

AMENDED IN SENATE APRIL 29, 2009

AMENDED IN SENATE APRIL 2, 2009

SENATE BILL

No. 331

Introduced by Senator Romero
(Coauthors: Senators Alquist, Hancock, and Liu)

February 25, 2009

An act to amend Sections 54440, 54441.5, 54442, 54443.1, 54444.1, and 54444.2 of, and to add Sections 54442.1, 54442.2, and 54444.15 to, the Education Code, relating to migrant education.

LEGISLATIVE COUNSEL'S DIGEST

SB 331, as amended, Romero. Migrant education.

(1) Existing law requires the State Board of Education to adopt a state master plan for services to migrant children, as defined, that includes the provision of specified services and activities.

This bill would require the plan to be developed and revised as necessary by the Superintendent of Public Instruction and the statewide parent advisory council, and would require the plan to include an evaluation and monitoring component, and collection of data for migrant pupils, as specified.

~~(2) The~~

The bill would require the Superintendent to develop a monitoring instrument and monitoring procedure that ~~provide~~ *provides* for onsite monitoring of entities receiving funds for the provision of services to migrant children.

~~(3) The~~

The bill would *also* require the Superintendent to develop a process to ensure that all migrant youth enrolled in juvenile court schools and

other alternative education placements are properly identified and receive all the services to which they are entitled.

(4)

(2) Existing law requires a migrant education program to include specified components.

This bill would also require the program to include collection of specified individual and aggregate data for migrant pupils.

(5)

(3) Existing law requires the Superintendent to review and approve plans for the establishment of service regions and to incorporate specified criteria in the approval of regional plans.

This bill would require the Superintendent to include evaluations that include annual pupil progress and overall program effectiveness and quality control reports among ~~that~~ *those* criteria.

(6) ~~The~~

The bill would require entities that receive funds for the provision of services to migrant children to include an evaluation of the overall program effectiveness for the prior year as part of its refunding application, as specified.

(4) Existing law requires each operating agency receiving migrant education funds or services to establish a parent advisory council to actively solicit parent involvement in the planning, operation, and evaluation of its programs.

This bill would require interpretation to be provided at each parent advisory council meeting by a person trained in interpreting and who is fully fluent in English and in the language understandable to the parents.

(7)

(5) Existing law requires the Superintendent and each operating agency, as defined, to furnish specified documents, including copies of state and federal audits, monitoring reports, and evaluations, to specified entities.

This bill would require those documents to be provided in a language understandable to parents, and to provide each regional and state migrant education plan to be provided to parents in that language prior to its consideration for final approval.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 54440 of the Education Code is amended
2 to read:

3 54440. The Legislature finds and declares that:

4 (a) A significant number of children under the age of 18 of
5 migratory agricultural workers and migratory fishermen reside in
6 California for at least a part of each year. These children, from
7 among the least affluent segments of American society, tend to
8 move frequently, attend school irregularly, and suffer health
9 problems and language barriers. This results in many becoming
10 early school dropouts, poorly prepared to enter the workforce or
11 for academic success and upward social mobility.

12 (b) The problems of children of migratory agricultural parents
13 and of migratory fisherman parents are of such magnitude and
14 severity that local school districts have been unable to solve them
15 with the resources normally available. It is, therefore, necessary
16 for the state to aid local school districts through regional
17 coordinating offices, and the provision of special programs of
18 educational and related services for these children.

19 SEC. 2. Section 54441.5 of the Education Code is amended to
20 read:

21 54441.5. With the concurrence of the child's parent, a child
22 who has been identified as a "migrant child" may be deemed a
23 migrant child for a period, not in excess of five years, during which
24 the child resides in an area where programs are provided for
25 migrant children. Priority shall be given to programs and activities
26 for migrant children, and in no case shall migrant programs be
27 provided solely for children who have ceased to migrate.

28 SEC. 3. Section 54442 of the Education Code is amended to
29 read:

30 54442. The state board shall adopt a state master plan for
31 services to migrant children. The plan shall be developed and
32 revised as necessary by the Superintendent and the statewide parent
33 advisory council established pursuant to Section 54444.2. The plan
34 shall include all of the following:

35 (a) Instructional activities on a regular and extended year basis
36 shall be designed to identify, diagnose, and provide treatment for
37 academic deficiencies of migrant children. Special emphasis shall
38 be given to oral and written communications, reading, and

1 mathematics. Small group or individual instruction and tutorial
2 services shall be provided to assist migrant children to attain normal
3 progress rates in all subject areas. All instructional services shall
4 be provided as supplements to regular programs of instruction
5 provided by the public schools for all children.

