

AMENDED IN ASSEMBLY JUNE 17, 2004

AMENDED IN SENATE MAY 24, 2004

AMENDED IN SENATE MARCH 31, 2004

SENATE BILL

No. 1316

Introduced by Senator Alpert

(Principal coauthor: Senator Murray)

(Principal coauthor: Assembly Member Steinberg)

(Coauthor: Assembly Member Daucher)

February 17, 2004

An act to amend Sections 52052, 52054, 56157, 56366, 56366.1, 56366.5, and 56366.9 of, and to add Sections 49085, 56155.7, and 56366.10 to, the Education Code, and to amend Section 1501.1 of the Health and Safety Code, relating to foster children.

LEGISLATIVE COUNSEL'S DIGEST

SB 1316, as amended, Alpert. Foster children: education.

Existing law requires the California School Information Services program administrator to submit to the State Board of Education a plan to administer, coordinate, and manage the development and implementation of an electronic statewide school information system to address current problems of information exchange. Existing law requires the plan to prescribe the set of statewide data elements and codes to be implemented by the California School Information Services and requires these data elements and codes to comply with specified privacy provisions.

This bill would require the State Department of Education to ensure that the California School Information Services' system meets the

needs of pupils in foster care and includes disaggregated data on pupils in foster care.

Existing law requires the Superintendent of Public Instruction, with approval of the State Board of Education, to develop an Academic Performance Index (API), to measure the performance of schools, especially the performance of pupils, and to demonstrate comparable improvement in academic achievement by all numerically significant ethnic and socioeconomically disadvantaged subgroups within schools. Existing law requires the pupil data collected for the API to be disaggregated by special education status, English language learners, socioeconomic status, gender, and ethnic group.

Existing law establishes the Immediate Intervention/Underperforming Schools Program (II/USP), in which schools that are determined to be low-performing schools based on API results may participate. Schools that participate in the II/USP are required to develop an action plan to improve the academic performance of the schools' pupils. The action plan is required to consider disaggregated data regarding pupil achievement, including information regarding the achievement of English language learners, pupils with exceptional needs, pupils who qualify for free and reduced-price meals, and pupils in numerically significant subgroups.

This bill would require pupil data collected for the API and data used for action plans to be disaggregated for foster children.

Existing law authorizes a school under the jurisdiction of a county board of education or a county superintendent of schools, a community day school, or an alternative school to receive an API score if the school has 11 or more valid test scores and the school chooses to receive an API score for ~~a~~ at least ~~three~~ 3 years.

This bill would also expand this authority for nonpublic, nonsectarian schools.

Existing law requires the Superintendent of Public Instruction, with approval of the State Board of Education, to develop an alternative accountability system for schools with certain API scores and for certain other schools, including community day schools and alternative schools.

This bill would also require the superintendent to develop an alternative accountability system for nonpublic, nonsectarian schools.

Existing law makes each school district, special education local plan area, or county office of education responsible for providing appropriate education to individuals with exceptional needs residing in



a licensed children's institution or foster family home located in the geographical area covered by the local plan. Existing law defines a licensed children's institution as a residential facility that is licensed, as specified, to provide nonmedical care to children, including individuals with exceptional needs.

This bill would prohibit a licensed children's institution and a residential care facility from requiring, as a condition of residency, that a child be identified as an individual with exceptional needs.

Existing law makes each school district, special education local plan area, or county office of education responsible for providing appropriate education to individuals with exceptional needs residing in a licensed children's institution or foster family home located in the geographical area covered by the local plan. Existing law requires the school district, special education local plan area, or county office of education, in providing appropriate programs, to first consider services in programs operated by a public education agency. Under existing law, if those programs are not appropriate, special education and related services are required to be provided by contract with a nonpublic, nonsectarian school that is certified by the Superintendent of Public Instruction.

This bill would require a ~~local educational agency~~ *school district, special education local plan area, or county office of education* that has placed an individual with exceptional needs residing in a licensed children's institution or foster family home in a nonpublic, nonsectarian school to conduct an annual evaluation, through the individualized education program process, of whether the placement is the least restrictive environment for the individual. The bill would require the nonpublic, nonsectarian school to report to the ~~local educational agency~~ *school district, special education local plan area, or county office of education* that made the placement, on a quarterly or trimester basis, as appropriate, the educational progress demonstrated by the individual with exceptional needs towards the attainment of the goals and objectives specified in the individual's individualized education program.

Existing law authorizes school districts, special education local plan areas, and county offices of education to enter into master contracts for the provision of special education and related services with nonpublic, nonsectarian schools or agencies, as defined, and requires the master contract to be developed in accordance with specified requirements, including, among others, that the master contract include a description



of the process being utilized by the school district, county office of education, or special education local plan area to oversee and evaluate placements in nonpublic, nonsectarian schools.

This bill would require the ~~local educational agency~~ *school district, county office of education, or special education local plan area* to, *at least once every year and, to the extent possible, as part of the individualized education program process*, conduct certain evaluations and ~~determinations at least once every year, including, among others,~~ *to privately interview each pupil placed in a nonpublic, nonsectarian school. By imposing these provide an opportunity for confidential input from the pupil, as provided.* To the extent this bill would impose additional duties on *those* local educational agencies, the bill would impose a state-mandated local program.

