



**AB-2826 Pupil enrollment: interdistrict attendance.** (2017-2018)

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## Assembly Bill No. 2826

### CHAPTER 550

An act to amend Sections 46600, 46601, 46602, and 46603 of, and to add Sections 46600.1 and 46600.2 to, the Education Code, relating to pupil enrollment.

[ Approved by Governor September 19, 2018. Filed with Secretary of State September 19, 2018. ]

### LEGISLATIVE COUNSEL'S DIGEST

AB 2826, Friedman. Pupil enrollment: interdistrict attendance.

Existing law authorizes the governing boards of 2 or more school districts to enter into an agreement, for a term not to exceed 5 school years, for the interdistrict attendance of pupils who are residents of the school districts. Existing law requires the agreement to stipulate the terms and conditions under which interdistrict attendance shall be permitted or denied. Existing law authorizes the person having legal custody of the pupil to appeal, within 30 calendar days of the failure or refusal to issue a permit or to enter into an agreement allowing the attendance, to the county board of education having jurisdiction over the school district of residence. Existing law also authorizes the governing board of a school district to provisionally admit a pupil who resides in another school district, pending a decision of the governing boards of the two school districts, or by the county board of education upon appeal, regarding the interdistrict attendance.

This bill would require each school district of residence and school district of proposed enrollment to post on its Internet Web site the procedures and timelines regarding a request for an interdistrict transfer permit, including, among other things, the date upon which the school district will begin accepting and processing interdistrict transfer requests for the subsequent school year and the reasons for which the school district may approve or deny a request. The bill would require a school district to notify a parent submitting a current year request of its final decision within 30 calendar days from the date the request was received, and would require a school district to notify a parent submitting a future year request of its final decision as soon as possible, but no later than 14 calendar days after the commencement of instruction in the school year for which interdistrict transfer is sought. The bill would require 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.

The bill would make a pupil eligible for provisional admission to a school district of proposed enrollment only upon providing reasonable evidence that a final decision for a request for interdistrict transfer is pending either with the school district of residence, the school district of proposed enrollment, or the county board of education. The bill would also make various nonsubstantive changes to these provisions.

This bill would incorporate additional changes to Section 46600 of the Education Code proposed by AB 3086 to be operative only if this bill and AB 3086 are enacted and this bill is enacted last.

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

**SECTION 1.** Section 46600 of the Education Code is amended to read:

**46600.** (a) (1) The governing boards of two or more school districts may 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 of proposed enrollment that is a party to the agreement and that maintains schools and classes in transitional kindergarten, kindergarten, or any of grades 1 to 12, inclusive, to which the pupil requests admission. Once a pupil in transitional kindergarten, kindergarten, or any of grades 1 to 12, inclusive, is enrolled in a school pursuant to this chapter, the pupil shall not have to reapply for an interdistrict transfer, and the governing board of the school district of enrollment shall allow the pupil to continue to attend the school in which he or she is enrolled, except as specified in paragraphs (2) and (4).

(2) The agreement shall stipulate the terms and conditions under which interdistrict attendance shall be permitted or denied. The agreement may contain standards for reapplication agreed to by the school district of residence and the school district of enrollment that differ from the requirements prescribed by paragraph (1). 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) The designee of the superintendent of the school district of residence shall issue an individual permit verifying the school district's approval, pursuant to policies of the governing board of the school district and terms of the agreement for the transfer. A permit shall be valid upon concurring endorsement by the designee of the governing board of the school district of proposed enrollment. The stipulation of the terms and conditions under which the permit may be revoked is the responsibility of the school district of enrollment.

(4) Notwithstanding paragraph (2), a school district of residence or school district of enrollment shall not rescind existing transfer permits for pupils after June 30 following the completion of grade 10, or for pupils in grade 11 or 12.

(b) A pupil who has been determined by personnel of either the school district of residence or the school district of proposed enrollment to have been the victim of an act of bullying, as defined in subdivision (r) of Section 48900, committed by a pupil of the school district of residence shall, at the request of the parent, be given priority for interdistrict attendance.

(c) In addition to the requirements of subdivision (e) of Section 48915.1, and regardless of whether an agreement exists or a permit is issued pursuant to this section, any school district may admit a pupil expelled from another school district in which the pupil continues to reside.

