

Assembly Bill No. 790

CHAPTER 89

An act amend Section 35160.5 of the Education Code, relating to school districts.

[Approved by Governor July 5, 1995. Filed with
Secretary of State July 6, 1995.]

LEGISLATIVE COUNSEL'S DIGEST

AB 790, Cannella. School district: intradistrict attendance policies.

Existing law requires the governing board of each school district, as a condition for receipt of school apportionments from the state school fund, to adopt, on or before July 1, 1994, rules and regulations establishing a policy of open enrollment within the district for residents of the district. Existing law specifies that the policy shall contain certain elements, including a selection policy for any school that receives requests for admission in excess of the capacity of the school that ensures that selection of pupils to enroll in the school is made through a random, unbiased process. Existing law sets forth certain elements that may be included in the policy, such as a provision that schools receiving requests for admission shall give priority for attendance to siblings of children already in attendance in that school.

This bill would specify that the elements that may be included in a policy may be included notwithstanding the requirement that the policy contain a selection policy for any school that receives requests for admission in excess of the capacity of the school that ensures that selection of pupils to enroll in the school is made through a random, unbiased process. The bill would also authorize a school district to include in a policy a process by which the school district informs parents or guardians that certain schools or grade levels within a school are currently, or are likely to be, at capacity, and, therefore, those schools or grade levels are unable to accommodate any new pupils under the open enrollment policy.

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

SECTION 1. Section 35160.5 of the Education Code is amended to read:

35160.5. (a) On or before December 1, 1984, the governing board of each school district shall, as a condition for the receipt of school apportionments from the State School Fund, adopt rules and



regulations establishing school district policies as they relate to the following:

(1) Certification that personnel assigned to evaluate teachers have demonstrated competence in instructional methodologies and evaluation for teachers they are assigned to evaluate. The determination of whether school personnel meet the district's adopted policies shall be made by the governing board.

(2) The establishment of district policies ensuring that each probationary certificated employee is assigned to a school within the district with assurances that his or her status as a new teacher and his or her potential needs for training, assistance, and evaluations will be recognized by the district.

(3) The establishment of policies and procedures that parents or guardians of pupils enrolled in the district may use to present complaints regarding employees of the district. These policies and procedures shall provide for appropriate mechanisms to respond to, and where possible, to resolve the complaints.

(b) The governing board of each school district that maintains one or more schools containing any of grades 7 to 12, inclusive, shall, as a condition for the receipt of an inflation adjustment pursuant to Section 42238.1, establish a school district policy regarding participation in extracurricular and cocurricular activities by pupils in grades 7 to 12, inclusive. The criteria, which shall be applied to extracurricular and cocurricular activities, shall ensure that pupil participation is conditioned upon satisfactory educational progress in the previous grading period. Pupils who are eligible for differential standards of proficiency pursuant to subdivision (d) of Section 51215 are covered by this section consistent with that subdivision. No person shall classify a pupil as eligible for differential standards of proficiency pursuant to subdivision (d) of Section 51215 for the purpose of circumventing the intent of this subdivision.

(1) For purposes of this subdivision, "extracurricular activity" means a program that has all of the following characteristics:

(A) The program is supervised or financed by the school district.

(B) Pupils participating in the program represent the school district.

(C) Pupils exercise some degree of freedom in either the selection, planning, or control of the program.

(D) The program includes both preparation for performance and performance before an audience or spectators.

(2) For purposes of this subdivision, an "extracurricular activity" is not part of the regular school curriculum, is not graded, does not offer credit, and does not take place during classroom time.

(3) For purposes of this subdivision, a "cocurricular activity" is defined as a program that may be associated with the curriculum in a regular classroom.



(4) Any teacher graded or required program or activity for a course that satisfies the entrance requirements for admission to the California State University or the University of California, is not an extracurricular or cocurricular activity as defined by this section.

(5) For purposes of this subdivision, “satisfactory educational progress” shall include, but not be limited to, the following:

(A) Maintenance of minimum passing grades, which is defined as at least a 2.0 grade point average in all enrolled courses on a 4.0 scale.

(B) Maintenance of minimum progress toward meeting the high school graduation requirements prescribed by the governing board.

(6) For purposes of this subdivision, “previous grading period” does not include any grading period in which the pupil was not in attendance for all, or a majority of, the grading period due to absences excused by the school for reasons such as serious illness or injury, approved travel, or work. In that event, “previous grading period” is deemed to mean the grading period immediately prior to the grading period or periods excluded pursuant to this paragraph.

(7) A program that has, as its primary goal, the improvement of academic or educational achievements of pupils is not an extracurricular or cocurricular activity as defined by this section.

