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# SENATE COMMITTEE ON EDUCATION

Senator Carol Liu, Chair  
2015 - 2016 Regular

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**Bill No:** AB 379  
**Author:** Gordon  
**Version:** June 17, 2015  
**Urgency:** No  
**Consultant:** Lynn Lorber  
**Hearing Date:** June 24, 2015  
**Fiscal:** Yes

**Subject:** Foster youth: complaint of noncompliance

## SUMMARY

This bill expands the Uniform Complaint Procedures to include complaints of non-compliance with certain rights and responsibilities regarding the education of students who are in foster care or who are homeless, including school placement decisions, responsibilities of foster youth liaisons, provisions regarding school transfers, exemption from locally-imposed graduation requirements, and the awarding of partial credit for completed coursework.

## BACKGROUND

Existing law:

- 1) Existing law establishes rights for youth who are in foster care or who are homeless (where indicated), including:
  - a) Attend a regular public school when residing in a licensed children's institution, except under specified circumstances. (Education Code § 48853)
  - b) Remain in his or her school of origin when a new placement occurs, and while the resolution of a dispute regarding educational placement is pending. (EC § 48853 and § 48853.5)
  - c) Not have grades and credits be lowered as a result of a placement change or court appearance. (EC § 49069.5)
  - d) Be promptly transferred between schools and have educational records transferred within two business days, and be immediately enrolled in a new school, even if he or she has outstanding fees, fines, textbooks, or money due to the prior school, or is unable to produce clothing or records required for enrollment. (EC § 48853.5 and § 49069.5)
  - e) Students who are in foster care or who are homeless must be awarded full or partial credit for coursework satisfactorily completed at another school, even if he or she hasn't completed the entire course, and not be required to retake some or all of a course he or she has taken at another school. (EC § 49069.5 and § 51225.2)

- f) Students who are in foster care or who are homeless must be exempt from local graduation requirements which exceed state requirements. (EC § 51225.1)
- 2) Requires each local educational agency (LEA) to designate a staff person as the educational liaison for foster youth, and requires that person to ensure and facilitate the proper educational placement, enrollment in school, and checkout from school of foster youth, and to ensure proper transfer of credits, records, and grades when students change schools or school districts. (EC § 48853.5)
- 3) Requires each LEA to designate a staff person as the education liaison for homeless youth, and requires that person to ensure public notice of the educational rights of students who are homeless, and to provide services pursuant to the federal McKinney-Vento Homeless Assistance Act. (United States Code, Title 42, § 11432)
- 4) Requires the Foster Care Ombudsperson to produce a poster delineating the rights of foster children and youth, and post it in specified foster care settings. (Health and Safety Code § 1530.91)
- 5) Though regulation requires LEAs to adopt uniform complaint procedures through which the public can register complaints regarding educational programs and rights. (California Code of Regulations, Title 5, § 4600 et seq.)
- 6) Establishes the Office of the State Foster Care Ombudsperson within the California Department of Social Services. The Ombudsperson is responsible, among other things, for accepting and resolving complaints relating to the rights (primarily non-educational) of foster youth. (Welfare and Institutions Code § 16160 et seq.)

## ANALYSIS

This bill expands the Uniform Complaint Procedures (UCP) to include complaints of non-compliance with certain rights of students who are in foster care or are homeless, including school placement decisions, responsibilities of foster youth liaisons, provisions regarding school transfers, exemption from locally-imposed graduation requirements, and the awarding of partial credit for completed coursework. Specifically, this bill:

- 1) Authorizes a complaint of non-compliance of certain educational rights afforded to students in foster care and students who are homeless to be filed with a LEA under the UCP.
- 2) Authorizes a complainant who is not satisfied with the decisions of a LEA to appeal the decision to the California Department of Education (CDE) through the existing UCP appeal process, and requires that the complainant receive a written decision regarding the appeal within 60 days of the California Department of Education (CDE's) receipt of the appeal.
- 3) Requires the LEA to provide a remedy to the affected student if the LEA or the Superintendent of Public Instruction finds merit in a complaint.

- 4) Requires that information regarding the rights and responsibilities be included in the annual notification required by the Uniform Complaint Procedures (UCP).
- 5) Provides that the following educational rights and responsibilities are subject to the UCP:
  - a) A student in foster care who resides in a licensed children's institution or foster family home must attend a school operated by the LEA except under specified circumstances.
  - b) Students in foster care must be allowed to remain enrolled in their school of origin when a placement change occurs and pending resolution of a dispute regarding school placement.
  - c) All educational and school placement decisions regarding students in foster care must be made to ensure that the student is placed in the least restrictive educational programs and have access to academic resources, services, and extracurricular and enrichment activities that are available to all students.
  - d) Each LEA must designate a staff person as the educational liaison for foster youth, who is responsible for ensuring the proper educational placement and enrollment of students, assisting in school transfer, and coordinating with other personnel regarding expulsion proceedings.
  - e) Students in foster care must be immediately enrolled when transferring to a new school, even if the student has outstanding fees or fines or is unable to produce school records, and the transfer of the student's records must occur within two business days of receipt of a request for records.
  - f) The LEA must compile the complete educational record for a student in foster care, including a determination of seat time, full or partial credits earned, and current classes and grades.
  - g) The LEA must ensure that if a student in foster care is absent due to a placement change made by the court or placing agency, or a court required appearance or activity, the student's grades and credits will not be lowered due to this absence.
  - h) A school district must exempt a student who is in foster care or is homeless, who transfers schools after the second year of high school, from locally-imposed graduation requirements.
  - i) LEAs must award and accept full or partial credit for coursework satisfactorily completed by students in foster care or students who are homeless while attending other schools, even if the student did not complete the entire course. The credits must be applied to the same or equivalent course, the LEA cannot require a student to retake a course if the student has satisfactorily completed the course, and the student must be allowed to complete the same or equivalent course when partial credit is awarded.

