

Date of Hearing: March 29, 2023

ASSEMBLY COMMITTEE ON EDUCATION  
Al Muratsuchi, Chair  
AB 373 (Gipson) – As Introduced February 1, 2023

**[Note: This bill is double referred to the Assembly Human Services Committee and will be heard by that Committee as it relates to issues under its jurisdiction.]**

**SUBJECT:** Intersession programs: foster children and homeless youth: priority access

**SUMMARY:** Requires local educational agencies (LEAs) offering intersession programs to grant priority access to foster and homeless children and youth. Specifically, **this bill:**

- 1) Requires an LEA operating an intersession program, including, but not limited to, summer school, to grant priority access to a homeless child or youth and a foster child.
- 2) Requires the pupil's parent, guardian, or education rights holder to determine which school the pupil attends for the intersession program if the homeless or foster youth will be moving during the intersession period.
- 3) Specifies that an extended school year program for individuals with exceptional needs is not included as an intersession program for purposes of these sections.
- 4) Defines "local educational agency" as a school district, county office of education (COE), or charter school.

**EXISTING LAW:**

- 1) Defines "Expanded learning" as before school, after school, summer, or intersession learning programs that focus on developing the academic, social, emotional, and physical needs and interests of pupils through hands-on, engaging learning experiences. States the intent of the Legislature that expanded learning programs are pupil-centered, results driven, include community partners, and complement, but do not replicate, learning activities in the regular schoolday and school year. Defines "Summer/supplemental grant" as funding to operate any program in excess of 180 regular schooldays or during any combination of summer, intersession, or vacation periods. (Education Code (EC) 8482.1)
- 2) Establishes the ASES program, passed by voters as Proposition 49 in 2002, which provides \$550 million annually for before and after school programs for K-9 students. Priority for funding is granted to schools where at least 50% of the students are eligible for free or reduced price meals. ASES programs receive direct grants, for which attendance is projected and grants are funded up-front, in three one-year increments. (EC 8482, 8482.4, & 8482.5)
- 3) Provides for a summer grant for ASES programs in excess of 180 days or during any combination of summer and intersession.
- 4) First priority for enrollment of students in an after school program must go to students who are homeless youth, as defined by the federal McKinney-Vento Homeless Assistance Act, at the time they apply for enrollment or at any time during the school year, to students who are

in foster care, and to students who are eligible for free or reduced-price meals. Requires an after school program to inform the parent or caregiver of a student of the right of homeless children, foster children, and children eligible for free or reduced-price meals to receive priority enrollment and how to request priority enrollment. (EC 8483)

- 5) Authorizes ASES programs to charge family fees, but requires the program to waive the cost of these fees for students who are eligible for free or reduced-price meals, for a child that is a homeless youth, or for a child who the program knows is in foster care. (EC 8482.6)
- 6) Expresses the intent of the Legislature that the federal 21<sup>st</sup> CCLC program (Public Law 107-110) complement the ASES program to provide year-round opportunities for expanded learning. (EC 8484.7)
- 7) Requires that at least 50% of the total amount appropriated for the 21<sup>st</sup> CCLC be allocated on a priority basis for programs serving high school pupils, and at least 40% for programs serving elementary and middle school pupils. (EC 8484.8)
- 8) Establishes the 21<sup>st</sup> CCLC High School After School Safety and Enrichment for Teens (ASSETS) program to create incentives for establishing locally driven school enrichment programs that partner schools and communities to provide academic supports and safe, constructive alternatives for high school pupils in the hours after the regular schoolday, and that support college and career readiness and requires that the CDE implement the ASSETS program only to the extent that federal funds are available. (EC 8421 & 8425)
- 9) Establishes the Expanded Learning Opportunities Program (ELOP) and allocates funding to school districts and charter schools based upon their unduplicated pupil count (UPP) to provide classroom-based instructional programs with ELOPs that provide access to no less than 9 hours of combined in-person instructional time and expanded learning opportunities per instructional day on schooldays, and no less than 9 hours of expanded learning opportunities per day for at least 30 non-schooldays during intersessional periods. Requires, commencing with the 2023-24 school year, as a condition of receipt of these funds, school districts and charter schools with a UPP of 75% or higher, to offer the ELOP to all TK-6 classroom-based students and provide program access to any students upon parent/guardian request. For school districts and charter schools with a UPP of less than 75% must offer the ELOP to all TK-6 unduplicated pupils and provide access to any unduplicated pupil upon parent/guardian request. (EC 46120)
- 10) Defines, in the McKinney-Vento Act, “homeless children and youths” as individuals who lack a fixed, regular, and adequate nighttime residence, and includes:
  - a) Children who are sharing the housing of others due to economic hardship, are living in motels, hotels, trailer parks, or campgrounds due to the lack of alternative accommodations, are living in emergency or transitional shelters, or are abandoned in hospitals;
  - b) Children who have a primary nighttime residence not designed or ordinarily used for sleeping;

