

Date of Hearing: April 25, 2023

ASSEMBLY COMMITTEE ON HUMAN SERVICES

Corey A. Jackson, Chair

AB 373 (Gipson) – As Amended April 4, 2023

SUBJECT: Intersession programs: foster children and homeless youth: priority access

SUMMARY: Requires local educational agencies (LEAs) operating intersession programs to grant priority access to homeless and foster youth. Specifically, **this bill:**

- 1) Requires an LEA, if they operate an intersession program, to grant priority access to homeless and foster children or youth.
- 2) Defines a “local educational agency” to mean a school district, county office of education, or charter school.
- 3) Defines an “intersession program” to mean an extended learning program offered by an LEA on non-schooldays, including but not limited to, summer school, and clarifies that it does not include an extended school year program for individuals with “exceptional needs,” as defined in state and federal regulations.
- 4) Requires, notwithstanding any other law, if the homeless or foster youth will be moving during an intersession period, the pupil’s parent, guardian or educational rights holder, to determine which school the pupil attends for the intersession period, if applicable.

EXISTING LAW:

- 1) Defines “homeless children and youth” to mean individuals who lack a fixed, regular, and adequate nighttime residence; and includes children and youth who are sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason; are living in motels, hotels, trailer parks, or camping grounds due to the lack of alternative adequate accommodations; are living in emergency or transitional shelters; or are abandoned in hospitals; children and youth who have a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings; children and youth who are living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings; and migratory children who qualify as homeless because the children are living in the afore described circumstances. (United States Code Title 42 Section 11434(a))
- 2) Requires the first priority for enrollment of pupils in an after school program to be given to homeless youth, as defined by the federal McKinney-Vento Homeless Assistance Act, foster youth, as defined by the program, and to pupils who are eligible for free or reduced-price meals. (Education Code Section [EDC] 8483(c))
- 3) Defines a “foster youth” to mean any of the following:
 - a) A child who is the subject of a petition filed with the court for neglect and abuse, as specified, whether or not the child has been removed from the child’s home by the juvenile court pursuant to the requirement to examine the child’s parents, guardians, or

Indian custodian to hear the relevant evidence as these parties, or their counsel, desires to present;

- b) A child who is the subject of a petition filed when a minor who is between 12 and 17 years of age has violated the law, has been removed from their home by the juvenile court, has been adjudged a ward of the court, and is in foster care;
- c) A nonminor under the transition jurisdiction of the juvenile court who satisfies all of the following criteria:
 - i) The nonminor has attained 18 years of age while under an order of foster care placement by the juvenile court, and not more than 21 years of age;
 - ii) The nonminor is in foster care under the placement and care responsibility of the county welfare department, county probation department, Indian tribe, consortium of tribes, or tribal organization that entered into an agreement, as specified;
 - iii) The nonminor is participating in a transitional independent living case plan, as contained in the federal Fostering Connections to Success and Increasing Adoptions Act of 2008 (Public Law 110-351);
 - iv) A dependent child of the court of an Indian tribe, consortium of tribes, or tribal organization who is the subject of a petition filed in the tribal court pursuant to the tribal court's jurisdiction in accordance with the tribe's law; and,
 - v) A child who is the subject of a voluntary placement agreement. (EDC 48853.5(a), and 42238.01(b))
- 4) Requires the LEA serving the foster child, at the initial detention or placement, or any subsequent change in placement, to continue to allow their education in the school of origin for the duration of the jurisdiction of the court. (EDC 48853.5.(f))
- 5) Defines "school of origin" to mean the school that the foster child attended when permanently housed or the school in which the foster child was last enrolled. Requires, if the school the foster child attended when permanently housed is different from the school in which the foster child was last enrolled, or if there is some other school that the foster child attended with which the foster child is connected and that the foster child attended within the immediately preceding 15 months, the educational liaison, in consultation with, and with the agreement of, the foster child and the person holding the right to make educational decisions for the foster child, to determine, in the best interests of the foster child, the school that shall be deemed the school of origin. (EDC 48853.5(g))
- 6) Requires the placing agency, in making out-of-home placement decisions, to promote educational stability by considering a placement's proximity to the child's school of origin and attendance area, the number of previous school transfers, and the school matriculation schedule, among other factors. (Welfare and Institutions Code Section [WIC] 16501.1(c)(4))
- 7) Stipulates that unless disabled, pupils whose educational needs are due primarily to limited English proficiency; a lack of instruction in reading or mathematics; temporary

physical disabilities; social maladjustment; or environmental, cultural, or economic factors are not individuals with exceptional needs. (EDC 56026 (e))

- 8) Establishes a number of rights for students in foster care including rights to immediate enrollment, rights to have educational records transferred in a timely manner, rights to remain in their schools of origin, rights to exemptions from locally adopted graduation requirements in excess of state requirements, and the right to have partial credit awarded for coursework. (EDC 48850-48853.5, 48911, 48915.5, 49069.5, 49076, 51225.1, and 51225.2)

FISCAL EFFECT: This bill has been keyed non-fiscal by the Legislative Counsel.

