

- f) A student residing in a state hospital located within the boundaries of that school district. (EC § 48204) Existing law 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. (EC § 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) 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)
- 6) 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)
- 7) Requires a school district to accept from the parent or legal guardian reasonable evidence that the student meets the residency requirements for school attendance in the school district, and requires reasonable evidence of residency to be established by documentation, as specified. (EC § 48204.1)
- 8) Requires the governing board of a school district that elects to undertake an investigation to determine whether a student meets the residency requirements to adopt a policy, as specified, before investigating any students. (EC § 48204.2)
- 9) 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

- 10) 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. Existing law requires

the agreement to stipulate the terms and conditions under which interdistrict attendance shall be permitted or denied. (EC § 46600)

- 11) 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)
- 12) Prohibits a school district of residence, regardless of whether an agreement exists or a permit is issued pursuant to this section, from denying the transfer of a student who is a child of an active military duty parent if the receiving school district approves the application for transfer. (EC § 46600)
- 13) Provides for a process to appeal a request for an interdistrict transfer. (EC § 46601)
- 14) 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)

District of choice

- 15) Authorizes a school district to elect to operate the school district as a school district of choice and accept transfers from school districts of residence. Existing law requires the governing board to determine and adopt the number of transfers it is willing to accept, and accept all students who apply to transfer until the school district is at maximum capacity. (EC § 48301)
- 16) Existing law requires the school district of choice to ensure that students are selected through an unbiased process that prohibits an inquiry into or evaluation or consideration of whether or not a student should be enrolled based upon his or her academic or athletic performance, physical condition, proficiency in English, any of the individual characteristics, and family income (except for determining priority for students who are eligible for free- or reduced-price meals. (EC § 48301)
- 17) Prohibits the school district of choice from denying a transfer based upon a determination that the additional cost of educating the student would exceed the amount of additional state aid received as a result of the transfer. Existing law authorizes a school district to reject the transfer if it would require the district to create a new program to serve that student, except that a school district of choice is prohibited from rejecting the transfer of a student with exceptional needs and an English learner. (EC § 48303)

- 18) Prohibits an application for transfer from being approved if the transfer would require the displacement of any other student who resides within that attendance area or is currently enrolled in that school. (EC § 48304)
- 19) Requires a district of choice to offer the following priorities for enrollment:
 - a) First priority is for siblings of children already in attendance in that district.
 - b) Second priority is for students who are eligible for free- or reduced-price meals.
 - c) Third priority is for children of military personnel. (EC § 48306)
- 20) Provides for a process of application, notification to the parents whether the application has been accepted or rejected, and notification to the school district of residence if an application has been accepted. (EC § 48308)
- 21) Authorizes a district of choice to provide transportation, to the extent that the school district otherwise provides transportation assistance to students. (EC § 48311)
- 22) Requires each school district of choice to keep an accounting of all requests made for transfers and records of all disposition of those requests and must include all of the following:
 - a) The number of requests granted, denied, or withdrawn. In the case of denied requests, the records must indicate the reasons for the denials.
 - b) The number of students transferred out of the school district of choice.
 - c) The number of students transferred into the school district of choice.
 - d) The race, ethnicity, gender, self-reported socioeconomic status, eligibility for free- or reduced-price meals, and the school district of residence of each of the students who transfer in or out of the district of choice.
 - e) The number of students who are classified as English learners or identified as individuals with exceptional needs. (EC § 48313)
- 23) Requires the Legislative Analyst to conduct a comprehensive evaluation of the district of choice program and prepare recommendations regarding the extension of the program. Existing law requires the evaluation to incorporate the data described in #22 and be completed and submitted by January 31, 2021, along with the recommendations regarding extension of the program and recommendations regarding implementation of the program to ensure access to the program for all students. (EC § 48316)
- 24) Sunsets the District of Choice program on July 1, 2023. (EC § 48315)

