

Date of Hearing: March 22, 2023

ASSEMBLY COMMITTEE ON EDUCATION
Al Muratsuchi, Chair
AB 723 (Quirk-Silva) – As Amended March 6, 2023

SUBJECT: Pupil placement: special education: foster children: nonpublic, nonsectarian schools or agencies: school of origin

SUMMARY: Defines “school of origin” for purposes of foster youth educational rights to remain enrolled in a school when a residential placement changes, to include non-public, nonsectarian schools (NPSs), and requires an NPS, commencing in the 2024-25 school year, to provide assurances in its application for state certification that it agrees to serve as the school of origin of a foster youth and allow these students to continue their education in the school. Specifically, **this bill:**

- 1) Defines “school of origin,” for a student in foster care who is also an individual with exceptional needs, to include an NPS, for purposes of the following rights:
 - a) The right to remain in the school of origin at the initial detention or placement, or any subsequent change in placement, for the duration of the jurisdiction of the court;
 - b) For students in grades kindergarten through 8th grade, inclusive, the right to remain in the school of origin through the end of duration of the academic year if the jurisdiction of the court is terminated before the end of an academic year; and
 - c) The right to remain in the school of origin through graduation if the jurisdiction of the court is terminated while a foster child is in high school.
- 2) Requires that an NPS seeking state certification file an application with the Superintendent of Public Instruction (SPI) which includes, commencing with the 2024-25 school year, assurances that for any pupil served by the school who is a foster child the school agrees to do both of the following:
 - a) Serve as the school of origin of the foster child, pursuant to existing law; and
 - b) Allow the foster child to continue their education in the school, pursuant to existing law.
- 3) Requires an NPS to certify the above assurances in writing to the SPI, commencing in the 2024-25 school year.

EXISTING LAW:

- 1) Defines “school of origin” to mean the school that a foster child attended when permanently housed, or the school in which the foster child was last enrolled.
- 2) If the school the foster child attended when permanently housed is different from the school in which the foster child was last enrolled, or if there is some other school that the foster child attended with which the foster child is connected and that the foster child attended within the immediately preceding 15 months, requires the educational liaison, in consultation

with, and with the agreement of, the foster child and the person holding the right to make educational decisions for the foster child, to determine, in the best interests of the foster child, the school that is deemed the school of origin.

- 3) Requires that, at the initial detention or placement of a foster child, or any subsequent change in placement of a foster child, the local educational agency (LEA) serving the foster child allow them to continue their education in the school of origin for the duration of the jurisdiction of the court.
- 4) Requires that, if the jurisdiction of the court is terminated before the end of an academic year, the LEA allow a former foster child who is in kindergarten through grade 8 to continue their education in the school of origin through the duration of the academic school year.
- 5) Requires that, if the jurisdiction of the court is terminated while a foster child is in high school, the LEA allow the former foster child to continue his or her education in the school of origin through graduation.
- 6) States the intent of the Legislature that these rights not supersede or exceed other laws governing special education services for eligible foster children.
- 7) Expresses the intent of the Legislature that the role of an NPS and a nonpublic agency (NPA) be maintained and continued as an alternative special education service available to an LEA and parents.
- 8) Requires that a master contract for NPS and NPA services specify the general administrative and financial agreements, including teacher-to-pupil ratios, between the NPS or NPA and the LEA to provide the special education and designated instruction and services, as well as transportation specified in each pupil's individualized education program (IEP). (EC 56366)
- 9) Requires the SPI, before certifying an NPS, to conduct an onsite review of the facility and program for which the applicant seeks certification.
- 10) Requires the SPI to annually review the certification of each NPS and NPA. Authorizes the SPI to conduct an onsite review as part of the annual review.