(d) (1) Notwithstanding any other law, and regardless of whether an agreement exists or a permit is issued pursuant to this section, a school district of residence shall not prohibit the transfer of a pupil who is a child of an active military duty parent to a school district of proposed enrollment if the school district of proposed enrollment approves the application for transfer.

(2) For purposes of this subdivision, "active military duty parent" means a parent with full-time military duty status in the active uniformed service of the United States, including members of the National Guard and the State Military Reserve on active duty orders pursuant to Chapter 1209 (commencing with Section 12301) and Chapter 1211 (commencing with Section 12401) of Part II of Subtitle E of Title 10 of the United States Code.

**SEC. 1.5.** Section 46600 of the Education Code is amended to read:

**46600.** (a) (1) The governing boards of two or more school districts may 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 of proposed enrollment that is a party to the agreement and that maintains schools and classes in transitional kindergarten, kindergarten, or any of grades 1 to 12, inclusive, to which the pupil requests admission. Once a pupil in transitional kindergarten, kindergarten, or any of grades 1 to 12, inclusive, is enrolled in a school pursuant to this chapter, the pupil shall not have to reapply for an interdistrict transfer, and the governing board of the school district of enrollment shall allow the pupil to continue to attend the school in which he or she is enrolled, except as specified in paragraphs (2) and (4).

(2) The agreement shall stipulate the terms and conditions under which interdistrict attendance shall be permitted or denied. The agreement may contain standards for reapplication agreed to by the school district of residence and the school district of enrollment that differ from the requirements prescribed by paragraph (1). 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) The designee of the superintendent of the school district of residence shall issue an individual permit verifying the school district's approval, pursuant to policies of the governing board of the school district and terms of the agreement for the transfer. A permit shall be valid upon concurring endorsement by the designee of the governing board of the school district of proposed enrollment. The stipulation of the terms and conditions under which the permit may be revoked is the responsibility of the school district of enrollment.

(4) Notwithstanding paragraph (2), a school district of residence or school district of enrollment shall not rescind existing transfer permits for pupils after June 30 following the completion of grade 10, or for pupils in grade 11 or 12.

(b) A pupil who has been determined by personnel of either the school district of residence or the school district of proposed enrollment to have been the victim of an act of bullying, as defined in subdivision (r) of Section 48900, committed by a pupil of the school district of residence shall, at the request of the parent, be given priority for interdistrict attendance.

(c) In addition to the requirements of subdivision (e) of Section 48915.1, and regardless of whether an agreement exists or a permit is issued pursuant to this section, any school district may admit a pupil expelled from another school district in which the pupil continues to reside.

(d) (1) Notwithstanding any other law, and regardless of whether an agreement exists or a permit is issued pursuant to this section, 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 McKinney-Vento Homeless Assistance Act (42 U.S.C. Sec. 11434a(2)).

(B) A currently migratory child or former migratory child, as those terms are defined in Section 54441.

(C) A foster youth.

(D) A victim of an act of bullying.

(E) A child of an active military duty parent.

(2) A school district of proposed enrollment that elects to accept an interdistrict transfer pursuant to this subdivision shall accept all pupils who apply to transfer under this subdivision until the school district is at maximum capacity and shall ensure that pupils admitted under this subdivision 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 his or her 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.

(3) (A) For purposes of this subdivision, "active military duty parent" means a parent with full-time military duty status in the active uniformed service of the United States, including members of the National Guard and the State Military Reserve on active duty orders pursuant to Chapter 1209 (commencing with Section 12301) and Chapter 1211 (commencing with Section 12401) of Part II of Subtitle E of Title 10 of the United States Code.

(B) For purposes of this subdivision, a "victim of an act of bullying" means a pupil that has been determined to have been a victim of bullying by an investigation pursuant to the complaint process described in Section 234.1 and the bullying was committed 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.

(4) (A) Upon request of the parent or guardian on behalf of a pupil eligible for transfer pursuant to this subdivision, a school district of enrollment shall provide transportation assistance to a pupil who is eligible for free or reduced-price meals.

(B) A school district of enrollment may provide transportation assistance to any pupil admitted under this subdivision.

(C) It is the intent of the Legislature that the amount of transportation assistance provided to a pupil pursuant to subparagraph (A) or (B) not exceed the supplemental grant received, if any, for the pupil pursuant to subdivision (e) of Section 42238.02.