6 (b) Health and welfare services shall be designed to identify,
7 diagnose, and provide treatment for conditions of a physical nature,
8 including dental, emotional, or environmental, that interfere with
9 the learning processes of migrant children. Insofar as possible,
10 existing community resources will be utilized to provide these
11 services.

12 (c) Preservice and in-service education of professional and
13 nonprofessional personnel shall be planned to prepare school
14 administrators, teachers, aides, and other personnel to meet the
15 special needs of migrant children.

16 (d) Supportive services including transportation, family liaison,
17 and other services necessary to the success of the programs.

18 (e) Child development activities including, but not limited to,
19 social, sensorimotor, conceptual and language development, and
20 perceptual discrimination activities for migrant infants and
21 prekindergarten children too young to participate in instructional
22 services normally provided by the public schools.

23 (f) The active involvement of parents, teachers, and community
24 representatives in the local implementation of migrant education
25 programs.

26 (g) An evaluation and monitoring component that provides for
27 oversight and evaluation of the operating agencies, school districts,
28 and schools on an annual basis, by the department.

29 (h) Collection of individual and aggregate data for migrant
30 pupils regarding identification, preschool participation, enrollment
31 in kindergarten and grades 1 to 12, inclusive, achievement,
32 completion of courses that fulfill the A-G subject area
33 requirements, suspension, expulsion, transfer, dropout, failure to
34 enroll or reenroll, graduation, retention, enrollment, designation
35 and redesignation of English learners, postsecondary enrollment,
36 and enrollment in alternative education programs.

37 (i) Individual and aggregate enrollment data shall also include
38 separate data concerning the number of migrant pupils enrolled in
39 alternative education programs including, but not limited to,

1 juvenile court schools, county community schools, community
2 day schools, continuation high schools, and independent studies.

3 SEC. 4. Section 54442.1 is added to the Education Code, to
4 read:

5 54442.1. The Superintendent shall develop a monitoring
6 instrument and monitoring procedure that provides for onsite
7 monitoring of each local educational agency, county office of
8 education, and region receiving funds for the provision of services
9 to migrant children at least every three years, and that addresses
10 each component identified in Section 54444.15 and all federal
11 requirements set forth under Section 6391 of Title 20 of the United
12 States Code and its corresponding regulatory provisions.

13 SEC. 5. Section 54442.2 is added to the Education Code, to
14 read:

15 54442.2. The Superintendent shall develop a process to ensure
16 that all migrant youth enrolled in juvenile court schools and other
17 alternative education placements under the state department are
18 properly identified and receive all the services to which they are
19 entitled. The department shall work with regions, local educational
20 agencies, and county offices of education to develop policies and
21 procedures to ensure that at the time of transfer and enrollment in
22 these schools, migrant youth who are not already identified are
23 properly assessed to determine if they are eligible for migrant
24 services and programs.

25 SEC. 6. Section 54443.1 of the Education Code is amended to
26 read:

27 54443.1. Migrant education programs shall include all of the
28 following:

29 (a) An individual assessment of the educational and relevant
30 health needs of each participating pupil within 30 days of
31 enrollment. This assessment shall include assessments concurrently
32 provided pursuant to compensatory education,
33 bilingual-crosscultural education, school improvement programs,
34 and other programs serving the pupil.

35 (b) A general needs assessment developed in compliance with
36 federal requirements summarizing the needs of the population to
37 be served.

38 (c) A comprehensive program to meet the educational, health,
39 and related needs of participating pupils which is supplemental to
40 the program the operating agency is otherwise required to provide.

- 1 The program shall include, but need not be limited to, the
2 following:
- 3 (1) Academic instruction.
 - 4 (2) Remedial and compensatory instruction.
 - 5 (3) Bilingual and crosscultural instruction.
 - 6 (4) Vocational instruction.
 - 7 (5) Counseling and career education services.
 - 8 (6) Preschool services in accordance with Section 54443.
 - 9 (7) Other educational services that are not available in sufficient
10 quantity or quality to eligible migratory children.
 - 11 (8) The acquisition of instructional materials and equipment
12 necessary to adequately provide the appropriate services.
 - 13 (9) Other related services to meet the special needs of eligible
14 migratory children which are necessary to enable these children
15 to effectively participate in instructional services.
 - 16 (10) The coordination and teaming of existing resources serving
17 migrant pupils, such as bilingual-crosscultural education, health
18 screening, and compensatory education.
- 19 (d) A brief individual learning plan listing the services to be
20 provided to each pupil shall be provided in writing or at a parent
21 conference to the parent or guardian of each participating pupil,
22 annually and each time the pupil moves to a new district.
- 23 (e) Staffing and staff development plans and practices to meet
24 the needs of pupils and implement the program.
- 25 (f) Parent and community involvement as specified in Section
26 54444.2.
- 27 (g) Evaluations which shall include annual pupil progress and
28 overall program effectiveness and quality control reports in
29 accordance with Section 54444.15.
- 30 (h) Collection of individual and aggregate data for migrant
31 pupils regarding identification, preschool participation, enrollment
32 in kindergarten and grades 1 to 12, inclusive, achievement,
33 completion of courses that fulfill the A-G subject area
34 requirements, suspension, expulsion, transfer, dropout, failure to
35 enroll or reenroll, graduation, retention, enrollment, designation
36 and redesignation of English learners, postsecondary enrollment,
37 and enrollment in alternative education programs.
- 38 School districts and other education agencies shall be eligible
39 to apply for funding to serve migrant pupils upon application to
40 their respective region, or, if they meet the criteria established in

