

AMENDED IN SENATE JUNE 1, 2016
AMENDED IN SENATE APRIL 21, 2016
AMENDED IN SENATE MARCH 28, 2016

SENATE BILL

No. 1156

Introduced by Senator Huff

February 18, 2016

An act to amend Section 48360 of, and to amend, repeal, and add Sections 48352, 48354, and 48356 of, the Education Code, relating to school accountability.

LEGISLATIVE COUNSEL'S DIGEST

SB 1156, as amended, Huff. School accountability: Open Enrollment Act: low-achieving schools.

(1) Commencing with the 2017–18 school year, the federal Elementary and Secondary Education Act of 1965, as amended by the federal Every Student Succeeds Act, requires the state to identify schools for comprehensive support and improvement pursuant to specified accountability system requirements.

Existing state law, the Open Enrollment Act, authorizes the parent of a pupil enrolled in a low-achieving school, as defined, to submit an application for the pupil to attend a school in a school district other than the school district in which the parent resides, as specified. The act defines “low-achieving school” to mean a school on a list created annually by the Superintendent of Public Instruction of 1,000 schools ranked by increasing Academic Performance Index score with the same ratio of elementary, middle, and high schools as existed in decile 1 in the 2008–09 school year.

Commencing July 1, 2018, this bill would instead define a “low-achieving school” for purposes of the Open Enrollment Act to include, among others, a school identified by the Superintendent or the State Board of Education for comprehensive support and improvement pursuant to federal specified accountability system requirements, including, among others, a school identified as being in the lowest performing 5% of all Title I schools, or a high school failing to graduate $\frac{1}{3}$ or more of its pupils. Notwithstanding those provisions, the bill would provide that a “low-achieving school” shall not include a court, community, or community day school, or a charter school. The bill would also make conforming changes. To the extent the bill would expand the duties of school districts under the Open Enrollment Act, the bill would impose a state-mandated local program.

(2) Existing law requires the Superintendent of Public Instruction to contract for an independent evaluation of the open enrollment program, as provided. Existing law requires the Superintendent to provide a final evaluation report to the Legislature, Governor, and State Board of Education on or before October 1, 2014.

This bill would require the ~~Superintendent, in conjunction with the Legislative Analyst’s Office;~~ *Office* to complete an evaluation of, and to make recommendations on, the open enrollment program, as provided. The bill would require the ~~Superintendent~~ *Legislative Analyst’s Office* to submit the final evaluation report to the Legislature, Governor, and state board ~~no later than one year after the implementation of the state’s new accountability system.~~ *on or before December 1, 2021. The bill would require the Superintendent to provide the data necessary to complete the report to the Legislative Analyst’s Office by December 1, 2020.*

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

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

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

1 SECTION 1. Section 48352 of the Education Code is amended
2 to read:

3 48352. (a) For purposes of this article, the following definitions
4 apply:

5 (1) “Low-achieving school” means any school on a list created
6 by the Superintendent pursuant to the following:

7 (A) Consistent with subparagraph (B), the Superintendent
8 annually shall create a list of 1,000 schools ranked by increasing
9 API with the same ratio of elementary, middle, and high schools
10 as existed in decile 1 in the 2008–09 school year.

11 (B) In constructing the list of 1,000 schools each year, the
12 Superintendent shall ensure each of the following:

13 (i) A local educational agency shall not have more than 10
14 percent of its schools on the list. However, if the number of schools
15 in a local educational agency is not evenly divisible by 10, the
16 Superintendent shall round up to the next whole number of schools.

17 (ii) Court, community, or community day schools shall not be
18 included on the list.

19 (iii) Charter schools shall not be included on the list.

20 (2) “Parent” means the natural or adoptive parent or guardian
21 of a dependent child.

22 (3) “School district of enrollment” means a school district other
23 than the school district in which the parent of a pupil resides, but
24 in which the parent of the pupil nevertheless intends to enroll the
25 pupil pursuant to this article.

26 (4) “School district of residence” means a school district in
27 which the parent of a pupil resides and in which the pupil would
28 otherwise be required to enroll pursuant to Section 48200.

29 (b) This section shall become inoperative on July 1, 2018, and,
30 as of January 1, 2019, is repealed, unless a later enacted statute,
31 that becomes operative on or before January 1, 2019, deletes or
32 extends the dates on which it becomes inoperative and is repealed.