**SEC. 2.** Section 46600.1 is added to the Education Code, to read:

**46600.1.** For purposes of this chapter, the following terms have the following meanings:

(a) "Class 1 county" and "class 2 county" have the same meanings as defined in subdivision (e) of Section 48919.5.

(b) "County board of education" means the county board that has jurisdiction over the school district denying the permit.

(c) "Current year request" means a request for interdistrict transfer received beginning 15 calendar days before the commencement of instruction in the school year for which interdistrict transfer is sought.

(d) (1) For purposes of appealing to the county board of education, a "denial" includes a school district's failure to provide written notification of the school district's decision within the timelines prescribed in this chapter.

(2) A "denial" shall not include any of the following:

(A) A request that has been deemed abandoned, as described in paragraph (4) of subdivision (a) of Section 46600.2.

(B) An existing interdistrict transfer permit that has been revoked or rescinded in accordance with the policy of the governing board of the school district.

(C) A denial by the school district of proposed enrollment when no permit has been first issued by the school district of residence.

(e) "Future year request" means a request for interdistrict transfer received up until 15 calendar days before the commencement of instruction in the school year for which interdistrict transfer is sought.

(f) "Parent" means the natural or adoptive parent or guardian, the person having legal custody, or other educational rights holder.

(g) "School district of proposed enrollment" means a school district other than the school district in which the parent of a pupil resides, but in which the parent of the pupil nevertheless intends to enroll the pupil pursuant to this chapter.

(h) "School district of residence" means a school district in which the parent of a pupil resides and in which the pupil would otherwise be required to enroll pursuant to the compulsory education requirements as specified in Section 48200.

**SEC. 3.** Section 46600.2 is added to the Education Code, to read:

**46600.2.** (a) Each school district of residence and school district of proposed enrollment shall post on its Internet Web site 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 in a manner that is accessible to the public without a password. The information posted on the Internet Web site shall include, but need not be limited to, all of the following:

(1) The date upon which the school district will begin accepting and processing interdistrict transfer requests for the subsequent school year.

(2) The reasons for which the school district may approve or deny a request, and any information or documents that must be submitted as supporting evidence.

(3) If applicable, the process and timelines by which a denial of a request may be appealed within the school district before the school district renders a final decision.

(4) That failure of the parent to meet any timelines established by the school district shall be deemed an abandonment of the request.

(5) Applicable timelines for processing a request, including statements that the school district shall do both of the following:

(A) Notify a parent submitting a current year request, as defined in Section 46600.1, of its final decision within 30 calendar days from the date the request was received.

(B) Notify a parent submitting a future year request, as defined in Section 46600.1, of its final decision as soon as possible, but no later than 14 calendar days after the commencement of instruction in the school year for which interdistrict transfer is sought.

(6) The conditions under which an existing interdistrict transfer permit may be revoked or rescinded.

(b) A school district that denies a request for an interdistrict transfer shall 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.

(c) Any written notice to parents regarding a school district's decision on a request for interdistrict transfer shall conform to the translation requirements of Section 48985 and may be provided using any of the following methods:

(1) Regular mail.

(2) Electronic format, if the parent provides an email address.

(3) By any other method normally used to communicate with parents in writing.

**SEC. 4.** Section 46601 of the Education Code is amended to read:

**46601.** (a) A parent may appeal a school district's decision regarding a request for interdistrict transfer, within 30 calendar days of the date of the school district's final denial, to the county board of education.

(b) (1) Failure by the parent to appeal within the required time is good cause for rejection of an appeal. An appeal shall be accepted only upon verification by the county board of education's designee that appeals within the school districts have been exhausted within the timelines provided pursuant to Section 46600.2. If new evidence or grounds for the request are introduced, the county board of education may remand the matter for further consideration by the school district or districts. In all other cases, the appeal shall be granted or denied on its merits.

(2) (A) (i) The county board of education shall, unless clause (ii) or clause (iii) applies, within 30 calendar days after the appeal is filed, determine whether the pupil should be permitted to attend the school district of proposed enrollment and the applicable period of attendance.

(ii) Until July 1, 2023, the county board of education in a class 1 county shall, within 60 calendar days after the appeal is filed, determine whether the pupil should be permitted to attend the school district of proposed enrollment and the applicable period of attendance.