- c) Children who are living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings; and
  - d) Migratory children who are living in the circumstances described above. (USC Title 42 Section 11434(a))
- 11) Requires a school district, charter school, or COE to create a website containing the list of LEA liaisons with contact information, and information on homelessness including educational rights and resources in that school district, charter school, or CDE. (EC 48852.6)
- 12) Confers certain rights on all children placed in foster care, including the right to be represented by an attorney to advocate for the child's protection, safety, and well-being. (Welfare and Institutions Code (WIC) 16001.9(a)(33))
- 13) Requires each LEA to designate a staff person as the educational liaison for foster children. (EC) 48853.5)

**FISCAL EFFECT:** This bill has been keyed as non-fiscal by the Office of Legislative Counsel.

**COMMENTS:**

*This bill* requires LEAs offering intersession programs to grant priority access to homeless and foster students. Intersession programs are expanded learning programs offered on non-school days to provide academic content, including remediation and/or enrichment, as well as engaging activities. Current law requires state and federal afterschool programs, including summer school, to prioritize foster and homeless youth for enrollment. This bill would extend those requirements to any other intersession programs offered by LEAs.

*Need for the bill.* According to the author, "For too long, children suffering from homelessness and those going through the foster system have not been given the correct amount of attention to help ensure their success in school. During the pandemic, the issues that faced these students were only exacerbated and highlighted as they fell further behind because of the lack of resources and services available to them. It is fair to state that all students had to deal with some level of mental and educational fatigue, but these more vulnerable students oftentimes did not have opportunities to succeed as their peers have. We must give these students sufficient opportunities moving forward so they can have the skills required to flourish now and as they grow into young adulthood and then early in their careers. The majority of foster youth enrolled in California public schools are students of color - these students are the future of our communities and their struggles cannot be overlooked. This bill serves as a simple, but impactful piece of legislation that will embolden our most vulnerable populations in our California school system to a life of success and opportunity."

*Intersession programs included in expanded learning definition.* According to the CDE, "Expanded learning" means before school, after school, summer, or intersession learning programs that focus on developing the academic, social, emotional, and physical needs and interests of pupils through hands-on, engaging learning experiences. Expanded learning programs are pupil-centered, results driven, include community partners, and complement, but do not replicate, learning activities in the regular schoolday and school year."

Intersession is meant to include non-school days and is an extension of the school year between school terms during which students can take short, accelerated classes or complete other academic work. Intersession scheduling is both a strategy for delivering content or remediating for any learning gaps that may have occurred during the regular school sessions.

***Value of afterschool programs.*** According to a 2016 report by the Afterschool Alliance, “Research has found that when children from low-income families take part in quality afterschool programs, they see positive gains. Consistent participation in high-quality afterschool programs has been shown to help students improve their work habits and demonstrate higher levels of persistence, and helps to close the achievement gap that exists between children from low-income families and their more affluent peers.”

The California Afterschool Advocacy Alliance reports that public afterschool programs improve school attendance and reduce dropout rates; help English language learners transition to proficiency; expand STEAM learning and develop workforce skills; build social-emotional skills, health, and nutrition; prevent and reduce youth substance use and abuse; and reduce juvenile crime by keeping students engaged during the prime time for crime involving children.