FISCAL EFFECT: Unknown

COMMENTS:

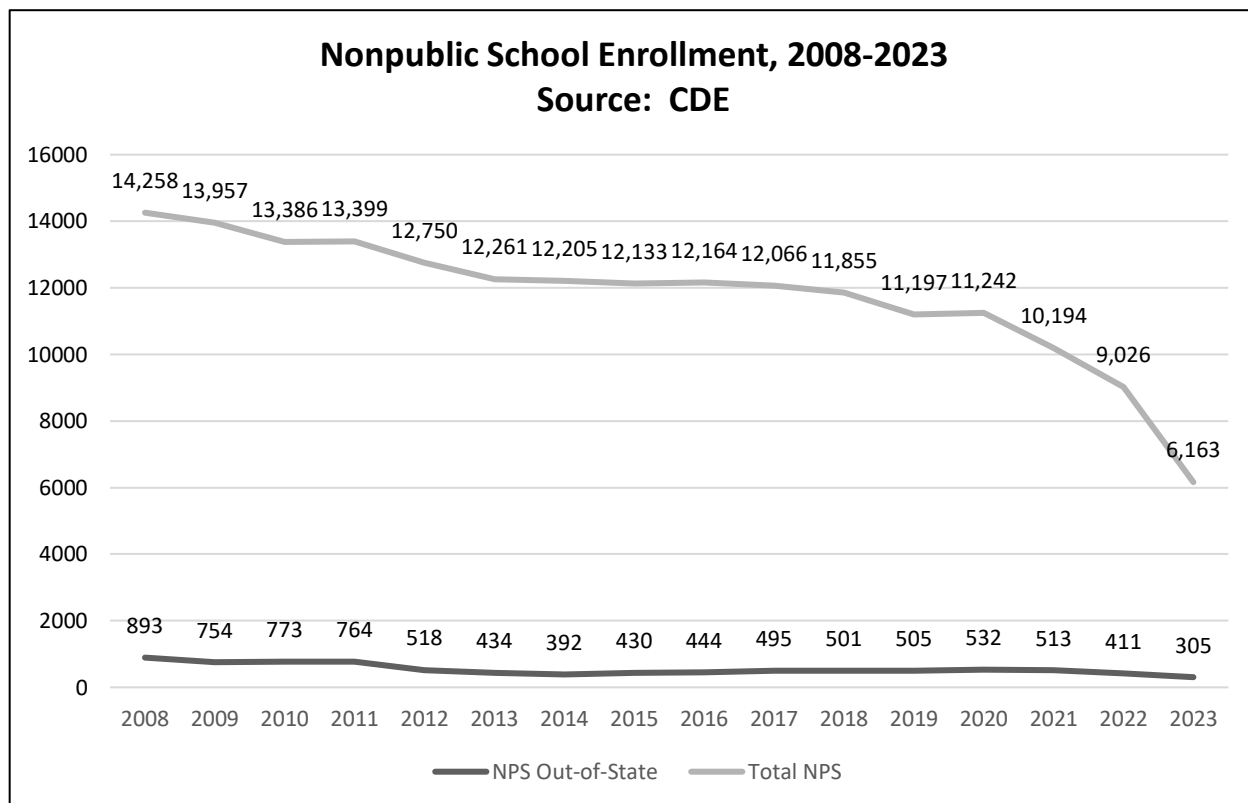
Need for the bill. The author states, "Foster youth are entitled to remain at their school of origin. Existing law is not clear that "school of origin" includes non-public schools. AB 723 ensures foster students with disabilities will have better educational outcomes by allowing them to remain at their school of origin."

Clarity needed to ensure that foster youth attending NPSs are entitled to remain in their school of origin. This bill proposes to clarify whether NPS placements are "schools of origin" for foster youth. Under current law, students in foster care have the right to remain in their school of origin when their residential placement changes. But because state law is not clear, there is sometimes confusion over whether NPSs qualify as the 'school of origin' when a student

in foster care changes their residential placement. According to Disability Rights California, some school districts have policies that explicitly carve out NPSs from the definition of ‘school of origin.’ This can lead to educational delays and disruptions. Disability Rights California notes that when a student with a disability is prohibited from remaining in their NPS of origin, they often miss school for long periods of time while their IEP teams find a new placement and execute the required contracts.

