

Assembly Bill No. 47

Passed the Assembly September 6, 2011

Chief Clerk of the Assembly

Passed the Senate August 31, 2011

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2011, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 48352 and 48356 of the Education Code, relating to school enrollment.

LEGISLATIVE COUNSEL'S DIGEST

AB 47, Huffman. Schools: open enrollment.

Existing law, the Open Enrollment Act, allows the parent of a pupil enrolled in a low-achieving school to submit an application for the pupil to attend school in a school district other than the school district in which the parent of the pupil resides, but in which the parent nevertheless intends to enroll the pupil. Existing law defines a low-achieving school, for purposes of these provisions, as a school identified by the Superintendent of Public Instruction by inclusion on a list of 1,000 schools ranked by increasing Academic Performance Index score. Existing law provides that no local educational agency may have more than 10% of its schools on the list and that specified types of schools, including charter schools, may not be included on the list.

This bill would instead provide that the list created by the Superintendent to define low-achieving schools may include up to 1,000 schools, that a local educational agency shall not have more than 10% of its schools on the list, calculated as specified, and that county offices of education operating a special education program and state special schools not be included on the list. The bill would also provide that a school shall only be identified as a low-achieving school if it is identified on the list for 2 consecutive years and would delete the provision excluding charter schools from inclusion on the list.

Existing law requires a school district of enrollment to conduct a lottery to select pupils at random if the number of pupils who request a particular school exceeds the number of spaces available at that school.

This bill would provide that a school district of enrollment shall not reject the transfer of an individual with exceptional needs or an English learner if he or she is randomly selected through the lottery.

The people of the State of California do enact as follows:

SECTION 1. Section 48352 of the Education Code is amended to read:

48352. For purposes of this article, the following definitions apply:

(a) “Low-achieving school” means any school identified by the Superintendent pursuant to the following:

(1) The Superintendent annually shall create a list of up to 1,000 schools ranked by increasing Academic Performance Index (API) score, comprised of the same ratio of elementary, middle, and high schools as existed in decile 1 in the 2008–09 school year.

(2) In constructing the list of up to 1,000 schools each year, the Superintendent shall ensure each of the following:

(A) A local educational agency shall not have more than 10 percent of its schools on the list. To calculate the maximum number of schools that a local educational agency may have on the list, the Superintendent shall divide the number of schools in the local educational agency by 10. If the resulting ratio is not a whole number, the Superintendent shall round that ratio up to the next whole number. This rounded whole number is the maximum number of schools in the local educational agency that may be identified on the list.

(B) A school shall not be included on the list if either of the following conditions exist:

(i) The school has an API score of 700 or above.

(ii) The school has prior year API growth of 50 points or more.

(C) Court, community, community day schools, county offices of education operating a special education program, and state special schools shall not be included on the list.

(3) A school shall only be identified as a low-achieving school for purposes of this article if the school is identified on the list for two consecutive years.

(b) “Parent” means the natural or adoptive parent or guardian of a dependent child.

(c) “School district of enrollment” means a school district other than the school district in which the parent of a pupil resides, but in which the parent of the pupil nevertheless intends to enroll the pupil pursuant to this article.

(d) “School district of residence” means a school district in which the parent of a pupil resides and in which the pupil would otherwise be required to enroll pursuant to Section 48200.

SEC. 2. Section 48356 of the Education Code is amended to read:

48356. (a) A school district of enrollment may adopt specific, written standards for acceptance and rejection of applications pursuant to this article. The standards may include consideration of the capacity of a program, class, grade level, school building, or adverse financial impact. Subject to subdivision (b), and except as necessary in accordance with Section 48355, the standards shall not include consideration of a pupil’s previous academic achievement, physical condition, proficiency in the English language, family income, or any of the individual characteristics set forth in Section 200.

(b) In considering an application pursuant to this article, a nonresident school district may apply its usual requirements for admission to a magnet school or a program designed to serve gifted and talented pupils.

(c) Subject to the rules and standards that apply to pupils who reside in the school district of enrollment, a resident pupil who is enrolled in one of the school district’s schools pursuant to this article shall not be required to submit an application in order to remain enrolled.

(d) A school district of enrollment shall ensure that pupils enrolled pursuant to standards adopted pursuant to this section are enrolled in a school with a higher Academic Performance Index than the school in which the pupil was previously enrolled and are selected through a random, unbiased process that prohibits an evaluation of whether or not the pupil should be enrolled based on his or her individual academic or athletic performance, or any of the other characteristics set forth in subdivision (a), except that pupils applying for a transfer pursuant to this article shall be assigned priority for approval as follows:

(1) First priority for the siblings of children who already attend the desired school.

(2) Second priority for pupils transferring from a program improvement school ranked in decile 1 on the Academic Performance Index determined pursuant to subdivision (a) of Section 48352.

(3) If the number of pupils who request a particular school exceeds the number of spaces available at that school, a lottery shall be conducted in the group priority order identified in paragraphs (1) and (2) to select pupils at random until all of the available spaces are filled. A school district of enrollment shall not reject the transfer of an individual with exceptional needs, as defined in Section 56026, or an English learner if he or she is randomly selected through a lottery.

(e) The initial application of a pupil for transfer to a school within a school district of enrollment shall not be approved if the transfer would require the displacement from the desired school of any other pupil who resides within the attendance area of that school or is currently enrolled in that school.

(f) A pupil approved for a transfer to a school district of enrollment pursuant to this article shall be deemed to have fulfilled the requirements of Section 48204.

Approved _____, 2011

Governor