

AMENDED IN ASSEMBLY MAY 14, 2002

AMENDED IN ASSEMBLY APRIL 29, 2002

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL

No. 1895

Introduced by Assembly Member Wright

February 6, 2002

An act to add Section 56046 to the Education Code, relating to special education.

LEGISLATIVE COUNSEL'S DIGEST

AB 1895, as amended, Wright. Education: special education.

Existing law, the federal Individuals with Disabilities Education Act, requires that all individuals with disabilities residing in the state, regardless of the severity of their disabilities, and who are in need of special education and related services, be identified, located, and assessed as required by federal law.

This bill would prohibit an employee of a school district, *county office of education, or a special education local plan area, or county office of education* from taking any action to discourage or prevent a teacher or other individual, as specified, from undertaking any reasonable action to assist parents or guardians in obtaining the appropriate variety and level of educational services needed for an individual with exceptional needs *directly or indirectly using or attempting to use the official authority or influence of the employee for the purpose of intimidating, threatening, coercing, or commanding a person, or attempting any of those actions against a person, for the purpose of interfering with the right of that person to assist a parent or*

guardian of a pupil with exceptional needs to obtain services or accommodations for that pupil.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

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

1 SECTION 1. (a) *The Legislature finds and declares that the*
2 *process for obtaining the appropriate variety and level of*
3 *educational and related services for an individual with exceptional*
4 *needs can be complex and heavily dependent upon the findings,*
5 *opinions, and recommendations of teachers, school psychologists,*
6 *and other professional and paraprofessional educators, and that*
7 *parents and guardians can benefit greatly from assistance*
8 *provided by individuals who are knowledgeable about this process*
9 *generally, and as it relates to individual pupils.*

10 (b) *The Legislature further finds and declares that employees*
11 *and contractors of school districts, county offices of education,*
12 *and special education local planning areas, have a right to free*
13 *speech and to provide information to parents regarding their rights*
14 *under the federal Individuals with Disabilities Education Act,*
15 *Section 504 of the Rehabilitation Act of 1973, and the federal*
16 *Americans with Disabilities Act, as well as state laws regarding*
17 *individuals with exceptional needs.*

18 SEC. 2. Section 56046 is added to the Education Code, to
19 read:

20 ~~56046. —(a) The Legislature finds and declares that the process~~
21 ~~for obtaining the appropriate variety and level of educational and~~
22 ~~related services for an individual with exceptional needs is~~
23 ~~complex and heavily dependent on the findings, opinions, and~~
24 ~~recommendations of teachers, school psychologists, and other~~
25 ~~professional and paraprofessional educators, and that parents and~~
26 ~~guardians can benefit greatly from assistance provided by those~~
27 ~~educators who are knowledgeable about this process generally and~~
28 ~~as it relates to individual pupils.~~

29 ~~(b) No employee of a school district, special education local~~
30 ~~plan area, or county office of education shall take any action to~~
31 ~~discourage, prevent, or punish a teacher, provider of designated~~
32 ~~instruction and services, paraprofessional, instructional aide,~~
33 ~~behavioral aide, health aide, other educators or staff of the local~~



1 ~~education agency, or any private individual or entity under~~
2 ~~contract with the local education agency, from undertaking any~~
3 ~~reasonable action or providing any relevant information to assist~~
4 ~~parents or guardians in obtaining the appropriate variety and level~~
5 ~~of educational and related services needed by an individual with~~
6 ~~exceptional needs. This prohibition shall apply throughout the~~
7 ~~entire process of obtaining appropriate special education services,~~
8 ~~including, but not limited to, identification and referral;~~
9 ~~assessment, individualized education program development,~~
10 ~~individualized education program implementation, administrative~~
11 ~~complaint investigation, and the resolution of disputes through~~
12 ~~mediation, due process hearings, and review.~~

13 56046. (a) *An employee of a school district, county office of*
14 *education, or a special education local planning area may not*
15 *directly or indirectly use or attempt to use the official authority or*
16 *influence of the employee for the purpose of intimidating,*
17 *threatening, coercing, commanding, or attempting to intimidate,*
18 *threaten, coerce, or command any person, including, but not*
19 *limited to, a teacher, a provider of designated instruction and*
20 *services, a paraprofessional, an instructional aide, a behavioral*
21 *aide, a health aide, other educators or staff of the local education*
22 *agency, a private individual or entity under contract with the local*
23 *education agency, or a subordinate of the employee, for the*
24 *purpose of interfering with the right of that person at any time, to*
25 *assist a parent or guardian of a pupil with exceptional needs to*
26 *obtain services or accommodations for that pupil.*

27 (b) (1) *For the purposes of this section, “services or*
28 *accommodations” includes information that would assist a parent*
29 *or guardian obtain a free appropriate education for his or her child*
30 *as guaranteed by the federal Individuals with Disabilities*
31 *Education Act (20 U.S.C. Sec. 1400 et seq.), or other services or*
32 *accommodations guaranteed under Section 504 of the*
33 *Rehabilitation Act of 1973 (29 U.S.C. Sec. 794) and the federal*
34 *Americans with Disabilities Act (42 U.S.C. 12101 et seq.), as well*
35 *as, under state laws regarding individuals with exceptional needs.*

36 (2) *For the purpose of this section, “use of official authority or*
37 *influence” includes promising to confer or conferring any benefit,*
38 *affecting or threatening to affect any reprisal, or taking, directing*
39 *others to take, recommending, processing, or approving any*
40 *personnel action, including, but not limited to, appointment,*



1 *promotion, transfer, assignment, performance evaluation,*
2 *suspension, or other disciplinary action.*
3 *(c) Nothing in this section shall be deemed to diminish the*
4 *rights, privileges, or remedies of a public school employee under*
5 *any other federal or state law or under an employment contract or*
6 *collective bargaining agreement.*

