- 1) Delete the criteria in the bill for identifying a low performing school and instead replace it with the existing criteria in federal law identifying schools for comprehensive support and improvement (CSI).
- 2) Require that a low achieving pupil transfer to a school that is not identified for comprehensive support and improvement (CSI).

Related legislation. AB 1127 (L. Rivas), Chapter 781, Statutes of 2019, requires a school district of residence to approve an intradistrict transfer request for a victim of bullying. States that if a

school district only has one school, the student's school district of residence must not prohibit the student's interdistrict transfer. Requires, upon request of a parent or guardian on behalf of the student, the school district of enrollment to provide transportation assistance if the student is considered low-income. States the intent of the Legislature that the costs of transportation not exceed the amount of supplemental funding school districts already receive to serve low-income students.

AB 1319 (Arambula) 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 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 was held 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 website 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, 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 requires 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, significantly changed the requirements for districts that elected to participate in the school Districts of Choice (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.

AB 1156 (Eng), Chapter 742, Statutes of 2011, requires training in the prevention of bullying, requires priority for interdistrict transfers to victims of bullying, and revising the definition of bullying, beginning on July 1, 2012.

REGISTERED SUPPORT / OPPOSITION:

Support

None on file

Opposition

None on file

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