The bill would, in addition, require the master contract to include that, with respect to a nonpublic, nonsectarian school, the school shall be part of the Public School Performance Accountability Program in the same manner as public schools and each pupil placed in the school shall be tested in accordance with that accountability program, and the school shall prepare a school accountability report card, as provided. The bill would require the test results to be reported by the nonpublic, nonsectarian school to the State Department of Education.

Existing law authorizes a master contract for special education and related services provided by a nonpublic, nonsectarian school or agency only if the school or agency has been certified by the Superintendent of Public Instruction as meeting specified standards. Existing law sets forth the certification application process and procedures for the nonpublic, nonsectarian schools or agencies that seek certification and provides that the superintendent may certify a nonpublic, nonsectarian school or agency for a period of not longer than 4 years. Existing law requires that only those nonpublic, nonsectarian schools and agencies that provide special education that utilize staff who hold, or are receiving training under the supervision of staff who hold, a current valid California credential or license, as specified, may be certified.

This bill would instead provide that the superintendent may certify a nonpublic, nonsectarian school or agency for a period of not longer than 2 years, and would make related changes. The bill would require that only those nonpublic, nonsectarian schools and agencies that provide special education that utilize staff who hold, or are enrolled in training programs that lead to a credential or license under the direct supervision of a staff member who holds, a current valid California



credential, license, or certificate of registration document, may be certified.

The bill would, in addition, prohibit the certification of a nonpublic, nonsectarian school or agency without the prior written ~~approval~~ *verification, as provided*, from the ~~local educational agency or agencies~~ *school districts, county offices of education, or special education local plan areas* with which the nonpublic, nonsectarian school or agency plans to contract. To the extent this bill would impose additional duties on *those* local educational agencies, the bill would impose a state-mandated local program.

This bill would require a nonpublic, nonsectarian school that provides special education and related services to an individual with exceptional needs to certify in writing to the superintendent that the teachers at the school hold valid special education teaching credentials and that the school will provide pupils with access to a core curriculum that is based on state-adopted standards and the same instructional materials used by at least one of the ~~local educational agencies~~ *school districts, special education local plan areas, or county offices of education* that places an individual with exceptional needs in the school.

Existing law authorizes the Superintendent of Public Instruction to monitor a nonpublic, nonsectarian school or agency onsite at any time without prior notice when there is substantial reason to believe that there is an immediate danger to the health, safety, or welfare of a child.

This bill would ~~instead~~ require the ~~superintendent~~ *Superintendent* to monitor the facilities, the educational environment, and the quality of the educational program of an existing certified nonpublic, nonsectarian school or agency on a 3-year cycle, as provided. The bill would also require the ~~superintendent~~ *Superintendent*, with respect to a nonpublic, nonsectarian school, to conduct an investigation, which is to include an unannounced onsite visit, ~~when if the superintendent~~ *Superintendent* receives evidence of a significant deficiency in the quality of educational services provided by the school.

Existing law requires the Superintendent ~~of Public Instruction~~ to charge a nonpublic, nonsectarian school or agency a reasonable fee for certification and requires the nonpublic, nonsectarian school or agency to pay the fee when it applies for certification and when it updates its application for annual review by the superintendent. Existing law prescribes the base fee for these purposes based on the number of pupils.

This bill would increase the base fees.

Existing law requires a school district, special education local plan area, or county office of education, upon receipt of a request from a nonpublic, nonsectarian school for payment for services provided under contract, to either send a warrant within 45 days or notify the school or agency within 10 working days of the reason why payment will not be made.

This bill would provide that any educational funds received by a ~~local educational agency~~ *school district, special education local plan area, or county office of education* for the educational costs of individuals with exceptional needs it has placed in nonpublic, nonsectarian schools are to be used solely for those purposes and not for the costs of a residential program.

Existing law prohibits a licensed children's institution at which individuals with exceptional needs reside from requiring as a condition of residential placement that it provide the appropriate educational programs to those individuals through a nonpublic, nonsectarian school or agency owned or operated by a licensed children's institution. Existing law provides that those services may only be provided if the special education local plan area determines that alternative educational programs are not available.

This bill would prohibit a licensed children's institution at which individuals with exceptional needs reside from requiring as a condition of residential placement that it provide the appropriate educational programs to those individuals through a nonpublic, nonsectarian school or agency owned, operated by, or associated with, a licensed children's institution. The bill would provide that those services may only be provided if the special education local plan area determines that appropriate public alternative education programs are not available.

This bill would also *delete obsolete language and* make related changes and various technical, nonsubstantive changes.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state,



reimbursement for those costs shall be made pursuant to these statutory provisions.

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

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

1 SECTION 1. (a) The Legislature hereby finds and declares
2 the following:

3 (1) According to recent reports by the Little Hoover
4 Commission and the American Institutes for Research, the
5 educational outcomes for our children while in foster care are
6 substandard and, in many cases, California's foster care and
7 educational systems do not provide the educational, life skills, and
8 employment supports and opportunities to ensure that all foster
9 children are able to successfully transition from dependency to
10 self-sufficiency. Foster children that have been identified as
11 requiring special education services, in order to benefit from their
12 education, face extraordinary challenges.

