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5350 Skylane Boulevard
Santa Rosa, CA 95403

Tel: (707) 524-2690
Fax: (707) 578-0517
santarosa@sclsca.org
www.sclsca.org

General Counsel
Carl D. Corbin

Attorneys
Ellie R. Austin
Monica D. Batanero
Jennifer Henry
Sarah Hirschfeld-Sussman
Nancy L. Klein
Damara L. Moore
Jennifer E. Nix
Steven P. Reiner
Kaitlyn A. Schwendeman
Loren W. Soukup
Erin E. Stagg

Of Counsel
Robert J. Henry
Margaret M. Merchat
Patrick C. Wilson
Frank Zotter, Jr.

LEGAL UPDATE

October 15, 2019

To: Superintendents, Member School Districts (K-12)
From: Carl D. Corbin, General Counsel *CDC*
Subject: **AB 1319 – Migratory Students Right to Attend School Of Origin**
Memo No. 28-2019

On October 2, 2019, the Governor approved Assembly Bill (“AB”) 1319, which, when effective January 1, 2020, provides migratory students with the right to attend their school of origin in a similar manner to the rights provided to foster students and homeless students.¹

The definition of a “pupil who is a migratory child” is at Education Code § 54441:

...a child who has moved with a parent, guardian, or other person having custody, from one school district to another, either within the State of California or from another state within the 12-month period immediately preceding his or her identification as such a child, in order that the child, a parent, guardian, or other member of his or her immediate family might secure temporary or seasonal employment in an agricultural or fishing activity, and whose parents or guardians have been informed of the child’s eligibility for migrant education services. [This] includes a child who, without the parent or guardian, has continued to migrate annually to secure temporary or seasonal employment in an agricultural or fishing activity.

Essentially, migratory students must be allowed to continue to attend their school of origin (the school the student is enrolled at the time that a change of residence occurs) regardless of any subsequent change of residency so long as the student continues to be a student “who is a migratory child.”² The migratory student who is transitioning between grade levels must be allowed to continue to attend the school district of origin in the same attendance area.³ The migratory student who is transitioning to middle or high school must be allowed to attend the school district of origin’s designated middle or high school even if the school is located within another school district.⁴ The receiving school district

¹ AB 1319 is codified at Education Code § 48204.7.
² Education Code § 48204.7(b)(1).
³ Education Code § 48204.7(c)(1).
⁴ Education Code § 48204.7(c)(2).



must immediately enroll the migratory student even if the student has outstanding fees, fines, textbooks, or other items or moneys due to the last school district or if the student is unable to produce records normally required for enrollment (such as academic records, immunization records, etc.).⁵ The migratory student must also be immediately enrolled even if the receiving school has a school uniform policy and the migratory student does not have the appropriate school uniform clothes.⁶

For a migratory student that loses their status as a migratory student during a school year, the formerly migratory student will be allowed to attend the school of origin through the remainder of the school year for students in Kindergarten through 8th grade.⁷ Formerly migratory students in high school must be allowed to continue at the school of origin through graduation.⁸

Please note, unless otherwise required under federal law, neither the sending nor receiving school district has to provide the migratory student with transportation.⁹

Lastly, the school of origin is required to inform the student and their parents of the student's eligibility to receive migrant education services.¹⁰

For your convenience, a copy of AB 1319 is included with this Legal Update.

Please contact our office with questions regarding this Legal Update or any other matter.

The information in this Legal Update is provided as a summary of law and is not intended as legal advice. Application of the law may vary depending on the particular facts and circumstances at issue. We, therefore, recommend that you consult legal counsel to advise you on how the law applies to your specific situation.

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⁵ Education Code § 48204.7(c)(3).

⁶ *Id.*

⁷ Education Code § 48204.7(b)(2).

⁸ *Id.*

⁹ Education Code § 48204.7(d).

¹⁰ Education Code § 48204.7(f).

