

CLIENT NEWS BRIEF

No. 55

December 2009

**CALIFORNIA STATE LEGISLATURE EXTENDS AND REVISES
THE SCHOOL DISTRICT OF CHOICE PROGRAM**

Senate Bill (“SB”) 680, recently signed by Governor Schwarzenegger amended several Education Code provisions related to the school district of choice program. The program allows school districts to accept interdistrict transfers even in the absence of an interdistrict transfer agreement, subject to certain conditions. The program previously limited the number of school districts that could participate, and was set to expire on January 1, 2010. Under SB 680, the district of choice program has been extended until January 1, 2017. SB 680 also allows any school district to elect to become a school district of choice. SB 680 amends Education Code sections 48301, 48303, 48306, 48307, 48310, 48313 and 48315, and adds Education Code section 48316 while repealing Education Code section 48314.5.

Under the revised law, any school district may now elect to become a school district of choice by adopting a resolution to that effect. In deciding to become a school district of choice, the governing board shall determine the number of transfer pupils that will be accepted and ensure that pupils admitted under the transfer policy are selected by a random, unbiased process, and not on the basis of academic or athletic qualifications. If the number of transfer applicants exceeds the number of transfer students the district has elected to admit, approval for transfer shall be determined by a public drawing.

Students’ school districts of residence have only a limited ability to control transfers to school districts of choice. As was the case prior to the enactment of SB 680, both the district of choice and the district of residence may prohibit a pupil’s transfer or limit the number of transfers if the governing board of such a district determines that the transfer would negatively impact a court-ordered or voluntary desegregation plan of the district or the racial and ethnic balance of the district. However, a district of residence may not adopt policies that block or discourage students from applying for transfer to another district. (Despite this new legislation, a district runs the risk of legal challenge for denying transfers on the basis of race or ethnicity due to California Constitution, Article I, Section 31, otherwise known as Proposition 209, which prohibits preferential treatment on the basis of race and other factors in public education.)

Furthermore, prior to SB 680, districts of residence with average daily attendance (“ADA”) greater than 50,000 could limit transfers out to 1% of current year estimated ADA, and districts

with ADA less than 50,000 could limit transfers out to 3% of current year ADA and limit the maximum number of transfers during the length of the district of choice program to 10% of the ADA for that period. Under SB 680, these options for restricting transfers are still available to districts of residence. In addition, a district of residence can now place limits on transfers if it has a negative or qualified status on its most recent budget certification, or can limit transfers to a number identified by the county superintendent of a schools, if the county superintendent determines that the district will not meet the standard and criteria for fiscal stability for the subsequent fiscal year due to the impact of transfers in that fiscal year.

SB 680 removes other barriers to transfers as well. Previously, a school district of choice could reject a transfer if the transfer required the district to create a new program to serve the transferred pupil. However, under SB 680 districts may not reject transfers of special needs pupils, including individuals with exceptional needs, or English learner pupils. Likewise, districts of choice previously could give priority for transfer to the children of military personnel, but only if a district had adopted a resolution granting such priority prior to April 1, 2005. Now school districts of choice may give priority to the children of military personnel even if no resolution was adopted prior to April 1, 2005.

SB 680 makes several other changes to the district of choice program as well. Under the new law, communications to parents or guardians regarding a district's choice program must be factually accurate and not target individual parents or guardians on the basis of the child's actual or perceived academic or athletic performance or any other personal characteristic. A district of choice must also ensure that while conducting the annual audit, its independent auditors review compliance with the law's requirements for a random, unbiased selection process, and that the district notify its auditors of the requirement that the selection process be reviewed as part of the annual audit. In addition, the bill makes other changes to the accounting and reporting rules applicable to a transfer program.

If you have any questions about the revised and expanded district of choice program, please contact one of our [seven offices](#) statewide.

As the information contained herein is necessarily general, its application to a particular set of facts and circumstances may vary. For this reason, this News Brief does not constitute legal advice. We recommend that you consult with your counsel prior to acting on the information contained herein.



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