13 (2) Pursuant to two recent reports, which were requested and
14 funded by the Legislature and conducted by the American
15 Institutes ~~of~~for Research, the subset of children in foster care who
16 are also in special education and who have been placed in
17 nonpublic schools do not always receive the same educational
18 opportunities and often do not have access to the same caliber of
19 instruction and instructional materials as individuals with
20 exceptional needs in public schools.

21 (3) In the 2002–03 fiscal year, California spent over \$129
22 million on 4,700 pupils residing in licensed children's institutions
23 and placed in nonpublic schools to fund the provision of special
24 education services by the nonpublic schools for this population.

25 (4) Approximately one-third of youth emancipating from
26 foster care fail to complete high school and a limited number enter
27 college, although two-thirds express a desire to attend college. Of
28 those who do complete high school, not all of those pupils receive
29 a grade-point average, which is required for admission to a higher
30 education institution.

31 (5) After emancipating from foster care, at least 25 percent
32 experience homelessness, 33 percent receive welfare, 50 percent
33 face unemployment, and approximately 25 percent are arrested



1 and spend time incarcerated. Some of these problems could be
2 diminished by ensuring that youth in foster care, including those
3 who have been identified as individuals with exceptional needs,
4 also receive the services that will assist them to transition to
5 financial independence.

6 (6) Pupils in foster care are frequently moved to a different
7 school, and often experience multiple placements during each
8 school year, slowing their educational progress.

9 (7) Pupils in foster care lack parents to advocate for appropriate
10 educational placement and service, and rely on *surrogate parents*,
11 *responsible adults*, or the state to establish and monitor standards
12 for curriculum, instruction, and services.

13 (8) California's current funding system for individuals with
14 exceptional needs in foster care provides fiscal incentives for
15 placement in a nonpublic school. These incentives may conflict
16 with the goal of giving individuals with exceptional needs access
17 to the least restrictive environment appropriate to their needs.
18 According to the report of the American Institutes of Research,
19 California's current system of funding nonpublic school services
20 for children residing in licensed children's institutions is contrary
21 to federal law.

22 (9) California's funding system also provides insufficient
23 incentives to school districts to control costs when a child residing
24 in a licensed children's institution is placed in a nonpublic school.
25 According to the report of the American Institutes of Research,
26 California now spends between sixty-five thousand dollars
27 (\$65,000) and one hundred fifty thousand dollars (\$150,000) per
28 child annually to house and educate a child in foster care residing
29 in a group home, the higher costs of which are incurred for those
30 placed in a nonpublic school.

31 (10) State standards are substantially less comprehensive for
32 nonpublic schools than the standards and monitoring applied to
33 California's public schools.

34 (11) Accountability for educational outcomes for pupils in
35 foster care is vague and the system for monitoring the educational
36 progress of pupils in foster care placed in nonpublic schools, as
37 well as those in the regular public schools, is inadequate.

38 (12) Foster children and other pupils who have been identified
39 as individuals with exceptional needs have the right to the best
40 educational placement, and in accordance with the federal



1 Individuals with Disabilities Education Act requirement for a free
2 appropriate public education that places pupils in the least
3 restrictive environment appropriate to their needs, whether that is
4 in a public school or a nonpublic school.

5 (b) It is therefore the intent of the Legislature to do the
6 following:

7 (1) Increase state and local accountability for individuals with
8 exceptional needs placed in nonpublic schools, including those
9 residing in foster care.

10 (2) Improve state and local monitoring of nonpublic schools.

11 (3) Ensure that foster children and individuals with exceptional
12 needs who are placed in nonpublic schools are included in the
13 state's testing system in order to monitor and improve their
14 educational outcomes.

15 (4) Include the nonpublic schools and individuals with
16 exceptional needs who reside in licensed children's institutions in
17 the special education Focused Monitoring and Technical
18 Assistance System at the state and local level.

19 (5) Require the State Department of Education to add
20 nonpublic schools to the Public School Accountability Act in
21 order to measure pupil performance at nonpublic schools.

22 (6) Create a funding structure that is neutral in regard to the
23 type of educational placement necessary and best suited for the
24 pupil and that allows public schools to access funding currently
25 available only for nonpublic schools and agencies in serving
26 individuals with exceptional needs in foster care.

27 SEC. 2. Section 49085 is added to the Education Code, to
28 read:

29 49085. The department shall ensure that the California School
30 Information Services system meets the needs of pupils in foster
31 care and includes disaggregated data on pupils in foster care.

32 SEC. 3. Section 52052 of the Education Code is amended to
33 read:

34 52052. (a) (1) By July 1, 1999, the Superintendent of Public
35 Instruction, with approval of the State Board of Education, shall
36 develop an Academic Performance Index (API), to measure the
37 performance of schools, especially the academic performance of
38 pupils, and to demonstrate comparable improvement in academic
39 achievement by all numerically significant ethnic and
40 socioeconomically disadvantaged subgroups within schools.



1 (2) For purposes of this section, a numerically significant
2 ethnic or socioeconomically disadvantaged subgroup is a
3 subgroup that constitutes at least 15 percent of a school's total
4 pupil population and consists of at least 30 pupils. An ethnic or
5 socioeconomically disadvantaged subgroup of at least 100 pupils
6 constitutes a numerically significant subgroup, even if the
7 subgroup does not constitute 15 percent of the total enrollment at
8 a school. For schools whose API scores are based on test scores of
9 no fewer than 11 and no more than 99 pupils, numerically
10 significant subgroups shall be defined by the Superintendent of
11 Public Instruction, with approval by the State Board of Education.

