

ASSEMBLY BILL

No. 1320

Introduced by Assembly Member Canciamilla

February 22, 2005

An act to amend Section 48204 of the Education Code, relating to school attendance.

LEGISLATIVE COUNSEL'S DIGEST

AB 1320, as introduced, Canciamilla. Residency requirements: exceptions.

Existing law provides that a pupil is deemed to have complied with the residency requirements for school attendance in a school district, provided the pupil meets one of the specified requirements, including, but not limited to, the pupil is placed within the boundaries of the school district in a regularly established licensed children's home, the pupil is residing in a state hospital located within the boundaries of the school district, or an interdistrict transfer has been approved for the pupil.

This bill would provide that if the school in which a pupil would be placed pursuant to the above-described requirements under existing law is closed or impacted, the governing board of the school district may place the pupil at another schoolsite within the district, without regard to the pupil's address.

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

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

1 SECTION 1. Section 48204 of the Education Code, as added
 2 by Section 2 of Chapter 529 of the Statutes of 2003, is amended
 3 to read:

4 48204. (a) Notwithstanding Section 48200, *and subject to*
 5 *subdivision (c)* a pupil is deemed to have complied with the
 6 residency requirements for school attendance in a school district,
 7 if he or she is any of the following:

8 (1) A pupil placed within the boundaries of that school district
 9 in a regularly established licensed children’s institution, or a
 10 licensed foster home, or a family home pursuant to a
 11 commitment or placement under Chapter 2 (commencing with
 12 Section 200) of Part 1 of Division 2 of the Welfare and
 13 Institutions Code.

14 An agency placing a pupil in a home or institution described in
 15 this subdivision shall provide evidence to the school that the
 16 placement or commitment is pursuant to law.

17 (2) A pupil for whom interdistrict attendance has been
 18 approved pursuant to Chapter 5 (commencing with Section
 19 46600) of Part 26.

20 (3) A pupil whose residence is located within the boundaries
 21 of that school district and whose parent or legal guardian is
 22 relieved of responsibility, control, and authority through
 23 emancipation.

24 (4) A pupil who lives in the home of a caregiving adult that is
 25 located within the boundaries of that school district. Execution of
 26 an affidavit under penalty of perjury pursuant to Part 1.5
 27 (commencing with Section 6550) of Division 11 of the Family
 28 Code by the caregiving adult is a sufficient basis for a
 29 determination that the pupil lives in the caregiver’s home, unless
 30 the school district determines from actual facts that the pupil is
 31 not living in the caregiver’s home.

32 (5) A pupil residing in a state hospital located within the
 33 boundaries of that school district.

34 (b) A school district may deem a pupil as having complied
 35 with the residency requirements for school attendance in the
 36 school district if one or both the parents or legal guardians of the
 37 pupil is employed within the boundaries of that school district.

1 (1) This subdivision does not require the school district within
2 which the parents or guardians of a pupil are employed to admit
3 the pupil to its schools. Districts may not, however, refuse to
4 admit pupils under this subdivision on the basis, except as
5 expressly provided in this subdivision, of race, ethnicity, sex,
6 parental income, scholastic achievement, or any other arbitrary
7 consideration.

8 (2) The school district in which the residency of either the
9 parents or guardians of the pupil is established, or the school
10 district to which the pupil is to be transferred under this
11 subdivision, may prohibit the transfer of the pupil under this
12 subdivision if the governing board of the district determines that
13 the transfer would negatively impact the court-ordered or
14 voluntary desegregation plan of the district.

15 (3) The school district to which the pupil is to be transferred
16 under this subdivision may prohibit the transfer of the pupil if the
17 district determines that the additional cost of educating the pupil
18 would exceed the amount of additional state aid received as a
19 result of the transfer.

20 (4) The governing board of a school district that prohibits the
21 transfer of a pupil pursuant to paragraph (1), (2), or (3) is
22 encouraged to identify, and communicate in writing to the
23 parents or guardians of the pupil, the specific reasons for that
24 determination and is encouraged to ensure that the determination,
25 and the specific reasons therefor, are accurately recorded in the
26 minutes of the board meeting in which the determination was
27 made.

