
SENATE COMMITTEE ON HUMAN SERVICES

Senator Alvarado-Gil, Chair

2023 - 2024 Regular

Bill No: AB 373
Author: Gipson
Version: May 22, 2023
Urgency: No
Consultant: Diana Dominguez

Hearing Date: July 3, 2023
Fiscal: No

Subject: Intersession programs: foster children and homeless youth: priority access.

SUMMARY

This bill requires a local education agency (LEA), if it operates an intersession program, to grant priority access to foster children and homeless youth. This bill specifies if a foster child or homeless youth will be moving during an intersession period, the pupil's education rights holder or the unaccompanied homeless youth shall determine which school the pupil attends for the intersession period.

ABSTRACT

Existing law:

- 1) Defines, in the federal McKinney-Vento Homeless Assistance Act, "homeless children and youth" as individuals who lack a fixed, regular, and adequate nighttime residence, including children who are sharing the housing of other people, living in motels, hotels, trailer parks, or camp grounds, emergency or transitional shelters, abandoned in hospitals or awaiting foster care placement, or who are living in a place not generally used for sleeping, such as cars, parks, public places, abandoned buildings, substandard housing, bus or train stations, and migratory children living in the circumstances above. (*42 USC 11434(a)(2)*)
- 2) In state law, states the intent of the Legislature to ensure that all pupils in foster care and those who are homeless have a meaningful opportunity to meet the challenging state pupil academic achievement standards to which all pupils are held. Further states that educators, county placing agencies, care providers, advocates, and the juvenile courts shall work together to maintain stable school placements and to ensure that each pupil is placed in the least restrictive educational programs, and has access to the academic resources, services, and extracurricular and enrichment activities that are available to all pupils. Further states that educational and school placement decisions shall be based on the best interests of the child and shall consider educational stability and the opportunity to be educated in the least restrictive educational setting necessary to achieve academic progress. (*EDC 48850(a)(1)*)

- 3) Requires, pursuant to federal law, public schools and county offices of education to immediately enroll a homeless child or youth seeking enrollment. Specifies enrollment related to charter schools. *(EDC 48850(a)(3)(A); 47605(e))*
- 4) Defines “homeless child or youth” and “homeless children and youths” as defined in the federal McKinney-Vento Homeless Assistance Act. *(EDC 48850(d)(1))*
- 5) Defines “pupils in foster care” as having the same meaning as “foster child” as defined in EDC 48853.5. *(EDC 48850(d)(2))*
- 6) Defines “foster child” as meaning any of the following:
 - a. A child who has been removed from their home pursuant to WIC 309;
 - b. A child who is the subject of a petition filed under WIC 300 or WIC 602, whether or not the child has been removed from their home;
 - c. A dependent child of the court of an Indian tribe, consortium of tribes, or tribal organization who is the subject of a petition filed in the tribal court pursuant to the tribal court’s jurisdiction in accordance with the tribe’s law; or
 - d. A child who is the subject of a voluntary placement agreement, as defined in WIC 11400(p). *(EDC 48853.5(a))*
- 7) Requires CDE, in consultation with the California Foster Youth Education Task Force, develop a standardized notice of the educational rights of foster children, as specified. *(EDC 48853.5(b))*
- 8) Requires each LEA to designate a staff person as the educational liaison for foster children, and assigns the designee specified responsibilities. *(EDC 48853.5 (c))*
- 9) Requires the LEA serving the foster child, at the initial detention or placement, or any subsequent change in placement, to continue to allow their education in the school of origin for the duration of the jurisdiction of the court. *(EDC 48853.5.(f))*
- 10) Defines “school of origin” as the school that the foster child attended when permanently housed or the school in which the foster child was last enrolled. States that if the school the foster child attended when permanently housed is different from the school in which the foster child was last enrolled, the educational liaison, in consultation and agreement with the foster child and the person holding the right to make educational decisions for the foster child, shall determine, in the best interests of the foster child, the school that shall be deemed the school of origin. *(EDC 48853.5(g))*
- 11) Requires the placing agency, in making out-of-home placement decisions, to promote educational stability by considering a placement's proximity to the child's school of origin and attendance area, the number of previous school transfers, and the school matriculation schedule, among other factors. *(WIC16501.1(c)(4))*