12 (3) The API shall consist of a variety of indicators currently
13 reported to the State Department of Education including, but not
14 limited to, the results of the achievement test administered
15 pursuant to Section 60640, attendance rates for pupils and
16 certificated school personnel for elementary schools, middle
17 schools, and secondary schools, and the graduation rates for pupils
18 in secondary schools.

19 (A) The pupil data collected for the API that comes from the
20 achievement test administered pursuant to Sections 60640 and
21 60644 and the high school exit examination administered pursuant
22 to Section 60851, when fully implemented, shall be disaggregated
23 by foster children status, special education status, English
24 language learners, socioeconomic status, gender and ethnic group.
25 Only the test scores of pupils who were counted as part of a school
26 district's enrollment in the October California Basic Educational
27 Data System's data collection for the current fiscal year and were
28 continuously enrolled during that year may be included in the test
29 results reported in the API. Results of the achievement test and
30 other tests specified in subdivision (b) shall constitute at least 60
31 percent of the value of the index.

32 (B) Before including high school graduation rates and
33 attendance rates in the index, the Superintendent of Public
34 Instruction shall determine the extent to which the data are
35 currently reported to the state and the accuracy of the data.

36 (C) If the Superintendent of Public Instruction determines that
37 accurate data for these indicators is not available, the
38 Superintendent of Public Instruction shall report to the Governor
39 and the Legislature by September 1, 1999, and recommend
40 necessary action to implement an accurate reporting system.



1 (b) Pupil scores from the following tests, when available and
2 when found to be valid and reliable for this purpose, shall be
3 incorporated into the API:

4 (1) The assessment of the applied academic skills matrix test
5 developed pursuant to Section 60604.

6 (2) The nationally normed test designated pursuant to Section
7 60642.

8 (3) The standards-based achievement tests provided for in
9 Section 60642.5.

10 (4) The high school exit examination.

11 (c) Based on the API, the Superintendent of Public Instruction
12 shall develop, and the State Board of Education shall adopt,
13 expected annual percentage growth targets for all schools based on
14 their API baseline score from the previous year. Schools are
15 expected to meet these growth targets through effective allocation
16 of available resources. For schools below the statewide API
17 performance target adopted by the State Board of Education
18 pursuant to subdivision (d), the minimum annual percentage
19 growth target shall be 5 percent of the difference between a
20 school's actual API score and the statewide API performance
21 target, or one API point, whichever is greater. Schools at or above
22 the statewide API performance target shall have, as their growth
23 target, maintenance of their API score above the statewide API
24 performance target. However, the State Board of Education may
25 set differential growth targets based on grade level of instruction
26 and may set higher growth targets for the lowest performing
27 schools because they have the greatest room for improvement. To
28 meet its growth target, a school shall demonstrate that the annual
29 growth in its API is equal to or more than its schoolwide annual
30 percentage growth target and that all numerically significant
31 ethnic and socioeconomically disadvantaged subgroups, as
32 defined in subdivision (a) , are making comparable improvement.

33 (d) Upon adoption of state performance standards by the State
34 Board of Education, the Superintendent of Public Instruction shall
35 recommend, and the State Board of Education shall adopt, a
36 statewide API performance target that includes consideration of
37 performance standards and represents the proficiency level
38 required to meet the state performance target. When the API is
39 fully developed, schools must, at a minimum, meet their annual
40 API growth targets to be eligible for the Governor's Performance



1 Award Program as set forth in Section 52057. The State Board of
2 Education may establish additional criteria that schools must meet
3 to be eligible for the Governor's Performance Award Program.

4 (e) Beginning in June 2000, the API shall be used for both of
5 the following:

6 (1) Measuring the progress of schools selected for participation
7 in the Immediate Intervention/Underperforming Schools Program
8 pursuant to Section 52053.

9 (2) Ranking all public schools in the state for the purpose of the
10 High Achieving/Improving Schools Program pursuant to Section
11 52056.

12 (f) (1) A comprehensive high school, middle school, or
13 elementary school with 11 to 99 valid test scores of pupils who
14 were enrolled in a school within the same school district in the
15 prior fiscal year shall receive an API score with an asterisk that
16 indicates less statistical certainty than API scores based on 100 or
17 more test scores.

18 (2) A school under the jurisdiction of a county board of
19 education or a county superintendent of schools, a community day
20 school, a nonpublic, nonsectarian school as identified in Section
21 56366, or an alternative school, including continuation high
22 schools and opportunity schools, may receive an API score if the
23 school has 11 or more valid test scores and the school chooses to
24 receive an API score for at least three years.

25 (3) A school that participates in the Immediate
26 Intervention/Underperforming Schools Program described in
27 Section 52053 shall receive an API score for the duration of its
28 participation in that program, unless the Superintendent of Public
29 Instruction determines that an API score would be an invalid
30 measure of the school's performance for one or more of the
31 following reasons:

32 (A) Irregularities in testing procedures occurred.

33 (B) The data used to calculate the school's API score are not
34 representative of the pupil population at the school.

35 (C) Significant demographic changes in the school's pupil
36 population render year-to-year comparisons of pupil performance
37 invalid.