Decades of research have demonstrated that disparities in out-of-school learning opportunities translate into disparities in academic achievement. By 6th grade, students from middle- and upper-income families typically spend upwards of 6,000 more hours on educational activities than students from low-income families. Research estimates that the cumulative summer learning gap accounts for more than half the difference in 9th-grade achievement between students from low-income families and their more affluent peers, which in turn contributes to the likelihood of students entering college-track high school programs and meeting college-going requirements. Out-of-school time has become an essential tool for mitigating inequitable educational outcomes for students. (Learning Policy Institute (LPI), 2021)

***ASES program.*** The ASES program, passed by voters as Proposition 49 in 2002, provides a minimum of \$550 million annually from Proposition 98 for before and afterschool programs for K-9 students. The 2017-18 Budget Act increased ongoing funding to the ASES program by \$50 million for a total of \$600 million. The 2021-22 funding level for ASES was \$744 million, comprised of \$650 million from Proposition 98 state funds and \$94 million from federal ESSER III funds. The daily per-student rate for ASES is \$10.18.

School districts, COEs, state special schools, and charter schools are eligible for funding. Local governments and nonprofit organizations working in partnership with LEAs may also apply for funding. Afterschool programs must commence immediately following the end of the school day and at least until 6 p.m. for 15 hours per week.

Participating afterschool programs are required to have an educational and literacy component in which tutoring or homework assistance is provided in one or more of the following areas: language arts, mathematics, history and social science, computer training, or sciences; and an educational enrichment component, which may include, but is not limited to, fine arts, career technical education, career exploration, recreation, physical fitness and prevention activities. ASES grantees are able to apply for summer/supplemental funding in order to operate for more than 180 days, including during summer, intersession or vacation periods. Characteristics of those participating in the ASES programs include the following:

- 49.8% female, 50.2% male;
- 83.3% socioeconomically disadvantaged;
- 24.8% English language learners;
- 5.7% homeless;
- 11.9% students with a disability; and
- 71.5% Latino; 9.8% White; 8.0 % Black; 5.4% Asian.

**21<sup>st</sup> CCLC Program.** The 21<sup>st</sup> CCLC program is a federally funded competitive grant program. The purpose of the program is to support the creation of community learning centers that provide academic enrichment opportunities during non-school hours for children, particularly students who attend high-poverty and low-performing schools. The program helps students meet state and local student standards in core academic subjects, such as reading and math; offers students a broad array of enrichment activities that can complement their regular academic programs; and offers educational services to the families of participating children. Programs must operate during every regular school day and may operate during summer, weekends, intersession, or vacation periods.

**21<sup>st</sup> CCLC High School After School Safety and Enrichment for Teens (ASSETS).** The purpose of the ASSETS program is to provide local flexibility in the establishment or expansion of community learning centers that provide students in grades 9 to 12 with academic enrichment opportunities and activities designed to complement the student's regular academic program and that support college and career readiness, assist with literacy and related educational development services for families of these students, and provide a safe environment for students participating in their programs. This is the only dedicated expanded learning funding currently available in California for high school students.

**Expanded Learning Opportunities Program (ELOP).** The ELOP program, established in 2021, provides funding for afterschool and summer school enrichment programs for Transitional Kindergarten (TK) through 6<sup>th</sup> grade pupils. The 2022-23 Budget Act provided \$4 billion in annual, ongoing funding for the ELOP. School districts and charter schools are required to offer at least nine hours of combined in-person instructional time and expanded learning opportunities during the school day and for 30 nonschooldays. The program must include educational and enrichment components with maximum student to staff ratios of 20:1.

In 2022-23, districts and charter schools with a student body equal to or more than 75% unduplicated students receive \$2,750 per unduplicated student enrolled in TK- 6 for ELOP allowable services. LEAs with concentrations of unduplicated students less than 75% receive approximately \$2,000 per unduplicated TK-6 student, and provides a minimum apportionment of \$50,000.

Beginning in the 2023-24 school year, as a condition of ELOP funding, districts and charter schools with a student body that is equal to or more than 75% unduplicated students must offer the program to all TK-6 students in classroom-based settings and provide access to any students whose parent or guardian requests their placement in a program. LEAs with less than 75% of unduplicated students must offer expanded learning opportunity programs to all unduplicated TK-6<sup>th</sup> grade students attending classroom-based programs and must provide access to at least 50% of these students.

***How many California students experience homelessness?*** California schools identify homeless students using the definition of homeless students in the federal McKinney-Vento Act, which defines “homeless children and youths” as:

- Children and youth who are sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason;
- Children and youth who may be living in motels, hotels, trailer parks, or shelters;
- Children and youth who have a primary nighttime residence that is a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings;
- Children and youth who are living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings; and
- Migratory children who qualify as homeless because they are children who are living in similar circumstances listed above.

