

CLIENT NEWS BRIEF

New Bills Remove Obstacles to Graduation for Migrant and Immigrant Students

Assembly Bills (AB) 2121 and 2735 will make it easier for migrant students and English learners to access courses in core curriculum subjects and obtain course credit necessary for graduation. Both bills were signed by Governor Jerry Brown in September 2018. AB 2121 will become effective on January 1, 2019, while AB 2735 will take effect at the beginning of the 2019-2020 school year.

AB 2735

Existing law requires schools to ensure that students with limited English proficiency, or English learners (ELs), participate in the standard instructional program of a school. Schools may do this by either providing ELs with access to the standard instructional program along with English language support, or by placing ELs in separate educational programs intended to allow ELs to develop proficiency in English before being transferred to the standard instructional program. However, as cited by the author of AB 2735, several studies have found that many ELs who have been placed in separate programs become, in essence, trapped in the programs, unable to access courses in math, science, and English language arts, despite their proficiency in English, until they are reclassified as non-ELs.

AB 2735 was enacted to solve this problem by prohibiting local education agencies, including county offices of education, public school districts, and charter schools, from denying ELs enrollment in core curriculum courses and courses required for high school graduation. This bill applies to ELs in middle and high school. The new law does not apply to students enrolled in "newcomer programs" designed to meet the academic and transitional needs of newly arrived immigrant pupils. AB 2735 creates new California Education Code section 60811.8.

AB 2121

Minimum course requirements for high school graduation are specified by state law and supplemented at the local level. However, Education Code sections 51225.1 and 51225.2 have historically provided a number of exemptions to local graduation requirements, including requiring the acceptance of partial credit, for certain students who move frequently, including foster youth, homeless children or youth, former juvenile court school students, and certain children of military families.

AB 2121 extends these exemptions to "migrant children," defined to include children who have recently moved from one school district to another in order for the child or the child's family to secure temporary or seasonal employment in an agricultural or fishing activity. AB 2121 will also extend benefits to children who are participants in a newcomer program.

Charter schools must comply with this statutory scheme, as well.

December 2018
Number 83



Edward J. Sklar
Partner and Co-Chair
Charter Schools Practice Group
Walnut Creek Office
esklar@lozanosmith.com



Bradley R. Sean
Associate
Walnut Creek Office
bsena@lozanosmith.com



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.

CLIENT NEWS BRIEF

December 2018
Number 83

Takeaways

Both AB 2735 and AB 2121 were enacted to address the disparate rate of high school graduation and academic performance of English learner and immigrant populations, as compared to all other students in California. These new laws will allow these students to more easily access core curriculum course credits, while exempting them from certain local graduation requirements.

School Districts, charter schools, and county offices of education should review their courses, programs, and services offered to English learners to ensure that they do not prohibit English learners from accessing core curriculum subjects in violation of new Education Code section 60811.8. Likewise, public school districts and charter schools should be prepared to provide migrant students and students enrolled in newcomer programs with all of the necessary notifications and information regarding exemptions from local graduation requirements.

For more information on how school districts can prepare for the effects of these new laws, please contact the authors of this Client News brief or an attorney at one of our [eight offices](#) located statewide. You can also visit our [website](#), follow us on [Facebook](#) or [Twitter](#) or download our [Client News Brief App](#).

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.