STATE OF CALIFORNIA
AUTHENTICATED
ELECTRONIC LEGAL MATERIAL
LEGISLATIVE COUNSEL BUREAU

State of California

EDUCATION CODE

Section 48853.5

48853.5. (a) This section applies to a foster child. “Foster child” means a child who has been removed from his or her home pursuant to Section 309 of the Welfare and Institutions Code, is the subject of a petition filed under Section 300 or 602 of the Welfare and Institutions Code, or has been removed from his or her home and is the subject of a petition filed under Section 300 or 602 of the Welfare and Institutions Code.

(b) The department, in consultation with the California Foster Youth Education Task Force, shall develop a standardized notice of the educational rights of foster children, as specified in Sections 48850 to this section, inclusive, 48911, 48915.5, 49069.5, 49076, 51225.1, and 51225.2. The notice shall include complaint process information, as applicable. The department shall make the notice available to educational liaisons for foster children for dissemination by posting the notice on its Internet Web site. Any version of this notice prepared for use by foster children shall also include, to the greatest extent practicable, the rights established pursuant to Section 16001.9 of the Welfare and Institutions Code. In developing the notice that includes the rights in Section 16001.9 of the Welfare and Institutions Code, the department shall consult with the Office of the State Foster Care Ombudsperson.

(c) Each local educational agency shall designate a staff person as the educational liaison for foster children. In a school district that operates a foster children services program pursuant to Chapter 11.3 (commencing with Section 42920) of Part 24 of Division 3, the educational liaison shall be affiliated with the local foster children services program. The educational liaison shall do both of the following:

(1) Ensure and facilitate the proper educational placement, enrollment in school, and checkout from school of foster children.

(2) Assist foster children when transferring from one school to another school or from one school district to another school district in ensuring proper transfer of credits, records, and grades.

(d) If so designated by the superintendent of the local educational agency, the educational liaison shall notify a foster child’s attorney and the appropriate representative of the county child welfare agency of pending expulsion proceedings if the decision to recommend expulsion is a discretionary act, pending proceedings to extend a suspension until an expulsion decision is rendered if the decision to recommend expulsion is a discretionary act, and, if the foster child is an individual with exceptional needs, pending manifestation determinations pursuant to Section 1415(k) of Title 20 of the United States Code if the local educational agency has

proposed a change in placement due to an act for which the decision to recommend expulsion is at the discretion of the principal or the district superintendent of schools.

(e) This section does not grant authority to the educational liaison that supersedes the authority granted under state and federal law to a parent or legal guardian retaining educational rights, a responsible adult appointed by the court to represent the child pursuant to Section 361 or 726 of the Welfare and Institutions Code, a surrogate parent, or a foster parent exercising the authority granted under Section 56055. The role of the educational liaison is advisory with respect to placement decisions and determination of the school of origin.

(f) (1) At the initial detention or placement, or any subsequent change in placement of a foster child, the local educational agency serving the foster child shall allow the foster child to continue his or her education in the school of origin for the duration of the jurisdiction of the court.

(2) If the jurisdiction of the court is terminated before the end of an academic year, the local educational agency shall allow a former foster child who is in kindergarten or any of grades 1 to 8, inclusive, to continue his or her education in the school of origin through the duration of the academic school year.

(3) (A) If the jurisdiction of the court is terminated while a foster child is in high school, the local educational agency shall allow the former foster child to continue his or her education in the school of origin through graduation.

(B) For purposes of this paragraph, a school district is not required to provide transportation to a former foster child who has an individualized education program that does not require transportation as a related service and who changes residence but remains in his or her school of origin pursuant to this paragraph, unless the individualized education program team determines that transportation is a necessary related service.

(4) To ensure that the foster child has the benefit of matriculating with his or her peers in accordance with the established feeder patterns of school districts, if the foster child is transitioning between school grade levels, the local educational agency shall allow the foster child to continue in the school district of origin in the same attendance area, or, if the foster child is transitioning to a middle school or high school, and the school designated for matriculation is in another school district, to the school designated for matriculation in that school district.

(5) Paragraphs (2), (3), and (4) do not require a school district to provide transportation services to allow a foster child to attend a school or school district, unless otherwise required under federal law. This paragraph does not prohibit a school district from, at its discretion, providing transportation services to allow a foster child to attend a school or school district.

(6) 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, may recommend, in accordance with the foster child's best interests, that the foster child's right to attend the school of origin be waived and the foster child be enrolled in a public school that pupils living in the attendance area in which the foster child resides are eligible to attend.

(7) Before making a recommendation to move a foster child from his or her school of origin, the educational liaison shall provide the foster child and the person holding the right to make educational decisions for the foster child with a written explanation stating the basis for the recommendation and how the recommendation serves the foster child's best interests.

(8) (A) If the educational liaison, in consultation with the foster child and the person holding the right to make educational decisions for the foster child, agrees that the best interests of the foster child would best be served by his or her transfer to a school other than the school of origin, the foster child shall immediately be enrolled in the new school.

(B) The new school shall immediately enroll the foster child even if the foster 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.

(C) Within two business days of the foster child's request for enrollment, the educational liaison for the new school shall contact the school last attended by the foster child to obtain all academic and other records. The last school attended by the foster child shall provide all required records to the new school regardless of any outstanding fees, fines, textbooks, or other items or moneys owed to the school last attended. The educational liaison for the school last attended shall provide all records to the new school within two business days of receiving the request.

(9) If a dispute arises regarding the request of a foster child to remain in the school of origin, the foster child has the right to remain in the school of origin pending resolution of the dispute. The dispute shall be resolved in accordance with the existing dispute resolution process available to a pupil served by the local educational agency.

(10) The local educational agency and the county placing agency are encouraged to collaborate to ensure maximum use of available federal moneys, explore public-private partnerships, and access any other funding sources to promote the well-being of foster children through educational stability.

(11) It is the intent of the Legislature that this subdivision shall not supersede or exceed other laws governing special education services for eligible foster children.

(g) For purposes of this section, "school of origin" means the school that the foster child attended when permanently housed or the school in which the foster child was last enrolled. 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, shall determine, in the best interests of the foster child, the school that shall be deemed the school of origin.

(h) This section does not supersede other law governing the educational placements in juvenile court schools, as described in Section 48645.1, by the juvenile court under Section 602 of the Welfare and Institutions Code.

(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. 2015, Ch. 772, Sec. 3.5. (AB 379) Effective January 1, 2016.)