



Governor Signs Legislation Extending School District of Choice Provisions With Changes

On October 11, 2009, Governor Schwarzenegger signed Senate Bill 680 (“SB 680”), extending the Education Code provisions authorizing a school district to designate itself as a school district of choice and permitting interdistrict transfers. (Ed. Code § 48300, et seq.) SB 680 extended the school district of choice program to January 1, 2017, and made several changes to the relevant Education Code provisions.¹

Most notably, school districts of choice are now prohibited from rejecting transfers of special needs pupils or English learners even if the transfer of the pupil would require the district to create a new program to serve the pupil. The Education Code still allows a school district of choice to reject the transfer of general education pupils if the transfer of the pupils would require the district to create a new program to serve the pupils. In addition, the Education Code still allows a school district of choice to deny approval of a transfer if the transfer would require the displacement from a school or program of any other pupil who resides within the district's attendance area or is currently enrolled in the school. (Ed. Code § 48304.) However, SB 680 forbids such denials if the transfer involves special needs pupils or English learners.

Other changes include, but are not limited to, the following:

1. If the number of pupil transfer applications exceeds the number of transfers the district has elected to accept, then approval for the transfers must be determined by a random drawing held in public at a regularly scheduled meeting of the school district governing board.
2. Communications to parents by school districts of choice must be factually accurate and are prohibited from targeting individual parents or residential neighborhoods on the basis of a pupil's actual or perceived academic or athletic performance or any other personal characteristic.
3. School districts of choice accounting responsibilities must now include an accounting of the race, ethnicity, gender, self-reported socioeconomic status, and the school district of residence of pupils who transfer into and out of the district. School districts of choice must also account for the number of students who transfer into and out of the district who are classified as English learners or are identified as individuals with exceptional needs.
4. School districts of choice are required to report data collected through their accounting responsibilities to each school district that is geographically adjacent to the district, the county office of education, the State Superintendent of Public Instruction, and the Department of Finance

¹ Education Code section 46600 et seq., permits interdistrict attendance in accordance with agreements between schools districts, and Education Code section 35160.5, subdivision (b) permits a school district to adopt open enrollment policies. SB 680 did not amend the Education Code provisions regarding interdistrict attendance agreements or open enrollment.

on or before May 15th of each year. The Department of Finance is required to make the information reported to it available upon request to the Legislative Analyst's Office.

5. The Legislative Analyst's Office, rather than the California Department of Education, is now required to annually report data on the district of choice program to the Governor and the appropriate fiscal and policy committees of the Legislature.
6. The California Department of Education is no longer required to complete a one-time evaluation of the district of choice program. Rather, the Legislative Analyst's Office is required to complete an evaluation of the program to be reported to the Governor and the appropriate education policy committees of the Legislature by November 1, 2014.

It should also be noted that funding for school districts of choice that are also basic aid districts remains the same. The statute still provides that basic aid districts will receive 70% of the district revenue limit that would have been apportioned to the school district of residence. While the bill removed the clause stating that the Superintendent of Public Instruction shall calculate the apportionment, the Superintendent will still be required to make the calculation since the apportionment comes from state funds.

We recommend that school districts of choice review and revise their board policies and administrative regulations to ensure compliance with the revised Education Code provisions. If you have any questions or need assistance regarding the impact of SB 680 on your school district, please contact one of our four offices.

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This F3 NewsFlash is a summary only and not legal advice. We recommend that you consult with legal counsel to determine how this revised statute may apply to your specific facts and circumstances. Information on a free NewsFlash subscription can be found at www.fagenfriedman.com.

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