COMMENTS:

Background: *Education Outcomes for Foster Youth.* Students in foster care represent one of the most vulnerable and academically at-risk student groups enrolled in California schools. The California Department of Education (CDE) monitors the educational outcomes for foster youth and partners with multiple state agencies and nonprofit organizations to ensure these students receive the supports and services they need.

Since 1981, CDE has administered a statewide grant program, the Foster Youth Services Program, now referred to as the Foster Youth Services Coordinating Program (FYSCP), which provides funding to County Offices of Education (COEs) to improve interagency support for students in foster care. In order to coordinate services across county agencies, county FYSCPs developed Memorandums of Understanding (MOUs) with county child welfare agencies for the purpose of drawing down Title IV-E federal dollars for eligible case management activities that support the coordination of services for foster youth. The FYSCPs also developed policies and procedures for information-sharing among county agencies concerning foster youth. This shared information is used by education, child welfare, and probation agencies to track the progress of foster youth in both care and education and, when needed, quickly transfer students between districts. The county-administered FYSCPs have also developed agreements to address transportation to a child's school of origin to promote school stability.

Some of the types of educational case management activities that can be included in these MOUs enumerate what the COE agrees to provide, such as working with the child welfare department to minimize changes in school placement; assisting with the prompt transfer of educational records, including the health and education passport, between educational institutions when placement changes are necessary; and, facilitating communication between the education rights holder, the foster care provider, teacher, and any other school staff or education service providers for the child. In 2003, through the enactment of AB 490, (Steinberg), Chapter 862, Statutes of 2003, LEAs that operate a foster youth services program are required to appoint a staff person to act as an educational liaison for foster youth. The liaison helps to ensure proper placement, enrollment in school, and checkout from school, and to assist them in transferring from one school to another by seeing that necessary records, credits, and grades are transferred.

Every foster youth under the age of 18 is required to have an educational rights holder who is required to make education decisions in the youth's best interest. An educational rights holder can be a parent or legal guardian, caregiver, or another person chosen by the court, but cannot be a foster youth's social worker or probation officer, attorney, or group home or school staff member. This bill would allow, if the foster youth will be moving during an intersession period,

the educational rights holder, to determine which school the pupil attends for the intersession period.

California's foster youth have the poorest education outcomes of any students, due in large part to their school instability. Data shows that youth in foster care change schools an average of eight times while in care, losing four to six months of learning with each move. Youth in foster care graduate at a rate of only 56% (compared to 85% of all students), 15% are suspended at least once per year (compared to 4% of all students), 28% are chronically absent (compared to 12% of all students), and math and English language test scores are consistently far below their peers. To address this issue, existing law ensures youth in foster care the right to remain stable in school by staying in their school of origin, despite a home placement change, and federal law created a corresponding right to transportation to the school of origin, as established in the Every Student Succeeds Act.

Research has indicated that the anticipation of a child welfare placement change, as well as uncertainty about the duration of a placement, can be constant sources of distress and fear for youth and the combined effects of placement and school instability can negatively impact a foster youth's academic progress. This bill would attempt to minimize the disruptions that placement changes that necessitate a change in schools by requiring foster youth to be given priority when enrolling in intersession programs. Often, foster youth will need to enroll in credit recovery courses during the summer to make up for failed classes and this bill would allow schools to prioritize their access to these classes and provide an opportunity to catch up and graduate on time.

Homeless Youth in California. The McKinney-Vento Homeless Assistance Act (Act) is a federal law that, among other requirements, requires public schools to count the number of students who are living on the street, in shelters, motels, in cars, or with other families. The Act further requires school districts, COEs and charter schools hire a local liaison who must ensure that homeless youth are identified and coordinate education services to increase their chances of succeeding academically. This bill would require, if the homeless or foster youth will be moving during an intersession period, for their pupil's parent or guardian, to determine which school the pupil attends for the intersession period.

