

Date of Hearing: May 9, 2018

ASSEMBLY COMMITTEE ON EDUCATION
Patrick O'Donnell, Chair
AB 3086 (Kiley) – As Introduced February 16, 2018

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

SUMMARY: Extends inter-district, open enrollment to pupils who are either homeless, in foster care, migrant, or victims of bullying. Specifically, **this bill:**

- 1) Provides that, notwithstanding any other law, and regardless of whether an agreement exists or a permit is issued, a school district of residence shall not prohibit 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 ;
 - b) A currently migratory child or former migratory child, as those terms are defined in Education Code Section 54441;
 - c) A foster youth; or
 - d) A victim of an act of bullying.
- 2) Defines a “victim of an act of bullying” to mean a pupil that was subject to bullying, as defined in subdivision (r) of Education Code Section 48900, and the bullying was committed by an individual within the attendance zone of the victim’s assigned school in the school district of residence, or 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.
- 3) Provides that, upon request of the parent or guardian on behalf of a pupil eligible for transfer, a school district of enrollment shall provide transportation assistance to a pupil who is eligible for free or reduced-price meals.
- 4) Provides that a school district of enrollment may provide transportation assistance to any pupil admitted under this subdivision.
- 5) States the intent of the Legislature that the amount of transportation assistance provided to a pupil not exceed the Local Control Funding Formula (LCFF) supplemental grant received, if any, for the pupil.

EXISTING LAW:

- 1) Authorizes the governing boards of two or more school districts to enter into an agreement, for a term not to exceed five school years, for the interdistrict attendance of pupils who are residents of the school districts. The agreement may provide for the admission to a school district other than the school district of residence of a pupil who requests a permit to attend a

school district that is a party to the agreement and that maintains schools and classes in kindergarten or any of grades 1 to 12, inclusive, to which the pupil requests admission.

- 2) Requires the agreement to stipulate the terms and conditions under which interdistrict attendance shall be permitted or denied. The agreement may stipulate terms and conditions established by the school district of residence and the school district of enrollment under which the permit may be revoked.
- 3) Requires interdistrict transfer priority be given to pupils who have been the victim of bullying.
- 4) Prohibits a district of residence from prohibiting the out-of-district transfer of the child of an active military duty parent.
- 5) Authorizes school districts to operate as a district of choice. Districts of choice may accept transfer students from other districts without the approval of the district of residence, subject to specified conditions and restrictions.

FISCAL EFFECT: This bill is keyed nonfiscal

COMMENTS: *Existing transfer options.* 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 also requires interdistrict attendance agreements to give priority to victims of bullying for interdistrict attendance.

Absent an interdistrict attendance agreement, 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 special needs students, 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.

Accordingly, existing law already provides a solution to the problem addressed by this bill. Specifically, if a district of proposed enrollment accepts a student who is homeless, in foster care, a migrant, or a victim of bullying, and the district of residence does not approve the transfer, then the district of proposed enrollment can simply become a district of choice. But by circumventing the existing district of choice option, **this bill** would allow districts to "cherry pick" the students they choose to accept as transfers by discrimination on the basis of characteristics such as academic or athletic ability, English proficiency, or special education

status. To avoid this, **staff recommends** that the bill be amended include the same prohibitions against discrimination as apply to districts of choice.

The definition of "bullying." This bill defines "bullying" by reference to Education Code §48900, which lists bullying among the reasons for suspension or expulsion and defines it to mean:

"... any severe or pervasive physical or verbal act or conduct, including communications made in writing or by means of an electronic act, and including one or more acts committed by a pupil or group of pupils...directed toward one or more pupils that has or can be reasonably predicted to have the effect of one or more of the following:

(A) Placing a reasonable pupil or pupils in fear of harm to that pupil's or those pupils' person or property.

(B) Causing a reasonable pupil to experience a substantially detrimental effect on his or her physical or mental health.

(C) Causing a reasonable pupil to experience substantial interference with his or her academic performance.

(D) Causing a reasonable pupil to experience substantial interference with his or her ability to participate in or benefit from the services, activities, or privileges provided by a school."

While this section defines bullying, it does not distinguish between an allegation of bullying and a finding that bullying has actually occurred. By contrast, Education Code §234.1 establishes a procedure and timelines to investigate and resolve complaints of bullying. This section is also more expansive in that it addresses, in addition to bullying, complaints of discrimination, harassment, and intimidation. It prohibits discrimination, harassment, intimidation, and bullying on the basis of specified characteristics, including:

- Disability;
- Gender, gender identity, and gender expression;
- Nationality;
- Race or ethnicity;
- Religion;
- Sexual orientation; and
- Immigration status.

Staff recommends that this bill be amended to strike the reference to Education Code §48900 and instead permit the transfer of a pupil who has been determined to be a victim of discrimination, harassment, intimidation, and bullying pursuant to the complaint process required by Education Code §234.1.

Bullying by "individuals." This bill entitles a victim of bullying to transfer to another district if the bullying was committed by an individual within the attendance zone of the victim's assigned school. This means any individual, including an individual who is not a student in the victim's school or district or even a resident of the district, if the act of bullying occurred in the attendance area of the victim's school. This goes beyond the purported purpose of this bill, which is to keep pupils safe from bullying while at school or a school function, and the transfer option created by this bill would do nothing to resolve neighborhood bullying by individuals who

are not connected to the victim's school. Therefore, **staff recommends** that the bill be amended to strike this provision.

REGISTERED SUPPORT / OPPOSITION:

Support

Alliance for a Better Community
EdVoice
Families in Schools
Great Public Schools Now
Innovate Public Schools
Kids Coalition
Learning Rights
Parent Revolution
Shields for Families
Speak Up
United Parents and Students

Opposition

None received

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