38 (D) The Department of Education discovers or receives
39 information indicating that the integrity of the school's API score
40 has been compromised.



1 (g) Only schools with 100 or more test scores contributing to
2 the API may be included in the API rankings.

3 (h) By July 1, 2000, the Superintendent of Public Instruction,
4 with the approval of the State Board of Education, shall develop
5 an alternative accountability system for schools with fewer than
6 100 test scores contributing to the schools' API scores, and for
7 schools under the jurisdiction of a county board of education or a
8 county superintendent of schools, community day schools,
9 nonpublic, nonsectarian schools as identified in Section 56366,
10 and alternative schools serving high-risk pupils, including
11 continuation high schools and opportunity schools.

12 SEC. 4. Section 52054 of the Education Code is amended to
13 read:

14 52054. (a) Commencing in the 2001–02 fiscal year, by
15 November 15 of the year that the school is selected to participate,
16 the governing board of a school district having jurisdiction over a
17 school selected for participation in the program shall do one of the
18 following:

19 (1) Contract with an external evaluator from the list of external
20 evaluators and shall appoint a broad-based schoolsite and
21 community team, consisting of a majority of nonschoolsite
22 personnel. In a school that has a limited-English-proficient pupil
23 population that constitutes at least 40 percent of the total pupil
24 population, an external evaluator shall have demonstrated
25 experience in working with a limited-English-proficient pupil
26 population. Not less than 20 percent of the members of the team
27 shall be parents or legal guardians of pupils in the school.

28 (2) Contract with an entity that has proven, successful expertise
29 specific to the challenges inherent in high-priority schools. These
30 entities may include, but are not limited to, the following:

- 31 (A) Institutions of higher education.
- 32 (B) County offices of education.
- 33 (C) School district personnel.

34 (b) The selected external evaluator or entity shall solicit input
35 from the parents and legal guardians of the pupils of the school. At
36 a minimum, the evaluator or entity shall do all of the following:

37 (1) Inform the parents and legal guardians, in writing, that the
38 school has been selected to participate in the Immediate
39 Intervention/Underperforming Schools Program due to its below
40 average performance.



1 (2) Hold a public meeting at the school, in cooperation with the
2 principal, to which all parents and legal guardians of pupils in the
3 school receive a written invitation. The invitation to the meeting
4 may be combined with the written notice required by paragraph
5 (1).

6 (3) Solicit, at the public meeting, the recommendations and
7 opinions of the participating parents and legal guardians of pupils
8 in the school regarding actions that should be taken to improve the
9 performance of the school. These opinions and recommendations
10 shall be considered by the external evaluator or entity and the
11 community team in the development or modification of the action
12 plan pursuant to this section or Section 52054.3.

13 (4) Provide technical assistance to the schoolsite.

14 (5) Notify all parents and legal guardians of pupils in the school
15 of their opportunity to provide written recommendations of
16 actions that should be taken to improve the performance of the
17 school which shall be considered by the external evaluator or
18 entity and the community team in the development or modification
19 of the action plan pursuant to this section or Section 52054.3.
20 Notice required by this subdivision may be combined with the
21 written notice required by paragraph (1).

22 (c) By February 15 of the school year in which the school is
23 selected to participate, the selected external evaluator or entity, in
24 collaboration with the broad-based schoolsite and community
25 team selected pursuant to subdivision (a), shall complete a review
26 of the school that identifies weaknesses that contribute to the
27 school's below average performance, make recommendations for
28 improvement, and begin to develop an action plan to improve the
29 academic performance of the pupils enrolled at the school. The
30 action plan shall include percentage growth targets at least as high
31 as the annual growth targets adopted by the State Board of
32 Education pursuant to Section 52052. The action plan shall include
33 an expenditure plan and shall be of a scope that does not require
34 expenditure of funds in excess of those provided pursuant to this
35 article or otherwise available to the school. The action plan may
36 not be of a scope that requires reimbursement by the Commission
37 on State Mandates for its implementation.

38 (d) At a minimum, the action plan shall do all of the following:



1 (1) Review and include the school and district conditions
2 identified in the school accountability report card pursuant to
3 Section 33126.

4 (2) Identify the current barriers at the school and district toward
5 improvements in pupil achievement.

6 (3) Identify schoolwide and districtwide strategies to remove
7 these barriers.

8 (4) Review and include school and school district crime
9 statistics, in accordance with Section 628.5 of the Penal Code.

10 (5) Examine and consider disaggregated data regarding pupil
11 achievement and other indicators to consider whether all groups
12 and types of pupils make adequate progress toward short-term
13 growth targets and long-term performance goals. The
14 disaggregated data to be included and considered by the plan shall,
15 at a minimum, provide information regarding the achievement of
16 foster children, English language learners, pupils with exceptional
17 needs, pupils who qualify for free and reduced price meals, and
18 pupils in numerically significant subgroups.

19 (6) Set short-term academic objectives pursuant to Section
20 52052 for a two-year period that will allow the school to make
21 adequate progress toward the growth targets established for each
22 participating school for pupil achievement as measured by all of
23 the following to the extent that the data is available for the school:

24 (A) The achievement test administered pursuant to Section
25 60640.

26 (B) Graduation rates for grades 7 to 12, inclusive.

