

AMENDED IN ASSEMBLY MARCH 28, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1670

Introduced by Assembly Member Donnelly

February 12, 2014

An act to amend Section ~~48356~~ 33050 of the Education Code, relating to school enrollment.

LEGISLATIVE COUNSEL'S DIGEST

AB 1670, as amended, Donnelly. School enrollment: Open Enrollment Act: *waiver: parent notice*.

Existing 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 of the pupil resides, as specified. The Open Enrollment Act requires a school district of enrollment, as defined, to ensure that pupils enrolled pursuant to the act are enrolled in a school with a higher Academic Performance Index than the school in which the pupil was previously enrolled and are selected through a random, unbiased process, except that pupils applying for transfer are required to be assigned specified priorities for approval.

Existing law authorizes the governing board of a school district or a county office of education, on a districtwide or countywide basis or on behalf of one or more of its schools or programs, after a public hearing on the matter, to request the State Board of Education to waive all or part of any section of the Education Code or any regulation of the state board that implements a provision of the Education Code that may be waived, except as specified. The provisions of the Open

Enrollment Act are among those provisions that may be waived by the state board.

This bill would ~~make nonsubstantive changes to certain~~ require the governing board of any school district requesting a waiver of the provisions of the Open Enrollment Act that require a school to be included on the list of low-achieving schools, as defined, to send a written notice to the parents or guardians of each pupil attending each school that would otherwise be listed. The bill would require this notice to include, but not be limited to, instruction on how to contact the state board regarding the request by the school district to waive the listing requirement. The bill would also update cross-references and delete obsolete provisions.

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 33050 of the Education Code is amended*
2 *to read:*

3 33050. (a) The governing board of a school district or a county
4 board of education, on a districtwide or countywide basis or on
5 behalf of one or more of its schools or programs, after a public
6 hearing on the matter, may request the ~~State Board of Education~~
7 *state board* to waive all or part of any section of this code or any
8 regulation adopted by the ~~State Board of Education~~ *state board*
9 that implements a provision of this code that may be waived,
10 except:

11 (1) Article 1 (commencing with Section 15700) and Article 2
12 (commencing with Section 15780) of Chapter 4 of Part 10 of
13 *Division 1 of Title 1.*

14 (2) Chapter 6 (commencing with Section 16000) of Part 10 of
15 *Division 1 of Title 1.*

16 (3) Chapter 12 (commencing with Section 17000), Chapter 12.5
17 (commencing with Section 17070.10), and Chapter 14
18 (commencing with Section 17085) of Part 10 of *Division 1 of Title*
19 *1.*

20 ~~(4) Part 13 (commencing with Section 22000).~~

21 ~~(5) Section 35735.1.~~

22 ~~(6) Paragraph (8) of subdivision (a) of Section 37220.~~

23 ~~(7)~~

1 (4) The following provisions of Part 10.5 (commencing with
2 ~~Section 17211~~; 17210) of *Division 1 of Title 1*:

3 (A) Chapter 1 (commencing with ~~Section 17211~~ 17210).

4 (B) Article 1 (commencing with Section 17251) to Article 6
5 (commencing with Section 17365), inclusive, of Chapter 3.

6 (C) Sections 17416 to 17429, inclusive; Sections 17459 and
7 17462 and subdivision (a) of Section 17464; and Sections 17582
8 to 17592, inclusive.

9 (5) *Part 13 (commencing with Section 22000) of Division 1 of*
10 *Title 1*.

11 (6) *Section 35735.1*.

12 (7) *Paragraph (8) of subdivision (a) of Section 37220*.

13 (8) The following provisions of Part 24 (commencing with
14 ~~Section 41000~~; 41000) of *Division 3*:

15 (A) Sections 41000 to 41360, inclusive.

16 (B) Sections 41420 to 41423, inclusive.

17 (C) Sections 41600 to ~~41866~~ 41863, inclusive.

18 (D) Sections 41920 to ~~42911~~ 42850, inclusive.

19 (9) Sections 44504 and 44505.

20 (10) Article 3 (commencing with Section 44930) of Chapter 4
21 of Part 25 of *Division 3* and regulations in Title 5 of the California
22 Code of Regulations adopted pursuant to Article 3 (commencing
23 with Section 44930) of Chapter 4 of Part 25 of *Division 3*.