1 subdivision (b) of Section 54444.1, to the department. Operating
2 agencies shall include in their application a description of how the
3 entities will coordinate the planning, budgeting, and operation of
4 the migrant education programs with the planning, budgeting, and
5 operation of other federal and state education programs addressing
6 the needs of the same or similar pupils of the operating agency.
7 The description shall include time lines and cover services provided
8 through school improvement, nonmigrant Title I, state
9 compensatory and limited- and non-English proficient, Title VII,
10 and other funds. If the application meets state and federal
11 requirements, negotiations for an appropriate service agreement
12 shall begin involving the parties listed in subdivision (a) or (b) of
13 Section 54444.1.

14 SEC. 7. Section 54444.1 of the Education Code is amended to
15 read:

16 54444.1. (a) In implementing the state master plan for services
17 to migrant children, the Superintendent shall establish the service
18 regional system as the primary method for the delivery of services
19 to migrant children. The Superintendent shall review and approve
20 plans for the establishment of service regions and shall incorporate
21 the following criteria in the approval of regional plans:

22 (1) The boundaries of regions shall include all geographic areas
23 with migrant and seasonal agricultural workers and fishermen.

24 (2) Regional service centers shall be located in areas with high
25 concentrations of migrant and seasonal agricultural workers and
26 fishermen. Regional headquarters shall be ~~located in areas:~~ ~~(i)~~
27 *located: (A) in areas* requiring large numbers of these workers for
28 a period of at least two consecutive months during each year, ~~(ii)~~
29 *(B) in areas* which normally contract for migrant and seasonal
30 agricultural workers with families rather than single adults, and
31 ~~(iii)~~ *(C) in areas* where migrant and seasonal agricultural workers
32 are involved in the transition from hand labor to mechanization.

33 (3) Regions shall be located in each geographic area of the state,
34 except areas within the boundaries of directly funded districts.

35 (4) Except areas within the boundaries of directly funded
36 districts, regions shall be contiguous to one another and should
37 have no less than 1,500 and no more than 8,000 currently migratory
38 children based upon full-time equivalent enrollment. In no event
39 shall a county be split among two separate regions in order to meet
40 the requirements of this paragraph.

1 (5) Regions shall be organized so as to provide quality services
2 to all affected parties and maintain fiscal procedures in conformity
3 with requirements adopted by the department.

4 (6) The boundaries of regions shall be drawn in such a manner
5 as to avoid excessive commuting by personnel or by participants
6 in the programs, not to exceed 100 miles from the schoolsite to
7 the operating agency.

8 (7) If a proposed region cannot meet the criteria established in
9 paragraph (4) or (6), it may request that the criteria be waived by
10 the state board. The waiver request shall be based upon a study,
11 conducted by the entities, including their respective parent advisory
12 councils, comprising the proposed region, that explains why the
13 waiver is required and that describes likely outcomes if the waiver
14 is not granted.

15 (8) Evaluations that include annual pupil progress and overall
16 program effectiveness and quality control reports in accordance
17 with Section 54444.15.

18 (b) An agency meeting the criteria set forth in this subdivision
19 and subdivision (f) of Section 54441 may apply to the department
20 for designation as a region. The application shall be in a format
21 with sufficient information and at times designated by the
22 Superintendent. The application shall include documentation of
23 active participation, review and comment by the appropriate parent
24 advisory councils, and signatures by parent advisory council
25 chairpersons that the review and comment has taken place, and
26 shall further include documentation that the agencies and parent
27 representative comprising the proposed region have met as a group
28 prior to submission of the application and have agreed upon the
29 formation of, and participation in, the region and a general
30 delineation of the services which will be provided in the region.