27 (C) Attendance rates for pupils and school personnel for
28 elementary, middle, and secondary schools.

29 (D) Any other indicators approved by the State Board of
30 Education.

31 (e) The school action plan shall focus on improving pupil
32 academic performance, improving the involvement of parents and
33 guardians, improving the effective and efficient allocation of
34 resources and management of the school, and identifying and
35 developing solutions that take into account the underlying causes
36 for low performance by pupils.

37 (f) The team, in the development of the action plan, shall
38 consult with the exclusive representatives of employee
39 organizations, where they exist.



1 (g) The school action plan may propose to increase the number
2 of instructional days offered at the schoolsite and also may propose
3 to increase up to a full 12 months the amount of time for which
4 certificated employees are contracted, if all of the following
5 conditions are met:

6 (1) Provisions of the plan proposed pursuant to this subdivision
7 shall not violate current applicable collective bargaining
8 agreements.

9 (2) An agreement is reached with the exclusive representative
10 concerning staffing specifically to accommodate the extended
11 school year or 12-month contract.

12 (h) The team, in the development of the action plan, shall
13 consult with the exclusive representatives of employee
14 organizations, where they exist.

15 (i) Upon its completion, the action plan shall be submitted to
16 the governing board of the school districts for its approval at a
17 regularly scheduled public meeting. After the plan is approved, but
18 no later than May 15 of the year that follows the year the school
19 is selected to participate, the plan shall be submitted to the
20 Superintendent of Public Instruction with a request for funding in
21 the form prescribed by the Superintendent of Public Instruction,
22 who shall review the school action plan and recommend approval
23 or disapproval of the school's request for funding to the State
24 Board of Education.

25 (j) Not later than July 15 of the year next following the year in
26 which a school is selected for participation, the State Board of
27 Education shall review and approve or disapprove the school's
28 request for funding, based on the recommendation of the
29 Superintendent of Public Instruction. Within 30 days of the State
30 Board of Education's review, the Superintendent of Public
31 Instruction shall notify the affected school districts of the state of
32 the board's action regarding the request for funding. In
33 conjunction with its approval of a request for funding to
34 implement a school's action plan, the State Board of Education
35 may, at the request of the governing board of the school district or
36 the county board of education for a school under its jurisdiction,
37 waive all or any part of any provision of this code, or any
38 regulation adopted by the State Board of Education, controlling
39 any of the programs listed in clause (i) of subparagraph (B) of
40 paragraph (1) of subdivision (a) of Section 54761 and Section



1 64000 if the waiver does not result in a decrease in the instructional
2 time otherwise required by law or regulation or an increase in state
3 costs and is determined to be consistent with subdivision (a) of
4 Section 46300.

5 SEC. 5. Section 56155.7 is added to the Education Code, to
6 read:

7 56155.7. A licensed children’s institution may not require that
8 a child be identified as an individual with exceptional needs as a
9 condition of residency.

10 SEC. 6. Section 56157 of the Education Code is amended to
11 read:

12 56157. (a) In providing appropriate programs to individuals
13 with exceptional needs residing in licensed children’s institutions
14 or foster family homes, the district, special education local plan
15 area, or county office shall first consider services in programs
16 operated by public education agencies for individuals with
17 exceptional needs. If those programs are not appropriate, special
18 education and related services shall be provided by contract with
19 a nonpublic, nonsectarian school.

20 (b) If special education and related services are provided by
21 contract with a nonpublic, nonsectarian school, or with a licensed
22 children’s institution under this article, the terms of the contract
23 shall be developed in accordance with the provisions of Section
24 56366.

25 (c) If an individual with exceptional needs residing in a
26 licensed children’s institution or foster family home is placed in a
27 nonpublic, nonsectarian school, the ~~local educational agency~~
28 *district, special education local plan area, or county office* that
29 made the placement shall conduct an annual evaluation, through
30 the individualized education program process, of whether the
31 placement is the least restrictive environment for the individual.

32 (d) If an individual with exceptional needs residing in a
33 licensed children’s institution or foster family home is placed in a
34 nonpublic, nonsectarian school, the nonpublic, nonsectarian
35 school shall report to the ~~local educational agency~~ *district, special*
36 *education local plan area, or county office* that made the
37 placement, on a quarterly or trimester basis, as appropriate, the
38 educational progress demonstrated by the individual with
39 exceptional needs towards the attainment of the goals and



1 objectives specified in the individual's individualized education
2 program.

3 SEC. 7. Section 56366 of the Education Code is amended to
4 read:

5 56366. It is the intent of the Legislature that the role of a
6 nonpublic, nonsectarian school or agency shall be maintained and
7 continued as an alternative special education service available to
8 ~~local educational agencies~~ *districts, special education local plan*
9 *areas, county offices, and parents.*

10 (a) The master contract for nonpublic, nonsectarian school or
11 agency services shall be developed in accordance with the
12 following provisions:

13 (1) The master contract shall specify the general administrative
14 and financial agreements between the nonpublic, nonsectarian
15 school or agency and the ~~local educational agency~~ *district, special*
16 *education local plan area, or county office* to provide the special
17 education and designated instruction and services, as well as
18 transportation specified in the pupil's individualized education
19 program. The administrative provisions of the contract also shall
20 include procedures for recordkeeping and documentation, and the
21 maintenance of school records by the contracting ~~local educational~~
22 ~~agency~~ *district, special education local plan area, or county office*
23 to ensure that appropriate high school graduation credit is received
24 by the pupil. The contract may allow for partial or full-time
25 attendance at the nonpublic, nonsectarian school.