(8) The governing board of each school district may adopt, as part of its policy established pursuant to this subdivision, provisions that would allow a pupil who does not achieve satisfactory educational progress, as defined in paragraph (4), in the previous grading period to remain eligible to participate in extracurricular and cocurricular activities during a probationary period. The probationary period shall not exceed one semester in length, but may be for a shorter period of time, as determined by the governing board of the school district. A pupil who does not achieve satisfactory educational progress, as defined in paragraph (4), during the probationary period shall not be allowed to participate in extracurricular and cocurricular activities in the subsequent grading period.

(9) Nothing in this subdivision shall preclude the governing board of a school district from imposing a more stringent academic standard than that imposed by this subdivision. If the governing board of a school district imposes a more stringent academic standard, the governing board shall establish the criteria for participation in extracurricular and cocurricular activities at a meeting open to the public pursuant to Section 35145.

The governing board of each school district shall annually review the school district policies adopted pursuant to the requirements of this section.

(c) (1) On or before July 1, 1994, the governing board of each school district shall, as a condition for the receipt of school apportionments from the state school fund, adopt rules and regulations establishing a policy of open enrollment within the district for residents of the district. This requirement does not apply



to any school district that has only one school or any school district with schools that do not serve any of the same grade level.

(2) The policy shall include all of the following elements:

(A) It shall provide that the parents or guardian of each schoolage child who is a resident in the district may select the schools the child shall attend, irrespective of the particular locations of his or her residence within the district, except that school districts shall retain the authority to maintain appropriate racial and ethnic balances among their respective schools at the school districts' discretion or as specified in applicable court-ordered or voluntary desegregation plans.

(B) It shall include a selection policy for any school that receives requests for admission in excess of the capacity of the school that ensures that selection of pupils to enroll in the school is made through a random, unbiased process that prohibits an evaluation of whether any pupil should be enrolled based upon his or her academic or athletic performance. For purposes of this subdivision, the governing board of the school district shall determine the capacity of the schools in its district. However, school districts may employ existing entrance criteria for specialized schools or programs if the criteria are uniformly applied to all applicants. This subdivision shall not be construed to prohibit school districts from using academic performance to determine eligibility for, or placement in, programs for gifted and talented pupils established pursuant to Chapter 8 (commencing with Section 52200) of Part 28.

(C) It shall provide that no pupil who currently resides in the attendance area of a school shall be displaced by pupils transferring from outside the attendance area.

(3) Notwithstanding the requirement of subparagraph (B) of paragraph (2) that the policy include a selection policy for any school that receives requests for admission in excess of the capacity of the school that ensures that the selection is made through a random, unbiased process, the policy may include any of the following elements:

(A) It may provide that special circumstances exist that might be harmful or dangerous to a particular pupil in the current attendance area of the pupil, including, but not limited to, threats of bodily harm or threats to the emotional stability of the pupil, that serve as a basis for granting a priority of attendance outside the current attendance area of the pupil. A finding of harmful or dangerous special circumstances shall be based upon either of the following:

(i) A written statement from a representative of the appropriate state or local agency, including, but not limited to, a law enforcement official or a social worker, or properly licensed or registered professionals, including, but not limited to, psychiatrists, psychologists, or marriage, family and child counselors.



(ii) A court order, including a temporary restraining order and injunction, issued by a judge.

A finding of harmful or dangerous special circumstances pursuant to this subparagraph may be used by a school district to approve transfers within the district to schools that have been deemed by the school district to be at capacity and otherwise closed to transfers that are not based on harmful or dangerous special circumstances.

(B) It may provide that any pupil attending a school prior to July 1, 1994, may be considered a current resident of that school for purposes of this section until the pupil is promoted or graduates from that school.

(C) It may provide that no pupil who was on a waiting list for a school or specialized program, on or before July 1, 1994, pursuant to a then-existing district policy on transfers within the district, shall be displaced by pupils transferring after July 1, 1994, from outside the attendance area, as long as the continued maintenance on a waiting list remains consistent with the former policy.

(D) It may provide that schools receiving requests for admission shall give priority for attendance to siblings of children already in attendance in that school.

(E) It may include a process by which the school district informs parents or guardians that certain schools or grade levels within a school are currently, or are likely to be, at capacity and, therefore, those schools or grade levels are unable to accommodate any new pupils under the open enrollment policy.

(4) It is the intent of the Legislature that, upon the request of the pupil's parent or guardian and demonstration of financial need, each school district provide transportation assistance to the pupil to the extent that the district otherwise provides transportation assistance to pupils.