31 Directly funded districts shall be invited by the regions to
32 participate in regional activities and meetings. Staff and parent
33 advisory council members in the districts shall also be invited to
34 regional inservice activities and conferences.

35 (c) The ~~state~~ department may directly fund local educational
36 agencies, in whole or in part, to provide services to eligible migrant
37 children if it is cost effective to do so; if the applicant agency serves
38 not less than 1,500, nor more than 8,000, currently migratory
39 children; has sufficient programmatic and fiscal resources to deliver
40 an effective migrant education program; is in compliance with the

1 federal and state requirements regarding migrant education
2 programs; maintains an ongoing and functional parent advisory
3 council which has voted on a biennial basis to approve the
4 participation in the directly funded program, including the approval
5 of a majority of the members who are the parents of migrant
6 children; and maintains fiscal procedures in conformity with the
7 requirements adopted by the department. All districts which are
8 directly funded on January 1, 1982, may continue to be funded
9 directly, provided that the districts comply with the criteria
10 prescribed by this subdivision, except for the size criterion.

11 (d) The responsibilities of the various parties involved in the
12 delivery of services to migrant children shall be set forth in a
13 service agreement. A service agreement shall be a legally binding
14 contract signed by the duly constituted authorities at the state,
15 county, district, or private or public nonprofit agencies, or a
16 combination thereof. In the regional delivery system, there shall
17 be two parties to every service agreement; the region and the
18 district or other operating agencies in which the eligible migrant
19 pupils are enrolled. When a district or agency is funded directly
20 by the state, the parties to the service agreement shall include the
21 department and the district or operating agency in which the
22 eligible migrant pupils are enrolled. The basic responsibilities of
23 these three parties shall be as specified in Section 54444.4.

24 The parties, whether regional or directly funded, shall take the
25 necessary steps to ensure the effective involvement of the migrant
26 parent advisory committee for that district or agency.
27 Representatives of the migrant parent advisory committee shall
28 have the right to be present and participate in all deliberations
29 between the parties regarding the service agreement or any
30 subsequent changes thereto. The service agreement shall include
31 a signed statement from the officers of the migrant parent advisory
32 committee signifying that the participation has occurred.

33 (e) The Superintendent shall develop an annual operating
34 calendar for regions and directly funded districts, including dates
35 for the submission and approval of applications and service
36 agreements. Any changes in regional boundaries for the subsequent
37 fiscal year shall be made and approved by December 31 of the
38 current year. Any changes in funding allocations for regions shall
39 be made by December 31 of the current year or immediately after
40 notification of a federal grant award.

1 (f) The Superintendent shall preserve the supplemental nature
2 of the migrant education program. The program shall be maintained
3 outside the supervision or above the administrative level of the
4 consolidated application programs. The Superintendent shall not
5 incorporate the migrant education program into the consolidated
6 application process, except as provided below:

7 (1) Commencing with the 1983–84 school year, directly funded
8 districts may apply for migrant education funds as part of their
9 consolidated application provided the district parent advisory
10 council on migrant education approves the inclusion.

11 (2) Commencing with ~~school year 1982–83~~ *the 1982–83 school*
12 *year* and pending the recommendations of the department study
13 and task force report, a copy of the district’s annual application
14 for migrant education funds as required by Section 54443.1 shall
15 be attached to the district’s annual consolidated application.

16 SEC. 8. Section 54444.15 is added to the Education Code, *to*
17 *immediately follow Section 54444.1*, to read:

18 54444.15. A local educational agency, county office of
19 education, and region receiving funds for the provision of services
20 to migrant children, as a part of its refunding application, shall
21 include an evaluation of the overall program effectiveness for the
22 prior year that includes all of the following:

23 (a) Deficiencies in academic achievement of migrant children
24 as compared to nonmigrant children.

25 (b) Identification of, and provision of services to, migrant
26 children in the geographic area served by the district, agency, or
27 region, including out-of-school migrant youth and children and
28 youth enrolled in alternative and court-supervised school
29 placements.

30 (c) Enrollment in preschool and kindergarten.

31 (d) Access to and enrollment in and completion of courses that
32 fulfill the A-G subject area requirements.

33 (e) Dropout prevention and intervention.

34 (f) Retention.

35 (g) Vocational education opportunities.

36 (h) Graduation, including completion of the high school exit
37 examination.

38 (i) Postsecondary enrollment.

39 (j) Health services.

40 (k) Intercession programs.