**STAFF COMMENTS**

- 1) ***Need for the bill.*** According to the author, “Numerous laws in California give foster children extra protections aimed at improving their ability to be successful in school. Despite these laws, California’s foster children still have the worst educational outcomes of all of our state’s children. In order to improve education outcomes, foster youth need a mechanism to enforce the educational rights afforded to them. Granting them access to the Uniform Complaint Procedure under the California Department of Education will allow foster youth to stand up for their educational needs.”
  
- 2) ***Uniform Complaint Procedures (UCP).*** Required by federal law, the UCP was established in 1991 as a means of creating a “uniform system of complaint processing” for educational programs. The authority for this process is located in regulations, not state statute. These regulations require the adoption of the UCP by school districts, county offices of education, charter schools receiving federal funds, and local public or private agencies which receive direct or indirect state funding to provide school programs or special education or related services. The UCP process generally involves the following steps:
  - a) The filing of a complaint by an individual, agency, or organization.
  - b) The investigation and written response by the local education agency (LEA) within 60 days.
  - c) An appeal by the complainant to the California Department of Education (CDE) within 15 days of receiving the LEA response.
  - d) The response by the CDE to the appeal, with the investigation completed within 60 days.
  - e) A request for reconsideration by the complainant or LEA within 35 days of receiving CDE’s response to the appeal.
  - f) A response by the CDE within 35 days.

Complaints regarding pupil fees, harassment, discrimination, bullying, intimidation, local control accountability plans and some charter school requirements generally follow the UCP, but differ slightly in terms of timelines, anonymity of complainants, confidentiality, and with whom a complaint can be filed.

- 3) ***Fiscal impact.*** According to the Assembly Appropriations Committee, this bill imposes:
  - a) Unknown, likely minor, Proposition 98/General Fund state mandated costs related to the expansion of the UCP. The existing UCP mandate is currently included in the K-12 Mandate Block Grant. If the Commission on State Mandates determines the

requirements of this bill imposes a higher level of service, this could place pressure on the Legislature to increase funding under the K-12 Mandate Block Grant.

b) Unknown administrative costs to the California Department of Education (CDE) to process appeals. For illustration, when complaints related to charging pupil fees was added to the Uniform Complaint Procedures (UCP) process in 2013, 121 new claims were submitted in the first nine months. Annual claims have since leveled to around 40 claims per year. CDE may need additional limited-term staff should this bill result in a similar increase.

4) **Related legislation.** AB 224 (Jones-Sawyer) requires the CDE to develop a standardized notice of educational rights of foster youth, post the notice on its website, and provide the notice to foster youth liaisons, foster youth, parents or educational rights holders. AB 224 is scheduled to be heard by this Committee on June 24.

AB 854 (Weber, 2015) expands the uses of Foster Youth Services (FYS) funding to support students in all foster care placements, makes significant changes to the FYS program, and establishes a State Foster Youth Services Coordinator in the CDE. AB 854 is pending in this Committee.

AB 1391 (Gomez, 2015) an urgency measure, expands the Uniform Complaint Procedures to include complaints of non-compliance with the required minimum instructional minutes for physical education.

AB 412 (Chavez, 2015) authorizes complaints of non-compliance with the required minimum instructional minutes for physical education to be filed with a local complaint process or through the Uniform Complaint Procedures (UCP). AB 412 was never heard.

SB 81 (Committee on Budget and Fiscal Review, 2015) among other things, expands the UCP to include complaints regarding an alleged violation by a local agency of federal or state law or regulations governing adult education programs or regional occupational centers and programs. SB 81 is passed both houses of the Legislature and is pending in Engrossing and Enrolling.

SB 425 (Hernandez, 2015) among other things, expands the UCP to include complaints regarding an alleged violation by a local agency of federal or state law or regulations governing adult education programs or regional occupational centers and programs, including allegations of unlawful discrimination, harassment, intimidation, or bullying. SB 425 is pending in the Assembly Higher Education Committee.

AB 907 (Burke, 2015) is nearly identical to SB 425. AB 907 is pending in this Committee.

AB 1012 (Jones-Sawyer, 2015) prohibits a school district from assigning any students in grades 7-12 to any "course period without educational content" for more than one week in any semester, or to a course that the student has previously completed with a grade sufficient to meet the A-G requirements and graduation requirements, unless specifically authorized. AB 1012 also expands the UCP to include complaints of noncompliance with these requirements. AB 1012 is pending in this Committee.

AB 302 (Cristina Garcia, 2015) requires local educational agencies (LEAs) to provide reasonable accommodations to a lactating pupil on a school campus to express breast milk, breast-feed an infant child, or address other needs related to breast-feeding, and expands the UCP to include complaints of non-compliance with this requirement. AB 302 is scheduled to be heard by this Committee on July 1.

**SUPPORT**

Alliance for Children's Rights  
All Saints Church Foster Care Project  
John Burton Foundation for Children Without Homes  
Public Counsel

**OPPOSITION**

None received.

**-- END --**