According to the Housing and Urban Development's (HUD) 2022 Annual Homeless Assessment Report to Congress, California has 15,439 people under the age of 18 who are homeless. Children under the age of 18 made up 59% of people experiencing homelessness in families with children in 2022. Another 34% were adults over the age of 24, and 7% were young adults between 18 and 24 years of age. Data from CDE's 2019-20 Homeless Youth Educational Outcomes report shows that 244,626 homeless youth were enrolled from kindergarten through Grade 12, which was a 9% decrease from 2018-19. The report also stated that Black students make up 5.4% of statewide enrollment, but represent 9% of homeless students. Latino homeless students make up 55% of statewide enrollment but represent 71% of homeless students.

People experiencing homelessness face a variety of challenges including food and income insecurity, as well as health problems; the homeless population faces a higher risk of exposure to communicable diseases such as COVID-19, influenza, strep throat, sexually transmitted diseases, Hepatitis C, HIV/AIDS, and tuberculosis, among others. Relatedly, CDE's report states that the chronic absence rate for homeless youth was nearly two times that for all students, while the homeless youth graduation rate was 15% lower than the rate for non-homeless students.

The number of homeless youth who identify as lesbian, gay, bisexual, transgender, and queer (LGBTQ), are current or former foster youth, are involved in the juvenile justice system, or are minorities, is disproportionately high. Data show that between 5-10% of the general youth population identify as LGBTQ, however LGBTQ youth comprise between 20-40% of the homeless youth population, with larger numbers of LGBTQ youth residing in areas that offer LGBTQ-specific supports, such as Los Angeles and San Francisco. Studies demonstrate that between 31 and 46% of former foster youth had reported being homeless at least once by age 26, and that the odds of becoming homeless by 19 years old were higher for youth who: had run away more than once while in foster care; were placed in a group care setting; had experienced physical abuse prior to entering the child welfare system; and had engaged in delinquent behaviors.

Author’s statement: According to the Author, “For too long, children suffering from homelessness and those going through the foster system have not been given the correct amount of attention to help ensure their success in school. During the pandemic, the issues that faced these students were only exacerbated and highlighted as they fell further behind because of the lack of resources and services available to them. It is fair to state that all students had to deal with some level of mental and educational fatigue, but these more vulnerable students oftentimes did not have opportunities to succeed as their peers have. We must give these students sufficient opportunities moving forward so they can have the skills required to flourish now and as they grow into young adulthood and then early in their careers. The majority of foster youth enrolled in California public schools are students of color - these students are the future of our communities and their struggles cannot be overlooked. This bill serves as a simple, but impactful piece of legislation that will embolden our most vulnerable populations in our California school system to a life of success and opportunity.”

Need for this bill: The provisions of this bill seek expand the programs that grant priority access to homeless and foster youth when enrolling in summer school programs, like credit recovery courses. Currently, the first priority for enrollment of pupils in an after school program is to be given to homeless and foster youth, and this bill would expand that access to include intersession programs such as summer school.

Equity Impact: Research has consistently shown that California’s foster youth experience low educational outcomes, and data has shown the same dismal outcomes for youth experiencing homelessness while juggling the demands of a K-12 education. This bill aims to provide these students an equitable chance at success by ensuring they have priority access to the classes that can keep them on track to graduation. Due to the lower rates of educational success and support, foster youth often experience poor outcomes later in life, including higher unemployment, homelessness, and incarceration rates than their peers. Homeless youth are also at a disadvantage when compared to their non-homeless peers and also graduate at a lower rate. This bill is seeking to remove barriers to achieving the goal of degree completion for the vulnerable foster youth and homeless population.

Double referral: This bill passed out of the Assembly Education Committee on March 29, 2023, with a 6-0 vote.

RELATED AND PRIOR LEGISLATION:

SB 918 (Wiener), Chapter 841, Statutes of 2018, established the “Homeless Youth Act of 2018” to better serve the state’s homeless youth population and required the Homeless Coordinating

and Financing Council (now known as the California Interagency Council on Homelessness) to take on additional related responsibilities, including setting goals to prevent and end homelessness among youth in the state, defining outcome measures, and gathering data related to those goals.

AB 490 (Steinberg), Chapter 862, Statutes of 2003, expanded and stipulated authority for school records of foster, homeless, and incarcerated youth.

REGISTERED SUPPORT / OPPOSITION:**Support**

California Alliance of Caregivers
California Teachers Association
Office of The Riverside County Superintendent of Schools
Schoolhouse Connection
Sycamores
Union Station Homeless Services

Opposition

None on file

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