28 (5) The average daily attendance for pupils admitted pursuant
29 to this subdivision is calculated pursuant to Section 46607.

30 (6) Unless approved by the sending district, this subdivision
31 does not authorize a net transfer of pupils out of any given
32 district, calculated as the difference between the number of
33 pupils exiting the district and the number of pupils entering the
34 district, in any fiscal year in excess of the following amounts:

35 (A) For any district with an average daily attendance for that
36 fiscal year of less than 501, 5 percent of the average daily
37 attendance of the district.

38 (B) For any district with an average daily attendance for that
39 fiscal year of 501 or more, but less than 2,501, 3 percent of the

1 average daily attendance of the district or 25 pupils, whichever
2 amount is greater.

3 (C) For any district with an average daily attendance of 2,501
4 or more, 1 percent of the average daily attendance of the district
5 or 75 pupils, whichever amount is greater.

6 (7) Once a pupil is deemed to have complied with the
7 residency requirements for school attendance pursuant to this
8 subdivision and is enrolled in a school in a school district whose
9 boundaries include the location where one or both parents of a
10 pupil is employed, or where the legal guardian of the pupil is
11 employed, the pupil does not have to reapply in the next school
12 year to attend a school within that school district and the district
13 governing board shall allow the pupil to attend school through
14 the 12th grade in that district if the parent or guardian so chooses
15 and if one or both of the pupil's parents or guardians continues to
16 be employed by an employer situated within the attendance
17 boundaries of the school district, subject to paragraphs (1) to (6),
18 inclusive.

19 (c) *If the school in which a pupil would be placed pursuant to*
20 *this section is closed or impacted, the governing board of the*
21 *school district may place the pupil at an other schoolsite within*
22 *the district, without regard to the pupils' address.*

23 (d) This section is inoperative on and after July 1, 2007, and as
24 of January 1, 2008, is repealed, unless a later enacted statute, that
25 becomes operative on or before January 1, 2008, deletes or
26 extends the dates on which it becomes inoperative and is
27 repealed.

28 SEC. 2. Section 48204 of the Education Code, as amended by
29 Section 3 of Chapter 524 of the Statutes of 2003, is amended to
30 read:

31 48204. (a) Notwithstanding Section 48200, *and subject to*
32 *subdivision (b)*, a pupil is deemed to have complied with the
33 residency requirements for school attendance in a school district,
34 if he or she is:

35 ~~(a)~~

36 (1) A pupil placed within the boundaries of that school district
37 in a regularly established licensed children's institution, or a
38 licensed foster home, or a family home pursuant to a
39 commitment or placement under Chapter 2 (commencing with

1 Section 200) of Part 1 of Division 2 of the Welfare and
2 Institutions Code.

3 An agency placing a pupil in the home or institution shall
4 provide evidence to the school that the placement or commitment
5 is pursuant to law.

6 ~~(b)~~

7 (2) A pupil for whom interdistrict attendance has been
8 approved pursuant to Chapter 5 (commencing with Section
9 46600) of Part 26.

10 ~~(e)~~

11 (3) A pupil whose residence is located within the boundaries
12 of that school district and whose parent or legal guardian is
13 relieved of responsibility, control, and authority through
14 emancipation.

15 ~~(d)~~

16 (4) A pupil who lives in the home of a caregiving adult that is
17 located within the boundaries of that school district. Execution of
18 an affidavit under penalty of perjury pursuant to Part 1.5
19 (commencing with Section 6550) of Division 11 of the Family
20 Code by the caregiving adult is a sufficient basis for a
21 determination that the pupil lives in the caregiver's home, unless
22 the school district determines from actual facts that the pupil is
23 not living in the caregiver's home.

24 ~~(e)~~

25 (5) A pupil residing in a state hospital located within the
26 boundaries of that school district.

27 (b) *If the school in which a pupil would be placed pursuant to*
28 *this section is closed or impacted, the governing board of the*
29 *school district may place the pupil at another schoolsite within*
30 *the district, without regard to the pupil's address.*

31 ~~(f)~~

32 (c) This section is operative on and after July 1, 2007.