Open enrollment

- 25) Provides that the purpose of the Open Enrollment Act is to improve student achievement, in accordance with the regulations and guidelines for the federal Race to the Top Fund, and to enhance parental choice in education by providing additional options to students to enroll in public schools throughout the state without regard to the residence of their parents. (EC § 48351)
- 26) Authorizes the parent of a student who is enrolled in a low-achieving school to submit an application for the student to attend a school in a school district of enrollment. Existing law requires a school district of enrollment, in order to provide priority enrollment opportunities for students residing in the school district, to establish a period of time for resident student enrollment prior to accepting transfer applications. (EC § 48354)
- 27) Defines “low-achieving school” as any school identified by the Superintendent pursuant to the following:
 - a) The Superintendent annually shall create a list of 1,000 schools ranked by increasing Academic Performance Index with the same ratio of elementary, middle, and high schools as existed in decile 1 in the 2008–09 school year.
 - b) In constructing the list of 1,000 schools each year, the Superintendent shall ensure each of the following:
 - i) A local educational agency (LEA) shall not have more than 10 percent of its schools on the list. However, if the number of schools in a LEA is not evenly divisible by 10, the Superintendent shall round up to the next whole number of schools.
 - ii) Court, community, or community day schools shall not be included on the list.
 - iii) Charter schools shall not be included on the list. (EC § 48352)
- 28) Authorizes the school district of residence or a receiving school district to prohibit the transfer of the student or limit the number of pupils who transfer if the district determines that the transfer would negatively impact either of the following:
 - a) A court-ordered or voluntary desegregation plan of the district.
 - b) The racial and ethnic balance of the district, provided that any policy is consistent with federal and state law. (EC § 48355)
- 29) Authorizes a receiving school district to adopt specific, written standards for acceptance and rejection of applications, and authorizes the standards to include consideration of the capacity of a program, class, grade level, school building, or adverse financial impact. (EC § 48356)

ANALYSIS

This bill deletes residency requirements and specifically authorizes K-12 students to attend any school in the state. Specifically, this bill:

- 1) Requires a person subject to compulsory education to be admitted to a school in any school district without regard to residency or school district boundaries.
- 2) Prohibits a school district from restricting students residing *within* the school district's boundaries from enrollment in a school in another district.
- 3) Prohibits a school district from restricting students residing *outside* the school district's boundaries from enrollment in a school in the district, except if the governing board makes a finding that it is necessary to restrict enrollment for any of the following reasons:
 - a) The financial health of the school district.
 - b) The quality of the education provided to students.
 - c) The need to avoid overcrowding, in light of the available space in the school district.
 - d) Compliance with a court-ordered or voluntary desegregation plan of the school district.
 - e) Compliance with federal law.
- 4) Requires a school district that restricts enrollment to give priority for admission to students who reside in the school district, children of military families, foster youth, and children living in poverty, as determined by the Superintendent of Public Instruction.
- 5) Prohibits a restriction from applying for a period longer than two years unless the governing board of the school district takes additional action to continue the restriction.
- 6) Deletes the requirement that students subject to compulsory education laws attend the school district in which the residency of either the parent or legal guardian is located.
- 7) Deletes provisions related to:
 - a) Interdistrict attendance and related computations.
 - b) Residency requirements.
 - c) District of choice.

- d) Open enrollment.
- 8) Makes conforming changes to the local control funding formula and apportionment provisions related to basic aid school districts and credit for average daily attendance for student attendance in another district.
- 9) Prohibits anything in this bill from abrogating any contract existing between any school district on the effective date of this bill. This bill requires that any contractual provision in any contract in effect on the effective date of this bill to prevail over any conflicting provision in this bill until the termination date of the contract, or upon termination by mutual agreement of the parties, whichever occurs first.
- 10) States legislative findings and declarations relative to the need for greater school choice.

STAFF COMMENTS

- 1) ***Need for this bill.*** According to the author, “If a child resides within a school district’s boundaries they are required to attend a school in that district. Current law requires the governing boards of school districts to enter into an agreement for the interdistrict attendance of pupils who are residents of the school districts. This request may be declined at the discretion of governing members. The purpose of this bill is to give parents more choice as to where the child receives elementary and secondary education. There are currently over 6.2 million K-12 students in over 1,000 school districts. A 2016 Legislative Analyst’s Office report found that 47 of those districts participated in the District of Choice Program, serving 10,000 transfer students. This program allows for interdistrict transfers. While the program does not serve the entirety of California, it has continued to provide additional educational options and improved district programs. SB 1368 gives parents the freedom to choose what they believe are the best options for their children.”
- 2) ***Existing school choice options.*** Existing law provides the following public school options:
 - a) ***Charter Schools.*** There are over 1,000 public charter schools in the state that provide instruction in any combination of grades kindergarten through grade 12. Parents, teachers, or community members may initiate a charter petition, which include the specific goals and operating procedures for the charter school. While most charter schools offer traditional, classroom-based instruction, about 20 percent offer some form of independent study, such as distance learning or home study.
 - b) ***Magnet Schools.*** Magnet schools are designed by local authorities 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 one or more magnets are established at a particular school, students from across the district may select the magnet subject to available space.

- c) *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. DOC may not use a selective admissions process. Transfer students generally do not need the consent of their home districts.
- d) *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.
- e) *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.
- f) *The Open Enrollment Act.* This option, for low-performing schools, 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 generally do not need the consent of their home districts.