26 (2) (A) The master contract shall include an individual
27 services agreement for each pupil placed by a ~~local educational~~
28 ~~agency~~ *district, special education local plan area, or county office*
29 that will be negotiated for the length of time for which nonpublic,
30 nonsectarian school or agency special education and designated
31 instruction and services are specified in the pupil's individualized
32 education program.

33 (B) The master contract shall include a description of the
34 process being utilized by the ~~local educational agency~~ *district,*
35 *special education local plan area, or county office* to oversee and
36 evaluate placements in nonpublic, nonsectarian schools, *as*
37 *required by federal law.* This description shall include a method for
38 evaluating whether the pupil is making appropriate educational
39 progress. At least once every year, the ~~local educational agency~~
40 ~~shall do all of the following:~~ *year; the district, special education*



1 *local plan area, or county office shall do all of the following and,*
2 *to the extent possible, the following shall be conducted as part of*
3 *the development and provision of an individualized education*
4 *program:*

5 (i) Evaluate the educational progress of each pupil placed in a
6 nonpublic, nonsectarian school, *including all state assessment*
7 *results pursuant to the requirements of Section 52052.*

8 ~~(ii) Privately interview each pupil placed in a nonpublic,~~
9 ~~nonsectarian school.~~

10 ~~(iii) Determine whether changes to the pupil's individualized~~
11 ~~education program are necessary.~~

12 ~~(iv)~~

13 (ii) *Provide an opportunity for confidential input from the pupil*
14 *regarding his or her educational experience, including, but not*
15 *limited to, developing a confidential survey for the pupil or*
16 *conducting a private interview by a representative of the*
17 *individualized education program team of the pupil.*

18 (iii) Evaluate whether or not the needs of the pupil continue to
19 be best met at the nonpublic, nonsectarian school and whether
20 *changes to the individualized education program of the pupil are*
21 *necessary, including whether the pupil may be transitioned to a*
22 *public school setting.*

23 (3) Changes in educational instruction, services, or placement
24 provided under contract may only be made on the basis of
25 revisions to the pupil's individualized education program.

26 At any time during the term of the contract or individual services
27 agreement, the parent, the nonpublic, nonsectarian school or
28 agency, or the ~~local educational agency district, special education~~
29 ~~local plan area, or county office~~ may request a review of the pupil's
30 individualized education program by the individualized education
31 program team. Changes in the administrative or financial
32 agreements of the master contract that do not alter the individual
33 services agreement that outlines each pupil's educational
34 instruction, services, or placement may be made at any time during
35 the term of the contract as mutually agreed by the nonpublic,
36 nonsectarian school or agency and the ~~local educational agency~~
37 ~~district, special education local plan area, or county office.~~

38 (4) The master contract or individual services agreement may
39 be terminated for cause. The cause shall not be the availability of
40 a public class initiated during the period of the contract unless the



1 parent agrees to the transfer of the pupil to a public school
2 program. To terminate the contract either party shall give 20 days'
3 notice.

4 (5) The nonpublic, nonsectarian school or agency shall provide
5 all services specified in the individualized education program,
6 unless the nonpublic, nonsectarian school or agency and the ~~local~~
7 ~~educational agency~~ *district, special education local plan area, or*
8 *county office* agree otherwise in the contract or individual services
9 agreement.

10 (6) Related services provided pursuant to a nonpublic,
11 nonsectarian agency master contract shall only be provided during
12 the period of the child's regular or extended school year program,
13 or both, unless otherwise specified by the pupil's individualized
14 education program.

15 (7) The nonpublic, nonsectarian school or agency shall report
16 attendance of pupils receiving special education and designated
17 instruction and services as defined by Section 46307 for purposes
18 of submitting a warrant for tuition to each contracting ~~local~~
19 ~~educational agency~~ *district, special education local plan area, or*
20 *county office*.

21 (8) With respect to a nonpublic, nonsectarian school, the school
22 shall be part of the Public School Performance Accountability
23 Program established by Article 2 (commencing with Section
24 52051) of Chapter 6.1 of Part 28, *including the alternative*
25 *accountability system developed pursuant to Section 52052*, in the
26 same manner as public schools and each pupil placed in the
27 nonpublic, nonsectarian school by a ~~local educational agency~~
28 *district, special education local plan area, or county office* shall be
29 tested in accordance with that accountability program. The test
30 results shall be reported by the nonpublic, nonsectarian school to
31 the department.

32 (9) With respect to a nonpublic, nonsectarian school, the school
33 shall prepare a school accountability report card in accordance
34 with Section 33126.

35 (b) The master contract or individual services agreement shall
36 not include special education transportation provided through the
37 use of services or equipment owned, leased, or contracted by a
38 ~~local educational agency~~ *district, special education local plan*
39 *area, or county office* for pupils enrolled in the nonpublic,



1 nonsectarian school or agency unless provided directly or
2 subcontracted by that nonpublic, nonsectarian school or agency.