According to the CDE, in 2020-21 there were 183,312 California public school students who met the federal definition of homelessness. This represents 3% of the total California public school student population. Over 17% of the students experiencing homelessness in the U.S. reside in California (Federal Data Summary, Education for Homeless Children and Youth, 2020).

According to a 2020 report by the UCLA Center for Transformation of Schools titled *State of Crisis: Dismantling Student Homelessness in California*, African American and Latino students are disproportionately represented among students experiencing homelessness.

***Youth experiencing homelessness have poor educational outcomes.*** Research suggests that students experiencing homelessness hold educational aspirations like those of their peers—to graduate from high school and go on to college. What separates students experiencing homelessness from their peers are the challenges of their circumstances, often due to the cumulative effects of poverty and the instability and disruption of social relationships associated with high mobility. (Burns, 2021)

California students who experience homelessness have a significantly higher risk of poor educational outcomes than other students. The CDE’s 2022 Dashboard data shows:

- 45.1% of homeless students were chronically absent, versus 30% of all students;
- 5.5% of homeless students were suspended from school one or more times, versus 3.1% of all students;
- Homeless students were 62.9 points below standard on the Smarter Balanced Assessment in English Language Arts (versus all students at 12.2 below standard);
- Homeless students were 101.8 points on the Smarter Balanced Assessment in Mathematics (versus 51.7 points below for all students); and
- 74.4% of homeless student graduated from high school versus 87.4% of all students.

***Foster youth outcomes often lag behind those of other students.*** Under California’s Local Control Funding Formula (LCFF), a child in foster care is any one of the following: a child subject to a juvenile dependency court petition, whether or not removed from the home; a youth who is the subject of a juvenile delinquency court petition and has been removed from the home and placed in foster care; a youth aged 18–21 in “extended foster care” enrolled in high school; a youth removed from the home under a voluntary placement agreement (between the parents and the county welfare department); or a youth who is a dependent of a tribal court.

The majority of students in foster care are students of color, and African American students are disproportionately represented. In 2018–19, around 18% of California’s K–12 youth in foster care were African American, compared to just 5% African American students in the overall student population. The majority of students in foster care were Latino/a (55%), which matches the percentage of Latino/a students in the statewide student population. California students in foster care are also more likely than the general population to identify as LGBTQ. A 2019 study using a statewide sample of California students ages 10–18 found that 30% of students in foster care identified as LGBTQ, compared to an estimated 11% among similar-age nonfoster students. Students in foster care are also disproportionately likely to be eligible for special education services. In 2018–19, 31% of students in foster care were eligible for special education, compared to just 13% of their non-foster peers. Students in foster care also include “dual system” students—those involved with both the child welfare and the juvenile justice systems. (Burns, 2022)

Districts with students in foster care receive LCFF funding to support their learning needs. In particular, districts receive increased funding based on the unduplicated percentage of enrolled students from low-income families, English learners, and students in foster care. However, students in foster care do not actually generate additional funding because they are already considered eligible for free meals. Researchers suggest that their inclusion in LCFF unduplicated counts brings important visibility to this student group and means that the needs of students in foster care should be considered in Local Control Accountability Plans (LCAPs), in which districts specify learning goals for included student groups and create plans to achieve those goals. County offices of education must also include measures of progress for students in foster care in the California School Dashboard, the state’s accountability system. (Burns, 2022)

According to the CDE’s 2022 Dashboard, there are 31,060 foster youth enrolled in California public schools. Students in foster care represent one of the most vulnerable and academically at-risk student groups enrolled in California schools. The instability in home and school placements often negatively impacts students’ learning achievement. In California, foster youth perform lower on all educational outcomes than any other student group in the state including homeless youth, English learners, and socioeconomically disadvantaged students. Foster youth data on the 2022 California School Dashboard shows:

- 42.1% of foster students were chronically absent versus 30% of all students;
- 12.4% of foster students were suspended from school one or more times versus 3.1% of all students;
- Foster students were 85.6 points below the state standard on the Smarter Balanced Assessment in English Language Arts (versus all students at 12.2 below standard);

- Foster students were 126.3 points below the state standard on the Smarter Balanced Assessment in mathematics (versus 51.7 points below for all students); and
- 64.1% of foster pupils graduated from high school versus 87.4% of all students.