Assembly Bill No. 1319

CHAPTER 458

An act to add Section 48204.7 to the Education Code, relating to migrant education.

[Approved by Governor October 2, 2019. Filed with Secretary of State October 2, 2019.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1319, Arambula. Migrant education: pupil residency.

Existing law requires each person between 6 and 18 years of age not otherwise exempted to attend a public full-time day school or continuation school or classes in the school district where the residency of the person's parent or legal guardian is located. Existing law provides that a pupil complies with the residency requirements for school attendance in a school district if the pupil satisfies one of specified requirements.

Existing law requires the State Board of Education to adopt a state master plan for services to migrant children.

This bill would require local educational agencies, as defined, to allow a pupil who is a migratory child, as defined, to continue attending their school of origin, as defined, or a school within the school district of origin, as provided, regardless of any change of residence of the pupil, as specified. By requiring local educational agencies to allow pupils who are migratory children who no longer satisfy the residency requirement to attend their schools of origin or a school within the school district of origin, the bill would impose a state-mandated local program.

This bill also would require a local educational agency to inform a pupil who is a migratory child and that pupil's parent or guardian of the impact of remaining in the school of origin on the eligibility of that pupil to receive migrant education services, as specified. By adding to the duties of local educational agencies, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

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

SECTION 1. Section 48204.7 is added to the Education Code, to read:

48204.7. (a) For purposes of this section, the following definitions apply:

(1) “Local educational agency” means a county office of education, school district, or charter school.

(2) “Pupil who is a migratory child” means a pupil who meets the definition of “currently migratory child” in Section 54441.

(3) “School of origin” means the school in which the pupil is enrolled at the time that a change in residence occurs.

(b) Notwithstanding Section 48200, the local educational agency serving a pupil who is a migratory child shall do either of the following:

(1) Allow the pupil to continue their education in the school of origin, regardless of any change of residence of the migratory child during that school year, for the duration of the pupil’s status as a pupil who is a migratory child.

(2) For a pupil whose status changes as a pupil who is a migratory child during a school year, comply with either of the following, as applicable:

(A) If the pupil is enrolled in kindergarten or any of grades 1 to 8, inclusive, allow the pupil to continue their education in the school of origin through the duration of that academic school year.

(B) If the child is enrolled in high school, allow the pupil to continue their education in the school of origin through graduation.

(c) To ensure that a pupil who is a migratory child has the benefit of matriculating with their peers in accordance with the established feeder patterns of school districts, the following apply:

(1) If the pupil who is a migratory child is transitioning between school grade levels, the local educational agency shall allow the pupil who is a migratory child to continue in the school district of origin in the same attendance area.

(2) If the pupil who is a migratory child is transitioning to a middle school or high school and the school designated for matriculation is in another school district, the local educational agency shall allow the pupil who is a migratory child to continue to the school designated for matriculation in that school district.

(3) The new school shall immediately enroll the pupil who is a migratory child even if the child has outstanding fees, fines, textbooks, or other items or moneys due to the school last attended or is unable to produce clothing or records normally required for enrollment, such as previous academic records, medical records, including, but not limited to, records or other proof of immunization history pursuant to Chapter 1 (commencing with Section 120325) of Part 2 of Division 105 of the Health and Safety Code, proof of residency, other documentation, or school uniforms.

(d) Unless otherwise required by federal law, this section does not require a local educational agency to provide transportation services to allow a pupil subject to paragraph (1) or (2) of subdivision (b) or subdivision (c) to attend a school pursuant to this section.

(e) This section does not require a local educational agency to provide a pupil who is a migratory child with a program with online instruction as a substitute for physical attendance.

(f) A local educational agency shall inform a pupil who is a migratory child and that pupil's parent or guardian of the impact of remaining in the school of origin on the eligibility of that pupil to receive migrant education services, as described in Article 3 (commencing with Section 54440) of Chapter 4 of Part 29.

SEC. 2. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.