

AB 2121
Effective January 1, 2019

Assembly Bill 2121 (AB 2121), was signed into law on September 20, 2018 and will go into effect on January 1, 2019. AB 2121 requires local educational agencies to take specific actions relating to migratory children and newly arrived immigrant students. The bill amends California Education Code (EC) sections 51225.1 and 51225.2, and it defines the term “Pupil participating in an newcomer program” in Section 51225.2 (a) (6).** See definition below

Existing law requires school districts to exempt foster care, homeless, and former juvenile court students from all locally adopted coursework and requirements that are supplemental to statewide coursework requirements.

- This exemption also applies to students from **military families** who transfer between school any time after the completion of the pupil’s 2nd year of high school.
- The amended law extends these provisions to **migratory students** and **newly** arrived immigrant students.

AB 2121: EC Sections 51225.1 and 51225.2

1. Requires that an eligible pupil who transfers after their second year of high school shall be notified of their eligibility to be exempt from all coursework and other requirements adopted by the governing board of the school district that are in addition to the statewide coursework requirements, unless the school district makes a finding that the youth is reasonably able to complete the additional requirements within 4 years of high school.
2. Any LAUSD graduation requirements that are in addition to the California Department of Education (CDE) requirements (e.g., additional course completion, service learning requirements, or the requirement of a grade above a D, etc.) do not apply to youth graduating under AB 2121
3. Notwithstanding any other law, a local educational agency shall accept coursework satisfactorily completed by a pupil in foster care, a pupil who is a homeless child or youth, a former juvenile court school pupil, a pupil who is a child of a military family, a pupil who is a migratory child, or a pupil participating in a newcomer program while attending another public school, a juvenile court school, a charter school, a school in a country other than the United States, or a nonpublic, nonsectarian school or agency even *if the pupil did not complete the entire course and shall issue that pupil full or partial credit for the coursework completed. **Partial credits must be honored.***

Definition of Migratory STUDENTS and MSD number

Who is Eligible for the MEP?

The MEP was designed to help migratory children find success through education. Preparing a preschooler for kindergarten, helping a student learn to read or enhancing their English language proficiency, ensuring a child’s promotion to the next grade, and helping a high school student earn credits toward graduation are just a few examples of activities that the MEP supports.

However, before the MEP can provide any services, MEP staff must determine that a child is eligible for the MEP. To understand migratory child eligibility, it is important to review the law.

DEFINITION:

According to sections 1115(c)(1)(A) (incorporated into the MEP by sections 1304(c)(2), 1115(b)), and 1309(3) of the ESEA, and 34 C.F.R. § 200.103(a)), a child is a “migratory child” if the following conditions are met:

1. The child is not older than 21 years of age; *and*
 - a. The child is entitled to a free public education (through grade 12) under state law, **or**
 - b. The child is not yet at a grade level at which the LEA provides a free public education; *and*
2. The child made a qualifying move in the preceding 36 months as a migratory agricultural worker or a migratory fisher, or did so with, or to join a parent/guardian or spouse who is a migratory agricultural worker or a migratory fisher; *and*
3. With regard to the qualifying move identified in paragraph 3, above, the child moved due to economic necessity from one residence to another residence, and
 - a. From one school district to another; **or**
 - b. In a state that is comprised of a single school district, has moved from one administrative area to another with such district; **or**
 - c. Resides in a school district of more than 15,000 square miles and migrates a distance of 20 miles or more to a temporary residence. (NRG, Ch. II, A1)

Note for the three terms defined in both the statute and program regulations (“migratory child,” “migratory agricultural worker,” and “migratory fisher”), the statutory definition in the ESEA, as amended by the ESSA, takes precedence. In addition, the term “in order to obtain” no longer appears in statute, and its definition in 34 CFR § 200.81(d) is therefore no longer applicable.

Children who fit the above definition are eligible for MEP services. However, only those children who are between the ages of three and 22 (i.e., have not had a 22nd birthday) are counted for state funding purposes.

Migratory Student: They have an MSD number in MiSiS:

Definition of Newcomer:

"Newcomers are foreign-born EL students who have been enrolled in a U.S. school for three years or less." Identified in MiSiS as LEP (and then we need to check enrollment date)

** This aligns with the CDE definition: *[(EC Section 51225.2(a) 6)] If a pupil participating in a newcomer program is exempted from local graduation requirements pursuant to this section, the exemption shall continue to apply after the pupil no longer meets the definition of a “pupil participating in a newcomer program” while he or she is enrolled in school or if the pupil transfers to another school, including a charter school, or school district.*

Military Family:

- Not currently identified in MiSiS
- Central will work providing schools with guidance on how to identify

Updating Bulletins

This information might be added to current BUL 6781

CDE Response regarding the definition of a newcomer:

CDE- left a message – See response below:

The guidance letter dated November 26, 2019 regarding AB 2121 can be accessed at <https://www.cde.ca.gov/nr/el/le/yr18ltr1126.asp>

The definition for a “pupil participating in a newcomer program” can be found in the amended law [EC Section 51225.2(a)(6)]

at http://leginfo.legislature.ca.gov/faces/billCompareClient.xhtml?bill_id=201720180AB2121

It is purposely broad because time in a newcomer program should be based on the student’s needs, which look different for each newly arrived immigrant student. The goal is to ensure that their academic and transitional needs are met and that they develop English language proficiency.

Additional responses from CDE:

1. This bill applies to the graduating class after it goes into effect on January 1, 2019. This is not retroactive to the Class of 2018.
2. In order to qualify for the exemptions, the transfer must be within US schools correct?
 - We are wondering about a scenario where a newcomer or migrant student is enrolled in a LAUSD school, checks out during their third year of high school to a school outside the US, then checks back into the US school they were previously enrolled in? Would that count towards being eligible for the exemption?
 - **YES a newcomer would count. (The term "immigrant children and youth" is defined in Title III, Section 3201(5) as an individual who (a) is aged three through 21; (b) was not born in any state; and (d) has not been attending one or more schools in any one or more states for more than three full academic years. In past years, ED has advised us that these “three full academic years” do not have to be consecutive and instead should be recorded as CUMULATIVE. This would mean that the clock stops when the student leaves the country and resumes upon their return)**

DATA Request:

We need to evaluate students that are newcomer or migrant ed (based upon above definitions).

- Migrant Ed Students are identified They have an MSD number in MiSiS
- For the Newcomers, they will be identified in MiSiS as starting December 18, 2018.

We need to know if they transferred schools after their second year of high school.