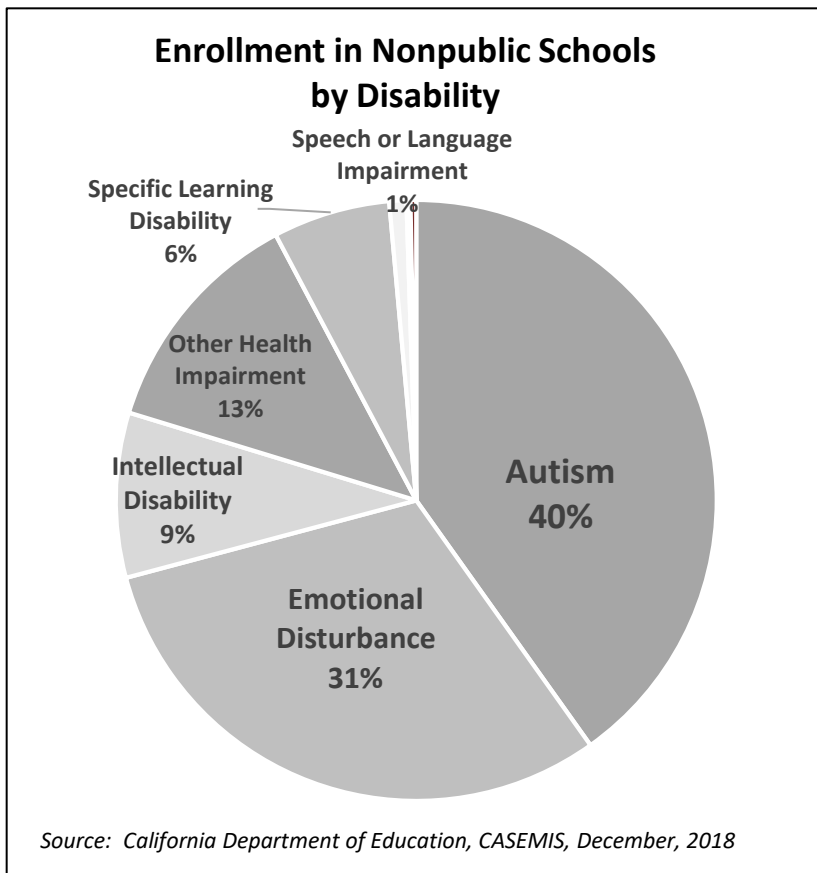
Number of students in foster care enrolled in NPSs. According to the CDE, in the 2019-20 school year, of the 54,322 students in foster care, 1,161 attended NPSs.

Non-public schools in California. California's non-public, non-sectarian schools are specialized private schools that provide services to public school students with disabilities. They are defined in statute as private, non-sectarian schools that enroll individuals with exceptional needs pursuant to an IEP. The tuition of a student in a non-public school is paid by the public LEA that places the student in the school. Each NPS is certified by the CDE.



According to the CDE, 202 in-state and 47 out-of-state NPS served 5,858 and 305 students respectively during the 2022-23 school year. As shown in the table below, as of 2018, 40% of students served by NPSs are identified as being on the Autism spectrum. The next largest group by disability are the students who are identified as having emotional disturbance, at 31%.

Trends in NPS enrollment. According to the CDE, and as illustrated in the graph above, enrollment in NPS has been declining precipitously. Enrollment declined from 14,258 in 2008 to 6,163 in 2023. Out-of-state enrollment has declined significantly, from 893 in 2008 to 305 in 2023.