- 12) Stipulates that unless disabled, pupils whose educational needs are due primarily to limited English proficiency; a lack of instruction in reading or mathematics; temporary physical disabilities; social maladjustment; or environmental, cultural, or economic factors are not individuals with exceptional needs. (*EDC 56026 (e)*)
- 13) Establishes a number of rights for students in foster care including rights to immediate enrollment, rights to have educational records transferred in a timely manner, rights to remain in their schools of origin, rights to exemptions from locally adopted graduation requirements in excess of state requirements, and the right to have partial credit awarded for coursework. (*EDC 48850-48853.5; 48911; 48915.5; 49069.5; 49076; 51225.1; 51225.2*)

This bill:

- 1) Specifies that an LEA must grant priority access to a homeless child or youth if that LEA operates an intersession program. Specifies that the homeless youth pupil's parent; guardian; or educational rights holder; or unaccompanied homeless youth if there is no parent, guardian, or educational rights holder; shall determine which school the pupil attends for the intersession period.
- 2) Defines "intersession program" as an expanded learning program offered by an LEA on non-school days, including, but not limited to, summer school. Specifies that an intersession program does not include an extended school year program for individuals with exceptional needs established pursuant to 5 CCR 3043 and 34 CFR 300.106.
- 3) Defines "local education agency" as a school district, county office of education, or charter school.
- 4) Defines "unaccompanied homeless youth" as having the same meaning as "unaccompanied youth" in the federal McKinney-Vento Homeless Assistance Act.

FISCAL IMPACT

This bill has been keyed non-fiscal by the Legislative Counsel.

BACKGROUND AND DISCUSSION**Purpose of 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.”

Education Outcomes for Foster Youth

Students in foster care represent one of the most vulnerable and academically at-risk student groups enrolled in California schools. CDE monitors the educational outcomes for foster youth and partners with multiple state agencies and nonprofit organizations to ensure these students receive the supports and services they need.

CDE administers the Foster Youth Services Coordinating Program (FYSCP), which provides funding to County Offices of Education (COEs) to improve interagency support for students in foster care. County FYSCPs develop Memorandums of Understanding (MOUs) with county child welfare agencies to draw down federal Title IV-E funds for eligible case management activities that support the coordination of services for foster youth. FYSCPs also develop policies and procedures for information-sharing among county agencies concerning foster youth. This shared information is used by education, child welfare, and probation agencies to track the progress of foster youth in both care and education and, when needed, quickly transfer students between districts.

AB 490 (*Steinberg, Chapter 862, Statutes of 2003*) requires LEAs that operate a foster youth services program to appoint a staff person to act as an educational liaison for foster youth. The liaison helps to ensure proper placement, enrollment in school, and checkout from school, and to assist them in transferring from one school to another by seeing that necessary records, credits, and grades are transferred.

Every foster youth under the age of 18 is required to have an educational rights holder who is required to make education decisions in the youth’s best interest. An educational rights holder can be a parent or legal guardian, caregiver, or another person chosen by the court, but cannot be a foster youth’s social worker or probation officer, attorney, or group home or school staff member. This bill would allow, if the foster youth will be moving during an intersession period, the educational rights holder to determine which school the pupil attends for the intersession period.

California’s foster youth have the poorest education outcomes of any students, due in large part to their school instability. Data shows that youth in foster care change schools an average of eight times while in care, losing four to six months of learning with each move. Youth in foster care graduate at a rate of only 56% (compared to 85% of all students), 15% are suspended at least once per year (compared to 4% of all students), 28% are chronically absent (compared to 12% of all students), and math and English language test scores are consistently far below their peers. To address this issue, existing law ensures youth in foster care the right to remain stable in school by staying in their school of origin, despite a home placement change, and federal law created a corresponding right to transportation to the school of origin, as established in the Every Student Succeeds Act.

Research has indicated that the anticipation of a child welfare placement change, as well as uncertainty about the duration of a placement, can be constant sources of distress and fear for youth and the combined effects of placement and school instability can negatively impact a foster youth's academic progress. This bill would attempt to minimize the disruptions that placement changes that necessitate a change in schools by requiring foster youth to be given priority when enrolling in intersession programs. Often, foster youth will need to enroll in credit recovery courses during the summer to make up for failed classes and this bill would allow schools to prioritize their access to these classes and provide an opportunity to catch up and graduate on time.