33 SEC. 2. Section 48352 is added to the Education Code, to read:

34 48352. (a) For purposes of this article, the following definitions
35 apply:

36 (1) (A) “Low-achieving school” means either of the following:

37 (i) A school that is identified by the Superintendent or the state
38 board for comprehensive support and improvement pursuant to

1 the accountability system requirements of the federal Elementary
2 and Secondary Education Act of 1965 (20 U.S.C. Sec. 6311), as
3 amended by the federal Every Student Succeeds Act (Public Law
4 114-95), including all of the following:

5 (I) A school identified as being in the lowest performing 5
6 percent of all Title I schools.

7 (II) A high school that fails to graduate one-third or more of its
8 pupils.

9 (III) A school subject to a mandatory targeted support and
10 improvement plan.

11 (ii) A school receiving mandatory assistance pursuant to
12 subdivision (f) of Section 52074.

13 (B) Notwithstanding subparagraph (A), a “low-achieving
14 school” shall not include the following schools:

15 (i) Court, community, or community day schools.

16 (ii) Charter schools.

17 (2) “Parent” means the natural or adoptive parent or guardian
18 of a dependent child.

19 (3) “School district of enrollment” means a school district other
20 than the school district in which the parent of a pupil resides, but
21 in which the parent of the pupil nevertheless intends to enroll the
22 pupil pursuant to this article.

23 (4) “School district of residence” means a school district in
24 which the parent of a pupil resides and in which the pupil would
25 otherwise be required to enroll pursuant to Section 48200.

26 (b) This section shall become operative on July 1, 2018.

27 SEC. 3. Section 48354 of the Education Code is amended to
28 read:

29 48354. (a) The parent of a pupil enrolled in a low-achieving
30 school may submit an application for the pupil to attend a school
31 in a school district of enrollment pursuant to this article.

32 (b) (1) Consistent with the requirements of Section
33 1116(b)(1)(E) of the federal Elementary and Secondary Education
34 Act of 2001 (20 U.S.C. Sec. 6301 et seq.), on or before the first
35 day of the school year, or, if later, on the date the notice of program
36 improvement, corrective action, or restructuring status is required
37 to be provided under federal law, the school district of residence
38 shall provide the parents and guardians of all pupils enrolled in a
39 low-achieving school, as determined pursuant to paragraph (1) of
40 subdivision (a) of Section 48352, with notice of the option to

1 transfer to another public school served by the school district of
2 residence or another school district.

3 (2) An application requesting a transfer pursuant to this article
4 shall be submitted by the parent of a pupil to the school district of
5 enrollment before January 1 of the school year preceding the school
6 year for which the pupil is requesting to transfer. The school district
7 of enrollment may waive the deadline specified in this paragraph.

8 (3) The application deadline specified in paragraph (2) does not
9 apply to an application requesting a transfer if the parent, with
10 whom the pupil resides, is enlisted in the military and was relocated
11 by the military within 90 days before submitting the application.

12 (4) The application may request enrollment of the pupil in a
13 specific school or program within the school district of enrollment.

14 (5) A pupil may enroll in a school in the school district of
15 enrollment in the school year immediately following the approval
16 of his or her application.

17 (6) In order to provide priority enrollment opportunities for
18 pupils residing in the school district, a school district of enrollment
19 shall establish a period of time for resident pupil enrollment before
20 accepting transfer applications pursuant to this article.

21 (c) This section shall become inoperative on July 1, 2018, and,
22 as of January 1, 2019, is repealed, unless a later enacted statute,
23 that becomes operative on or before January 1, 2019, deletes or
24 extends the dates on which it becomes inoperative and is repealed.

25 SEC. 4. Section 48354 is added to the Education Code, to read:

26 48354. (a) The parent of a pupil enrolled in a low-achieving
27 school may submit an application for the pupil to attend a school
28 in a school district of enrollment pursuant to this article.

29 (b) (1) Consistent with the authorization in Section
30 1111(d)(1)(D) of the federal Elementary and Secondary Education
31 Act of 1965 (20 U.S.C. Sec. 6311), as amended by the federal
32 Every Student Succeeds Act (Public Law 114-95), on or before
33 the first day of the school year, or, if later, on the date of the notice
34 of identification of schools for comprehensive support and
35 improvement, the school district of residence shall provide the
36 parents and guardians of all pupils enrolled in a low-achieving
37 school, as determined pursuant to paragraph (1) of subdivision (a)
38 of Section 48352, with notice of the option to transfer to another
39 public school served by the school district of residence or another
40 school district.