- 1 (l) Other supplemental services.
- 2 (m) Staff experience and quality.
- 3 (n) Data collection and evaluation.
- 4 (o) Records transfer.
- 5 (p) Parental involvement, including establishment of and
- 6 participation in the *migrant* parent advisory committee, conduct
- 7 of regular meetings, participation in the development and approval
- 8 of the local migrant education plan, participation in statewide
- 9 parent advisory committee activities, and parent training.

10 SEC. 9. Section 54444.2 of the Education Code is amended to
11 read:

12 54444.2. (a) The Superintendent of Public Instruction shall
13 take the steps necessary to ensure effective parental involvement
14 throughout the state migrant education program, which shall
15 include, but need not be limited to, the following:

16 (1) The Superintendent shall adopt rules and regulations
17 requiring each operating agency receiving migrant education funds
18 or services to actively solicit parental involvement in the planning,
19 operation, and evaluation of its programs through the establishment
20 of, and consultation with, a parent advisory council.

21 The membership of each parent advisory council shall be
22 comprised of members who are knowledgeable of the needs of
23 migrant children and shall be elected by the parents of migrant
24 children enrolled in the operating agency's programs. The
25 composition of the council shall be determined by the parents at
26 a general meeting to which all parents of pupils enrolled in the
27 migrant program shall be invited. Parents shall be informed, in a
28 language they understand, that the parents have the sole authority
29 to decide on the composition of the council. All parent candidates
30 for the council shall be nominated by parents; nonparent candidates
31 shall be nominated by the groups they represent: teachers by
32 teachers, administrators by administrators, other school personnel
33 by other school personnel, and pupils by pupils. All other
34 community candidates shall be nominated by the parents. Each
35 parent advisory council shall hold meetings on a regular basis
36 during the operation of the regular program, but not less than six
37 times during the year.

38 At least two-thirds of the members of each parent advisory
39 council shall be the parents of migrant children. Each parent

1 advisory council shall have the responsibilities listed in subdivision
2 (a) of Section 54444.4.

3 (2) The Superintendent shall establish a statewide parent
4 advisory council which shall participate in the planning, operation,
5 and evaluation of the state migrant education program. The
6 membership of the statewide parent advisory council shall be
7 comprised of members who are knowledgeable of the needs of
8 migrant children and shall be nominated and elected by the parents
9 of migrant children enrolled in the operating agencies. At least
10 two-thirds of the members of the state parent advisory council
11 shall be the parents of migrant children. The state council shall
12 meet a minimum of six times a calendar year to provide input on
13 issues relating to the operation of the program. Special meetings
14 may be called at the discretion of the state director.

15 The Superintendent shall also sponsor an annual state parent
16 advisory council conference. The conference shall be scheduled
17 during the spring of every year. Within 120 days from the
18 conclusion of the conference, the state parent advisory council
19 shall prepare and submit a report to the Legislature, State Board
20 of Education, the Superintendent, and the Governor regarding the
21 status of the migrant education program.

22 (3) The Superintendent and each operating agency shall furnish,
23 without charge, to the statewide and operating agency parent
24 advisory councils and, upon request, to each member, a copy of
25 all applicable state and federal migrant education statutes, rules
26 and regulations, and guidelines. In addition, the Superintendent
27 and each operating agency shall furnish, without charge, to the
28 statewide and operating agency parent advisory councils and, upon
29 request, to each member, copies of all applicable state and federal
30 audits, monitoring reports, and evaluations. Upon request and when
31 practicable, these documents shall be provided in a language
32 understandable to parents, and each regional and state migrant
33 education plan shall be provided to parents in that language prior
34 to its consideration for final approval.

35 (4) The Superintendent and each operating agency shall establish
36 and implement training programs for members of the statewide
37 and operating agency parent advisory councils to enable them to
38 carry out their responsibilities. Each training program shall be
39 developed in consultation with the parent advisory councils and
40 shall include appropriate training materials in a language

1 understandable to each member. Costs incurred in providing
2 training under this paragraph, including federally authorized
3 expenses associated with the attendance of members at training
4 sessions, shall be funded, to the extent that funds are available, by
5 federal funds allocated to the state, based upon the educational
6 and related health needs of migratory children defined in
7 subdivisions (a) and (b) of Section 54441, and may be supported
8 by funds from the state migrant education program.

9 *(5) Interpretation shall be provided at each parent advisory*
10 *council meeting by an individual who has received training in*
11 *interpreting and who is fully fluent in English and in the language*
12 *understandable to the parents.*

13 (b) Each operating agency which provides services on a
14 statewide basis shall be exempt from the requirement that it create
15 its own parent advisory council, but shall consult the statewide
16 parent advisory council in the planning, operation, and evaluation
17 of its programs.

O