Beyond the public school options, about 7.5 percent of California students are enrolled in private schools, a proportion that has gradually dropped over the past two decades from about 10 percent.

- 3) ***Local control funding formula.*** In 2013, the Local Control Funding Formula (LCFF) was enacted. The LCFF establishes per-pupil funding targets, with adjustments for different student grade levels, and includes supplemental funding for local educational agencies (LEAs) serving students who are low-income, English learners, or foster youth. The LCFF replaced almost all sources of state funding for LEAs, including most categorical programs, with general purpose funding including few spending restrictions.

The establishment of a statewide open enrollment system does not square with the principles of the LCFF, which targets additional resources to the communities with the highest proportions of English-learning, low-income, and foster youth students. The author notes that his companion measures, SB 1344 and SCA 16 (create statewide school voucher program), would address those concerns.

- 4) ***Special Education Local Plan Areas (SELPA).*** In 1977, all school districts and county school offices in California were required to form geographical regions of sufficient size and scope to provide for all special education service

needs of children residing within the region's boundaries. Each region became known as a special education local plan area (SELPA); there are currently over 120 SELPAs in California. The governance structure of each SELPA varies: some are comprised of a single school district, some are multi-district or multi-county, and charter-only SELPAs. The SELPA and its member schools coordinate to ensure appropriate education services for students with exceptional needs by working cooperatively with other public and private agencies to support a full complement of special education services for students. It is unclear how the SELPA structure would function under the provisions of this bill.

- 5) ***How would low-income families be affected?*** According to a 2016 report on the District of Choice Program completed by the Legislative Analyst's Office, 27 percent of participating transfer students come from low-income families; the demographics of transfer students are 35 percent white, 32 percent Hispanic or Latino, 24 percent Asian, and 9 percent other groups. These percentages are similar to the average for all students attending Districts of Choice. Transfer students are, however, less likely to be low income or Hispanic than the students attending their home districts. While this bill requires a school district that restricts enrollment to give priority for admission to children living in poverty, among others, this bill does not provide for the transportation of students to schools outside of their district of residence (none of the transfer or school choice option require transportation to be provided). The result could be that low-income students would not benefit from this bill, and thus remain in a school district that has declining resources from losing students to other school districts.
- 6) ***Exceptions to fully open enrollment.*** This bill authorizes a school district to restrict the enrollment of students who reside *outside* of the receiving district if it makes a finding that it is necessary to restrict enrollment due to the financial health of the school district, the quality of the education provided to students, the need to avoid overcrowding, in light of the available space in the school district, or compliance with a court-ordered or voluntary desegregation plan of the school district or federal law. This bill does not provide criteria or guidance to ensure school districts are making these determinations uniformly.
- 7) ***Priority for enrollment.*** This bill requires a school district that restricts enrollment to give priority for admission to students who reside in the school district, children of military families, foster youth, and children living in poverty, as determined by the Superintendent of Public Instruction (SPI). It is unclear how the SPI will make such case-by-case determinations.

Existing law deems a student as a resident of a school district if the parent or legal guardian resides outside of the district boundaries 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. Existing law also deems a student as a resident 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. Pursuant to this bill, those students would not be considered as residing in the school district, and therefore would not be granted priority for enrollment.

- 8) **Related legislation.** SB 1344 (Moorlach) establishes the Education Savings Account Act of 2020 and restricts the University of California (UC) and California State University (CSU) from admitting nonresident students, as specified, only if a Senate Constitutional Amendment is approved as part of the November 2018 election. SB 1344 is scheduled to be heard by the Senate Education Committee on April 4, 2018.

SCA 16 (Moorlach) proposes to amend Article IX of the State Constitution to: (1) allow the state to disburse funds and other public benefits to educational institutions irrespective of their religious affiliation, and (2) add admissions priority for California residents to the controls afforded to the Legislature over the UC and CSU. SCA 16 is scheduled to be heard by the Senate Education Committee on April 4, 2018.

AB 2826 (Friedman) among other things, requires each school district of residence and school district of enrollment to post on its website the procedures and timelines, including a link to the policy of the governing board of the school district, regarding a request for an interdistrict transfer permit, as specified. AB 2826 is pending in the Assembly Education Committee.

AB 3086 (Kiley) prohibits a school district of residence from prohibiting the transfer to another school district if the school district of proposed enrollment approves the application and the student is or has been homeless, is or has been migratory, a foster youth, victim of bullying, or child of an active military duty parent. AB 3086 is pending in the Assembly Education Committee.

SUPPORT

Choice2020

OPPOSITION

California Federation of Teachers
California School Boards Association

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