STATE OF CALIFORNIA
AUTHENTICATED
ELECTRONIC LEGAL MATERIAL
LEGISLATIVE COUNSEL BUREAU

State of California

EDUCATION CODE

Section 48853

48853. (a) A pupil described in subdivision (a) of Section 48853.5 who is placed in a licensed children's institution or foster family home as defined in Section 56155.5, shall attend programs operated by the local educational agency, unless one of the following applies:

(1) The pupil is entitled to remain in his or her school of origin pursuant to paragraph (1) of subdivision (e) of Section 48853.5.

(2) The pupil has an individualized education program requiring placement in a nonpublic, nonsectarian school or agency, or in another local educational agency.

(3) The parent or guardian, or other person holding the right to make educational decisions for the pupil pursuant to Section 361 or 726 of the Welfare and Institutions Code or Section 56055, determines that it is in the best interests of the pupil to be placed in another educational program, in which case the parent or guardian or other person holding the right to make educational decisions for the pupil shall provide a written statement that he or she has made that determination to the local educational agency. This statement shall include a declaration that the parent, guardian, or other person holding the right to make educational decisions for the pupil is aware of all of the following:

(A) The pupil has a right to attend a regular public school in the least restrictive environment.

(B) The alternate education program is a special education program, if applicable.

(C) The decision to unilaterally remove the pupil from the regular public school and to place the pupil in an alternate education program may not be financed by the local educational agency.

(D) Any attempt to seek reimbursement for the alternate education program may be at the expense of the parent, guardian, or other person holding the right to make educational decisions for the pupil.

(b) For purposes of ensuring a parent, guardian, or other person holding the right to make educational decisions for the pupil is aware of the information described in subparagraphs (A) to (D), inclusive, of paragraph (3) of subdivision (a), the local educational agency may provide him or her with that information in writing.

(c) Before any decision is made to place a pupil in a juvenile court school as defined by Section 48645.1, a community school as described in Sections 1981 and 48660, or other alternative educational setting, the parent or guardian, or person holding the right to make educational decisions for the pupil pursuant to Section 361 or 726 of the Welfare and Institutions Code or Section 56055, shall first consider placement in the regular public school.

(d) If any dispute arises as to the school placement of a pupil subject to this section, the pupil has the right to remain in his or her school of origin, as defined in subdivision (f) of Section 48853.5, pending resolution of the dispute. The dispute shall be resolved in accordance with the existing dispute resolution process available to any pupil served by the local educational agency.

(e) This section does not supersede other laws that govern pupil expulsion.

(f) This section does not supersede any other law governing the educational placement in a juvenile court school, as defined by Section 48645.1, of a pupil detained in a county juvenile hall, or committed to a county juvenile ranch, camp, forestry camp, or regional facility.

(g) (1) Foster children living in emergency shelters, as referenced in the federal McKinney-Vento Homeless Assistance Act (42 U.S.C. Sec. 11301 et seq.), may receive educational services at the emergency shelter as necessary for short periods of time for either of the following reasons:

(A) For health and safety emergencies.

(B) To provide temporary, special, and supplementary services to meet the child's unique needs if a decision regarding whether it is in the child's best interests to attend the school of origin cannot be made promptly, it is not practical to transport the child to the school of origin, and the child would otherwise not receive educational services.

(2) The educational services may be provided at the shelter pending a determination by the person holding the right regarding the educational placement of the child.

(h) All educational and school placement decisions shall be made to ensure that the child is placed in the least restrictive educational programs and has access to academic resources, services, and extracurricular and enrichment activities that are available to all pupils. In all instances, educational and school placement decisions shall be based on the best interests of the child.

(i) (1) A complaint of noncompliance with the requirements of this section may be filed with the local educational agency under the Uniform Complaint Procedures set forth in Chapter 5.1 (commencing with Section 4600) of Division 1 of Title 5 of the California Code of Regulations.

(2) A complainant not satisfied with the decision of a local educational agency may appeal the decision to the department pursuant to Chapter 5.1 (commencing with Section 4600) of Division 1 of Title 5 of the California Code of Regulations and shall receive a written decision regarding the appeal within 60 days of the department's receipt of the appeal.

(3) If a local educational agency finds merit in a complaint, or the Superintendent finds merit in an appeal, the local educational agency shall provide a remedy to the affected pupil.

(4) Information regarding the requirements of this section shall be included in the annual notification distributed to, among others, pupils, parents or guardians of pupils, employees, and other interested parties pursuant to Section 4622 of Title 5 of the California Code of Regulations.

(Amended by Stats. 2016, Ch. 612, Sec. 3. (AB 1997) Effective January 1, 2017.)