1 (2) An application requesting a transfer pursuant to this article
2 shall be submitted by the parent of a pupil to the school district of
3 enrollment before January 1 of the school year preceding the school
4 year for which the pupil is requesting to transfer. The school district
5 of enrollment may waive the deadline specified in this paragraph.

6 (3) The application deadline specified in paragraph (2) does not
7 apply to an application requesting a transfer if the parent, with
8 whom the pupil resides, is enlisted in the military and was relocated
9 by the military within 90 days before submitting the application.

10 (4) The application may request enrollment of the pupil in a
11 specific school or program within the school district of enrollment.

12 (5) A pupil may enroll in a school in the school district of
13 enrollment in the school year immediately following the approval
14 of his or her application.

15 (6) In order to provide priority enrollment opportunities for
16 pupils residing in the school district, a school district of enrollment
17 shall establish a period of time for resident pupil enrollment before
18 accepting transfer applications pursuant to this article.

19 (c) This section shall become operative on July 1, 2018.

20 SEC. 5. Section 48356 of the Education Code is amended to
21 read:

22 48356. (a) A school district of enrollment may adopt specific,
23 written standards for acceptance and rejection of applications
24 pursuant to this article. The standards may include consideration
25 of the capacity of a program, class, grade level, school building,
26 or adverse financial impact. Subject to subdivision (b), and except
27 as necessary in accordance with Section 48355, the standards shall
28 not include consideration of a pupil's previous academic
29 achievement, physical condition, proficiency in the English
30 language, family income, or any of the individual characteristics
31 set forth in Section 200.

32 (b) In considering an application pursuant to this article, a
33 nonresident school district may apply its usual requirements for
34 admission to a magnet school or a program designed to serve gifted
35 and talented pupils.

36 (c) Subject to the rules and standards that apply to pupils who
37 reside in the school district of enrollment, a nonresident pupil who
38 is enrolled in one of the school district's schools pursuant to this
39 article shall not be required to submit an application in order to
40 remain enrolled.

1 (d) A school district of enrollment shall ensure that pupils
2 enrolled pursuant to standards adopted pursuant to this section are
3 enrolled in a school with a higher Academic Performance Index
4 than the school in which the pupil was previously enrolled and are
5 selected through a random, unbiased process that prohibits an
6 evaluation of whether or not the pupil should be enrolled based
7 on his or her individual academic or athletic performance, or any
8 of the other characteristics set forth in subdivision (a), except that
9 pupils applying for a transfer pursuant to this article shall be
10 assigned priority for approval as follows:

11 (1) First priority for the siblings of children who already attend
12 the desired school.

13 (2) Second priority for pupils transferring from a program
14 improvement school ranked in decile 1 on the Academic
15 Performance Index, as determined pursuant to paragraph (1) of
16 subdivision (a) of Section 48352.

17 (3) If the number of pupils who request a particular school
18 exceeds the number of spaces available at that school, a lottery
19 shall be conducted in the group priority order identified in
20 paragraphs (1) and (2) to select pupils at random until all of the
21 available spaces are filled.

22 (e) The initial application of a pupil for transfer to a school
23 within a school district of enrollment shall not be approved if the
24 transfer would require the displacement from the desired school
25 of any other pupil who resides within the attendance area of that
26 school or is currently enrolled in that school.

27 (f) A pupil approved for a transfer to a school district of
28 enrollment pursuant to this article shall be deemed to have fulfilled
29 the requirements of Section 48204.

30 (g) This section shall become inoperative on July 1, 2018, and,
31 as of January 1, 2019, is repealed, unless a later enacted statute,
32 that becomes operative on or before January 1, 2019, deletes or
33 extends the dates on which it becomes inoperative and is repealed.

34 SEC. 6. Section 48356 is added to the Education Code, to read:

35 48356. (a) A school district of enrollment may adopt specific,
36 written standards for acceptance and rejection of applications
37 pursuant to this article. The standards may include consideration
38 of the capacity of a program, class, grade level, school building,
39 or adverse financial impact. Subject to subdivision (b), and except
40 as necessary in accordance with Section 48355, the standards shall

1 not include consideration of a pupil's previous academic
2 achievement, physical condition, proficiency in the English
3 language, family income, or any of the individual characteristics
4 set forth in Section 200.

5 (b) In considering an application pursuant to this article, a school
6 district of enrollment may apply its usual requirements for
7 admission to a magnet school or a program designed to serve gifted
8 and talented pupils.