Research further confirms the challenges and outcomes facing foster youth:

- 66% of students in foster care remained in the same school through the 2018-19 year, while 95% of non-foster students did so;
- 71% of students in foster care changed school during the school year in at least one of our years from 2015-16 to 2018-19, compared to 15% of all other students;
- 24% of students in foster care met or exceeded standards in English Language Arts in 2018-19, compared to 51% of other students; and
- 15% of students in foster care met or exceeded standards in mathematics in 2018-19, compared to 40% of other students. (Burns, 2022)

***Arguments in support.*** The California Alliance of Child and Family Services, a co-sponsor of the measure states, “This bill will ensure students in foster care and those experiencing homelessness can access additional school time to make up for any absences or loss of instructional time. Data shows that these students often encounter significant barriers to educational achievement. Specifically, foster and homeless youth experience high rates of absences, suspensions and school mobility. For example, 5% of students not in foster care changed schools during the 2018-19 school year, while 34% of students in foster care did. 5% of foster youth moved 3 or more times during this single school year. Students experiencing homelessness face similar challenges in school. The rate of chronic absence among students experiencing homelessness in 2018–19 was 25%, which is double the state average. Additionally, one in five students experiencing homelessness changed schools at least once during the school year. The Learning Policy Institute found that school mobility is associated with lower average educational achievement...especially for students who move multiple times in a single school year.

To address these barriers, AB 373 prioritizes youth in foster care and homeless youth for intersession programs when available and offered by their local educational agency. If a youth moves during an intersession program, this bill allows the youth’s educational rights holder to determine which school the youth should attend for the program. AB 373 will ensure students can enroll in important academic programs even while moving schools. Youth who miss class time because of factors outside of their control should have opportunities to make up schoolwork and receive additional support through intersession programs. AB 373 will work to close these educational gaps and is a critical step towards realizing our state’s vision of educational equity.”

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

- 1) Define “intersession program” for purposes of these sections as an expanded learning program offered by an LEA on non-school days.



**Related legislation.** AB 2507 (McCarty) of the 2021-22 Session would have established priorities for the allocation of funds appropriated for the ASES program and 21st Century CCLC Program and provided that these provisions would only be operative if the Legislature appropriates at least \$5 billion in a fiscal year to fund the Expanded Learning Opportunities Program. This bill would have provided a cost-of-living adjustment (COLA) for the ASES program. This bill was held in the Senate Appropriations Committee.

AB 2501 (Carrillo) of the 2021-22 Session would have established the California Universal Afterschool Program Workgroup to develop recommendations and proposals to reduce impediments and to develop a roadmap for providing universal access to afterschool programs for all school-age children. This bill was held in the Senate Appropriations Committee.

AB 130 (Committee on Budget) Chapter 44, Statutes of 2021, establishes the ELOP and appropriates \$753 million for allocation to school districts and charter schools serving a high proportion of unduplicated pupils. The bill requires, upon receipt of funding, schools serving pupils in K-6 to provide at least 50% of unduplicated pupils with expanded learning opportunity programs for a minimum of 9 hours of combined in-person instruction and expanded learning opportunities on school days and no less than 9 hours of expanded learning opportunities per day for at least 30 non-school days during summer and intersessional periods.

AB 408 (Quirk-Silva) Chapter 904, Statutes of 2022, requires LEAs to establish homeless education program policies consistent with federal law, requires homeless education liaisons to offer training to specified school staff, and requires the CDE to develop a risk-based monitoring plan for homeless education requirements.

## **REGISTERED SUPPORT / OPPOSITION:**

### **Support**

Aspiranet  
 California Alliance of Caregivers  
 California Alliance of Child and Family Services  
 California Court Appointed Special Advocate Association  
 Children Now  
 Children's Institute  
 John Burton Advocates for Youth  
 Maryvale  
 National Alliance to End Homelessness  
 Pacific Clinics  
 Safe Place for Youth  
 Seneca Family of Agencies  
 Sycamores  
 The United Way of Greater Los Angeles  
 One individual

### **Opposition**

None on file

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