(iii) Until July 1, 2019, the county board of education in a class 2 county shall, within 45 calendar days after the appeal is filed, determine whether the pupil should be permitted to attend the school district of proposed enrollment and the applicable period of attendance.

(B) In the event that compliance by the county board of education within the time requirement for determining whether the pupil should be permitted to attend the school district of proposed enrollment is impractical, the county board of education or the county superintendent of schools, for good cause, may extend the time period for up to an additional five schooldays. The county board of education shall provide adequate notice to all parties of the date and time of any hearing scheduled and of the opportunity to submit written statements and documentation and to be heard on the matter pursuant to rules and regulations adopted by the county board of education in accordance with this chapter. The county board of education's rules may provide for the granting of continuances upon a showing of good cause. The county board of education shall render a decision within three schooldays of any hearing conducted by the county board of education unless the parent requests a postponement.

(C) In a class 1 or class 2 county, the county board of education's rules may provide for any hearing pursuant to this section to be conducted by a hearing officer pursuant to Chapter 14 (commencing with Section 27720) of Part 3 of Division 2 of Title 3 of the Government Code, or by an impartial administrative panel of three or more certificated persons appointed by the county board of education. Section 27722 of the Government Code applies to a hearing by an impartial administrative panel and, for purposes of this section, the term "hearing officer" in Section 27722 of the Government Code includes an impartial administrative panel. A member of the impartial administrative panel shall not be a member of the county board of education, nor be employed by the school district of residence or the school district of proposed enrollment.

(D) If the hearing officer is not authorized to decide whether the pupil should be permitted to attend in the school district of proposed enrollment, the county board of education, within 10 calendar days of receiving the recommended decision pursuant to subdivision (b) of Section 27722 of the Government Code, shall render a decision.

(3) The designee of the county superintendent of schools shall investigate to determine whether local remedies in the matter have been exhausted and to provide any additional information deemed useful to the county board of education in reaching a decision.

(4) Pupils who are under consideration for expulsion, or who have been expelled pursuant to Sections 48915 and 48918, may not appeal interdistrict attendance denials or rescissions while expulsion proceedings are pending, or during the term of the expulsion.

**SEC. 5.** Section 46602 of the Education Code is amended to read:

**46602.** (a) If the county board of education determines that the pupil should be permitted to attend the school district of proposed enrollment, the pupil shall be admitted to school in the school district without delay and the attendance may be counted by the school district of enrollment for state apportionment purposes.

(b) Written notice of the decision by the county board of education shall be delivered to the parent and to the governing boards of the school districts. Notice shall conform to the requirements of Section 48985 and may be provided using any of the following methods:

(1) Regular mail.

(2) Electronic format, if the parent provides an email address.

(3) By any other method normally used to communicate with parents in writing.

**SEC. 6.** Section 46603 of the Education Code is amended to read:

**46603.** (a) (1) For a period not to exceed two school months, the governing board of a school district of proposed enrollment may provisionally admit to the schools of the school district a pupil who resides in another school district, pending a decision of the governing boards of the two school districts, or by the county board of education upon appeal, regarding the interdistrict attendance. A pupil shall be eligible for provisional attendance only upon providing reasonable evidence that a final decision for a request for interdistrict transfer is pending either with the school district of residence, the school district of proposed enrollment, or the county board of education.

(2) The period of provisional attendance begins on the first day of the pupil's attendance in the school.

(3) If a decision by the school districts or the county board of education has not been rendered by the conclusion of two school months, and the school districts or the county board of education are still operating within the prescribed timelines, the pupil shall not be allowed to continue attendance at the school district of proposed enrollment. The pupil is subject to compulsory full-time education pursuant to Section 48200 and shall enroll in the school district of residence or in another educational program.

(4) Provisional attendance shall not guarantee that a school district or county board of education will approve a request for interdistrict transfer.

(b) Regardless of whether the decision on interdistrict attendance is allowed, the provisional attendance may be counted by the school district of proposed enrollment for state apportionment purposes.

**SEC. 7.** Section 1.5 of this bill incorporates amendments to Section 46600 of the Education Code proposed by both this bill and Assembly Bill 3086. That section shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2019, (2) each bill amends Section 46600 of the Education Code, and (3) this bill is enacted after Assembly Bill 3086, in which case Section 1 of this bill shall not become operative.