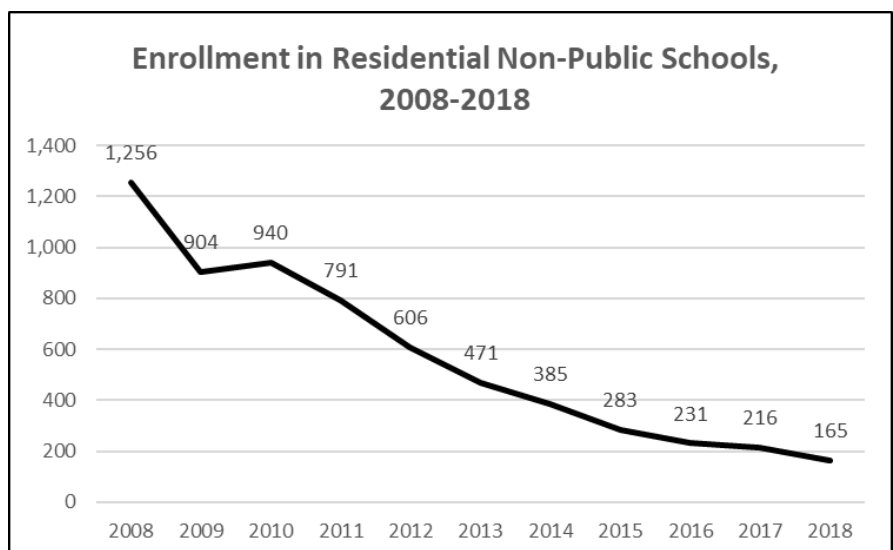


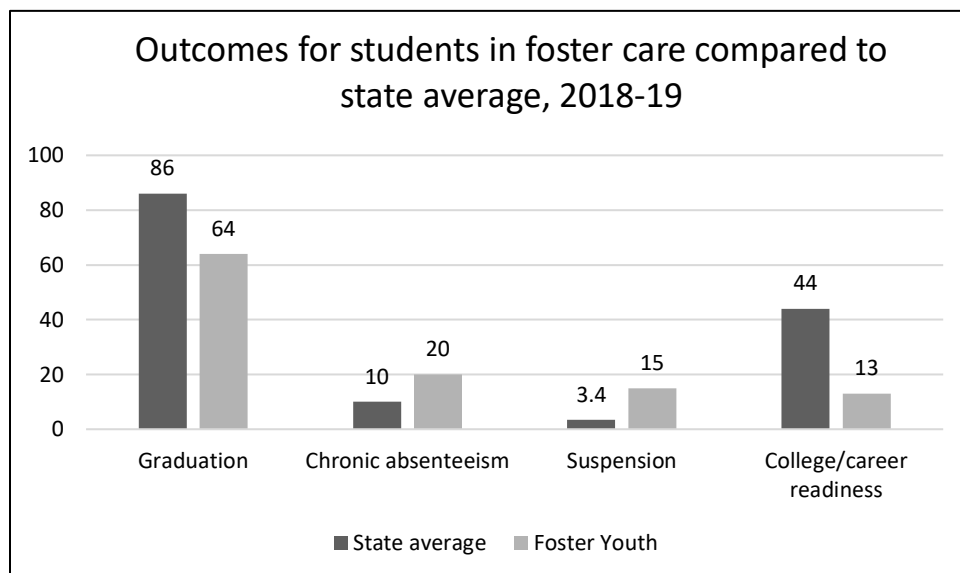
The decline in NPS residential enrollment has also been particularly steep. As shown in the graph on this page (data provided by CDE) enrollment in residential NPSs has declined by 87% between 2008 and 2018, from 1,256 to 165 students. This decline is likely due to Continuum of Care reforms which have reduced the use of licensed children’s institutions to serve students in foster care, to which many residential NPS were attached.

Data show achievement gap between students in foster care and their peers. Data from the CDE show a significant achievement gap between students in foster care and statewide averages. In addition to the gaps in graduation, absenteeism, suspension, and

college/career readiness shown in the chart below, data from the state summative assessment in English language arts and mathematics show:

- On the 2019 administration of the California Assessment of Student Performance and Progress (CAASPP) test of English language arts, 24% of students in foster care scored at “met standard” or above, compared to 51% of all students.
- On the 2019 administration of the CAASPP test of mathematics, 15% of students in foster care scored at “met standard” or above, compared to 40% of all students.