Homeless Youth in California

The McKinney-Vento Homeless Assistance Act (Act) is a federal law that, among other requirements, requires public schools to count the number of students who are living on the street, in shelters, motels, in cars, or with other families. The Act requires school districts, COEs and charter schools to hire a local liaison to ensure that homeless youth are identified and coordinate education services to increase their chances of succeeding academically. This bill would require, if the homeless or foster youth will be moving during an intersession period, the pupil's parent or guardian to determine which school the pupil attends for the intersession period.

According to the Housing and Urban Development's (HUD) 2022 Annual Homeless Assessment Report to Congress, California reported 9,590 unaccompanied youth and 6,762 unsheltered unaccompanied youth.¹ According to CDE, homeless youth make up three percent of California's students in 2022-23.²

People experiencing homelessness face a variety of challenges including food and income insecurity, as well as health problems, such as a higher risk of exposure to communicable diseases such as COVID-19, influenza, sexually transmitted diseases, Hepatitis C, HIV/AIDS, and tuberculosis. Relatedly, CDE's report states that the chronic absence rate for homeless youth was nearly two times that for all students, while the homeless youth graduation rate was 15% lower than the rate for non-homeless students.

The number of homeless youth who identify as lesbian, gay, bisexual, transgender, and queer (LGBTQ), are current or former foster youth, are involved in the juvenile justice system, or are minorities, is disproportionately high. Data show that between 5-10% of the general youth population identify as LGBTQ, however LGBTQ youth comprise between 20-40% of the homeless youth population, with larger numbers of LGBTQ youth residing in areas that offer LGBTQ-specific supports, such as Los Angeles and San Francisco.

Related legislation:

AB 723 (Quirk-Silva) would expand the definition of "school of origin" to include a nonpublic, nonsectarian school for a foster child who is an individual with exceptional needs, and require a nonpublic, nonsectarian school, commencing with the 2024-25 school year, to include assurances

¹ <https://www.huduser.gov/portal/sites/default/files/pdf/2022-AHAR-Part-1.pdf>

² <https://www.cde.ca.gov/ds/sg/homelessyouth.asp>

and certify in writing to the Superintendent of Public Instruction that the school agrees to serve as the school of origin. AB 723 is set to be heard in the Senate Human Services Committee on July 3, 2023.

SB 918 (Wiener, Chapter 841, Statutes of 2018) established the Homeless Youth Act of 2018 to better serve the state’s homeless youth population and required the Homeless Coordinating and Financing Council (now known as the California Interagency Council on Homelessness) to take on additional related responsibilities, including setting goals to prevent and end homelessness among youth in the state, defining outcome measures, and gathering data related to those goals.

SB 828 (Committee on Budget and Fiscal Review, Chapter 29, 2016), an education omnibus trailer bill, among other things, established the FYSCP to be administered by the Superintendent of Public Instruction, commencing with the 2015-16 fiscal year, to provide supplemental funding to county offices of education to coordinate and ensure that local educational agencies within its jurisdiction are providing services to foster youth pupils with the purpose of ensuring positive educational outcomes.

AB 490 (Steinberg, Chapter 862, Statutes of 2003) expanded and stipulated authority for school records of foster, homeless, and incarcerated youth.

COMMENTS

Moving schools can come with emotional burdens, such as being introduced to new systems, teachers, expectations, and curricula, and the potential for delayed or incomplete transcripts, resulting in the loss of credits. This bill seeks to ensure that foster and homeless youth, who are more likely to move homes and between schools, have priority access to summer and winter sessions to promote access to credit recovery and improve graduation rates among these populations.

The Committee recommends amendments to ensure Tribal youth are included in the provisions of this bill.

PRIOR VOTES

Senate Education Committee:	7 - 0
Assembly Floor:	75 - 0
Assembly Human Services Committee:	8 - 0
Assembly Education Committee:	6 - 0

POSITIONS

Support:

- California Alliance of Child and Family Services (Co-sponsor)
- Children’s Institute (Co-sponsor)
- Sycamores (Co-sponsor)

Aspiranet
California Alliance of Caregivers
California Coalition for Youth
California County Superintendents
California Court Appointed Special Advocate Association
California Teachers Association
County of Santa Clara
National Association of Social Workers, California Chapter
Office of the Riverside County Superintendent of Schools
Seneca Family of Agencies

Oppose:

None received

-- END --