24 (11) Part 26 (commencing with Section 46000) of *Division 4*.

25 (12) Chapter 6 (commencing with Section 48900) and Chapter
26 6.5 (commencing with Section 49060) of Part 27 of *Division 4*.

27 (13) Section 51513.

28 (14) Chapter 6.10 (commencing with Section 52120) of Part 28
29 of *Division 4*, relating to class size reduction.

30 (15) Section 52163.

31 (16) The identification and assessment criteria relating to any
32 categorical aid program, including Sections 52164.1 and 52164.6.

33 (17) Sections 52165, 52166, and 52178.

34 (18) Article 3 (commencing with Section 52850) of Chapter 12
35 of Part 28 of *Division 4*.

36 (19) Section 56364.1, except that this restriction shall not
37 prohibit the ~~State Board of Education~~ *state board* from approving
38 any waiver of ~~Section 56364~~ or Section 56364.2, as applicable;
39 relating to full inclusion.

(20) Article 4 (commencing with Section 60640) of Chapter 5 of Part 33 of *Division 4*, relating to the ~~STAR Program MAPP~~, and any other provisions of Chapter 5 (commencing with Section 60600) of Part 33 of *Division 4* that establish requirements for the ~~STAR Program MAPP~~.

(b) Any waiver of provisions related to the programs identified in Section 52851 shall be granted only pursuant to Article 3 (commencing with Section 52850) of Chapter 12 of Part 28 of *Division 4*.

(c) The waiver of an advisory committee required by law shall be granted only pursuant to Article 4 (commencing with Section 52870) of Chapter 12 of Part 28 of *Division 4*.

(d) Any request for a waiver submitted by the governing board of a school district or a county board of education pursuant to subdivision (a) shall include a written statement as to both of the following:

(1) Whether the exclusive representative of employees, if any, as provided in Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code, participated in the development of the waiver.

(2) The exclusive representative's position regarding the waiver.

(e) Any request for a waiver submitted pursuant to subdivision (a) relating to a regional occupational center or program established pursuant to Article 1 (commencing with Section 52300) of Chapter 9 of Part 28 of *Division 4*, that is operated by a joint powers entity established pursuant to Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code, shall be submitted as a joint waiver request for each participating school district and shall meet both of the following conditions:

(1) Each joint waiver request shall comply with all of the requirements of this article.

(2) The submission of a joint waiver request shall be approved by a unanimous vote of the governing board of the joint powers agency.

~~(f) The governing board of any school district requesting a waiver under this section of any provision of Article 5 (commencing with Section 39390) of Chapter 3 of Part 23 shall provide written notice of any public hearing it conducted pursuant to subdivision (a), at least 30 days prior to the hearing, to each public agency identified under Section 39394.~~

(f) *The governing board of any school district requesting a waiver under this section of the provisions of the Open Enrollment Act (Article 10 (commencing with Section 48350) of Chapter 2 of Part 27 of Division 4) that require a school to be included on the list of low-achieving schools, as defined in subdivision (a) of Section 48352, shall send a written notice to the parents or guardians of each pupil attending each school that would otherwise be listed. The notice required under this subdivision shall include, but not be limited to, instruction on how to contact the state board regarding the request by the school district to waive the listing requirement.*

~~SECTION 1. Section 48356 of the Education Code is amended to read:~~

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

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

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

~~(d) A school district of enrollment shall ensure that pupils enrolled pursuant to standards adopted pursuant to this section are enrolled in a school with a higher Academic Performance Index than the school in which the pupil was previously enrolled and are selected through a random, unbiased process that prohibits an evaluation of whether or not the pupil should be enrolled based on his or her individual academic or athletic performance, or any of the other characteristics set forth in subdivision (a), except that~~

1 pupils applying for a transfer pursuant to this article shall be
2 assigned priority for approval as follows:

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

5 (2) Second priority for pupils transferring from a program
6 improvement school ranked in decile 1 on the Academic
7 Performance Index determined pursuant to subdivision (a) of
8 Section 48352.

9 (3) If the number of pupils who request a particular school
10 exceeds the number of spaces available at that school, a lottery
11 shall be conducted in the group priority order identified in
12 paragraphs (1) and (2) to select pupils at random for acceptance
13 until all of the available spaces are filled.

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

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