Effect of mobility on academic outcomes. This bill aims to reduce disruption caused by changes in educational placement for students in foster care with disabilities. Numerous studies indicate that student mobility is associated with poor educational

outcomes. One meta-analysis (Mehana, 2004) on the effects of school mobility on reading and math achievement in the elementary grades found the equivalent of a 3–4 month performance disadvantage in achievement. Another study (Reynolds, 2009) found that frequent mobility was associated with significantly lower reading and math achievement by up to a third of a standard deviation, and that students who moved three or more times had rates of school dropout that was nearly one-third of a standard deviation higher than those who were school-stable. One longitudinal study (Temple, 1999) found that half of the one year difference between mobile and non-mobile students could be attributed to mobility, and that it is “frequent, rather than occasional, mobility that significantly increases the risk of underachievement.” And another longitudinal study (Herbers, 2014) found that students who experience more school changes between kindergarten and twelfth grade are less likely to complete high school on time, complete fewer years of school, and attain lower levels of occupational prestige, even when controlling for poverty. Results of this study indicated more negative outcomes associated with moves later in the grade school career, particularly between fourth and eighth grade.

Arguments in support. The California CASA Association writes, “Children and youth in foster care have the right to stay in their school of origin after moving to a new placement to promote school stability and improve educational outcomes. A disproportionate number of foster youth attend NPSs, which serve students with disabilities whose IEP teams have determined that there is no appropriate public education program available to meet their unique needs. AB 723 would clarify state law so that there is no confusion over whether NPSs qualify as the “school of origin” when a foster youth moves.”

Related legislation. AB 2475 (Quirk Silva) of the 2021-22 Session was substantially similar to this bill. AB 2475 was held in the Assembly Appropriations Committee.

SB 532 (Caballero) Chapter 918, Statutes of 2022, expands the rights for foster youth, homeless youth, former juvenile court school students, children of military families, migratory children, and students participating in a newcomer program (highly mobile students) to be exempted from local graduation requirements if certain conditions are met; requires LEAs to provide these students the option to remain in school for a fifth year to complete the statewide coursework requirements if certain conditions are met; specifies the contents of transcripts when transferred to a new LEA; and requires LEAs to annually report to the CDE on the number of students, who

in the prior school year, graduated with an exemption from the LEA's local graduation requirements.

AB 1055 (Ramos), Chapter 237, Statutes of 2021, revises the definition of students in foster care for purposes of the Local Control Funding Formula (LCFF) and for purposes of specified educational rights of students in foster care, including the right to remain in the school of origin, to include those students subject to a voluntary placement agreement and by eliminating the requirement that a dependent child of the court of an Indian tribe also meet the definition of a dependent child of a county court.

AB 150 (Cooper) of the 2019-20 Session would have required that, when a student in foster care and other specified students leave an LEA, the student be issued partial credit for coursework satisfactorily completed, requires that the new LEA contact the prior school to request that the students' full or partial credits be delivered on a transcript, and requires that partial credit earned in a prior school be accepted as credit in the subject in which the coursework was taken. This bill was held in the Senate Education Committee.

AB 2949 (Gloria), Chapter 327, Statutes of 2018, requires that a student who is the child of a military family be allowed to remain in his or her school of origin, and to matriculate with his or her peers in accordance with the established feeder patterns of school districts.

AB 1172 (Frazier), Chapter 454, Statutes of 2019, requires that LEAs that send students to NPSs conduct on-site monitoring visits; requires that NPSs notify the CDE of any student-involved incident in which law enforcement is contacted; requires the CDE, if an investigation conducted by the CDE results in a finding that pupil health or safety has been compromised, to immediately suspend or revoke the school's certification; requires that an NPS serving students with significant behavioral needs to have an individual on site who is qualified to implement behavior interventions, requires that administrators of NPSs hold or be working toward specified credentials or licenses; and requires that NPSs train specified staff in evidence-based practices and interventions specific to students' unique behavioral needs.

REGISTERED SUPPORT / OPPOSITION:

Support

Educate. Advocate.

Opposition

None on file

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