9 (c) Subject to the rules and standards that apply to pupils who
10 reside in the school district of enrollment, a nonresident pupil who
11 is enrolled in one of the school district's schools pursuant to this
12 article shall not be required to submit an application in order to
13 remain enrolled.

14 (d) A school district of enrollment shall ensure that pupils
15 enrolled pursuant to standards adopted pursuant to this section are
16 enrolled in a school not identified as being *a low-achieving school*
17 pursuant to paragraph (1) of subdivision (a) of Section 48352 and
18 are selected through a random, unbiased process that prohibits an
19 evaluation of whether or not the pupil should be enrolled based
20 on his or her individual academic or athletic performance, or any
21 of the other characteristics set forth in subdivision (a), except that
22 pupils applying for a transfer pursuant to this article shall be
23 assigned priority for approval as follows:

24 (1) First priority for the siblings of children who already attend
25 the desired school.

26 (2) Second priority for unduplicated pupils, as defined in
27 paragraph (1) of subdivision (b) of Section 42238.02, transferring
28 from a low-achieving school, as determined pursuant to paragraph
29 (1) of subdivision (a) of Section 48352.

30 (3) If the number of pupils who request a particular school
31 exceeds the number of spaces available at that school, a lottery
32 shall be conducted in the group priority order identified in
33 paragraphs (1) and (2) to select pupils at random until all of the
34 available spaces are filled.

35 (e) The initial application of a pupil for transfer to a school
36 within a school district of enrollment shall not be approved if the
37 transfer would require the displacement from the desired school
38 of any other pupil who resides within the attendance area of that
39 school or is currently enrolled in that school.

1 (f) A pupil approved for a transfer to a school district of
2 enrollment pursuant to this article shall be deemed to have fulfilled
3 the requirements of Section 48204.

4 (g) This section shall become operative on July 1, 2018.

5 SEC. 7. Section 48360 of the Education Code is amended to
6 read:

7 48360. (a) ~~The Superintendent, in conjunction with the~~
8 ~~Legislative Analyst's Office, Office~~ shall complete an evaluation
9 of the open enrollment program operated pursuant to this article.

10 The evaluation shall, at a minimum, consider all of the following:

11 (1) The levels of, and changes in, academic achievement of
12 pupils in school districts of residence and school districts of
13 enrollment for pupils who do and do not elect to enroll in a school
14 district of enrollment.

15 (2) Fiscal and programmatic effects on school districts of
16 residence and school districts of enrollment.

17 (3) Numbers and demographic and socioeconomic characteristics
18 of pupils who do and do not elect to enroll in a school district of
19 enrollment.

20 (b) ~~(1) The Superintendent, in conjunction with the Legislative~~
21 ~~Analyst's Office, Office~~ shall make recommendations on any
22 additional or revised eligibility criteria for the open enrollment
23 program based on the state's new accountability system adopted
24 for purposes of complying with the federal Elementary and
25 Secondary Education Act of 1965 (20 U.S.C. Sec. 6311), as
26 amended by the federal Every Student Succeeds Act (Public Law
27 114-95), including the use of local control funding formula
28 unduplicated subgroup criteria, and may also include
29 recommendations on whether other open enrollment program
30 provisions should be altered, expanded, or deleted. The final
31 evaluation report shall be submitted *by the Legislative Analyst's*
32 *Office* to the Legislature, Governor, and state board ~~no later than~~
33 ~~one year after the implementation of the state's new accountability~~
34 ~~system adopted for purposes of complying with the federal~~
35 ~~Elementary and Secondary Education Act of 1965 (20 U.S.C. Sec.~~
36 ~~6311), as amended by the federal Every Student Succeeds Act~~
37 ~~(Public Law 114-95): on or before December 1, 2021. The~~
38 ~~Superintendent shall provide the data necessary to complete the~~
39 ~~report to the Legislative Analyst's Office by December 1, 2020.~~

1 ~~(2) The final evaluation report required pursuant to paragraph~~
2 ~~(1) shall be submitted in compliance with Section 9795 of the~~
3 ~~Government Code.~~

4 SEC. 8. If the Commission on State Mandates determines that
5 this act contains costs mandated by the state, reimbursement to
6 local agencies and school districts for those costs shall be made
7 pursuant to Part 7 (commencing with Section 17500) of Division
8 4 of Title 2 of the Government Code.

O