3 The superintendent shall withhold 20 percent of the amount
4 apportioned to a district or county office for costs related to the
5 provision of nonpublic, nonsectarian school or agency placements
6 if the superintendent finds that the local educational agency is in
7 noncompliance with this subdivision. This amount shall be
8 withheld from the apportionments in the fiscal year following the
9 superintendent's finding of noncompliance. The superintendent
10 shall take other appropriate actions to prevent noncompliant
11 practices from occurring and report to the Legislature on those
12 actions.

13 (c) (1) If the pupil is enrolled in the nonpublic, nonsectarian
14 school or agency with the approval of the ~~local educational agency~~
15 *district, special education local plan area, or county office* prior
16 to agreement to a contract or individual services agreement, the
17 ~~local educational agency~~ *district, special education local plan*
18 *area, or county office* shall issue a warrant, upon submission of an
19 attendance report and claim, for an amount equal to the number of
20 creditable days of attendance at the per diem tuition rate agreed
21 upon prior to the enrollment of the pupil. This provision shall be
22 allowed for 90 days during which time the contract shall be
23 consummated.

24 (2) If after 60 days the master contract or individual services
25 agreement has not been finalized as prescribed in paragraph (1) of
26 subdivision (a), either party may appeal to the county
27 superintendent of schools, if the county superintendent is not
28 participating in the local plan involved in the nonpublic,
29 nonsectarian school or agency contract, or the superintendent, if
30 the county superintendent is participating in the local plan
31 involved in the contract, to negotiate the contract. Within 30 days
32 of receipt of this appeal, the county superintendent or the
33 superintendent, or his or her designee, shall mediate the
34 formulation of a contract which shall be binding upon both parties.

35 (d) A master contract for special education and related services
36 provided by a nonpublic, nonsectarian school or agency may not
37 be authorized under this part, unless the school or agency has been
38 certified as meeting those standards relating to the required special
39 education and specified related services and facilities for
40 individuals with exceptional needs. The certification shall result



1 in the school or agency receiving approval to educate pupils under
2 this part for a period no longer than two years from the date of the
3 approval.

4 (e) By September 30, 1998, the procedures, methods, and
5 regulations for the purposes of contracting for nonpublic,
6 nonsectarian school and agency services pursuant to this section
7 and for reimbursement pursuant to Sections 56836.16 and
8 56836.20 shall be developed by the superintendent in consultation
9 with statewide organizations representing providers of special
10 education and designated instruction and services. The regulations
11 shall be established by rules and regulations issued by the board.

12 SEC. 8. Section 56366.1 of the Education Code is amended
13 to read:

14 56366.1. (a) A nonpublic, nonsectarian school or agency that
15 seeks certification shall file an application with the superintendent
16 on forms provided by the department and include the following
17 information on the application:

18 (1) A description of the special education and designated
19 instruction and services provided to individuals with exceptional
20 needs if the application is for nonpublic, nonsectarian school
21 certification.

22 (2) A description of the designated instruction and services
23 provided to individuals with exceptional needs if the application
24 is for nonpublic, nonsectarian agency certification.

25 (3) A list of appropriately qualified staff, a description of the
26 credential, license, or registration that qualifies each staff member
27 rendering special education or designated instruction and services
28 to do so, and copies of their credentials, licenses, or certificates of
29 registration with the appropriate state or national organization that
30 has established standards for the service rendered.

31 (4) An annual operating budget.

32 (5) Affidavits and assurances necessary to comply with all
33 applicable federal, state, and local laws and regulations which
34 include criminal record summaries required of all nonpublic
35 school or agency personnel having contact with minor children
36 under Section 44237.

37 (b) If the applicant operates a facility or program on more than
38 one site, each site shall be certified.

39 (c) If the applicant is part of a larger program or facility on the
40 same site, the superintendent shall consider the effect of the total



1 program on the applicant. A copy of the policies and standards for
2 the nonpublic, nonsectarian school or agency and the larger
3 program shall be available to the superintendent.

4 (d) Prior to certification, the superintendent shall conduct an
5 onsite review of the facility and program for which the applicant
6 seeks certification. The superintendent may be assisted by
7 representatives of the special education local plan area in which the
8 applicant is located and a nonpublic, nonsectarian school or
9 agency representative who does not have a conflict of interest with
10 the applicant. The superintendent shall conduct an additional
11 onsite review of the facility and program within two years of the
12 certification effective date, unless the superintendent
13 conditionally certifies the school or agency or unless the
14 superintendent receives a formal complaint against the school or
15 agency. In the latter two cases, the superintendent shall conduct an
16 onsite review at least annually.

17 (e) The superintendent shall make a determination on an
18 application within 120 days of receipt of the application and shall
19 certify, conditionally certify, or deny certification to the applicant.
20 If the superintendent fails to take one of these actions within 120
21 days, the applicant is automatically granted conditional
22 certification for a period terminating on August 31, of the current
23 school year. If certification is denied, the superintendent shall
24 provide reasons for the denial. The superintendent may certify the
25 school or agency for a period of not longer than two years.

26 (f) (1) Certification becomes effective on the date the
27 nonpublic, nonsectarian school or agency meets all the application
28 requirements and is approved by the superintendent. Certification
29 may be retroactive if the school or agency met all the requirements
30 of this section on the date the retroactive certification is effective.
31 Certification expires on December 31 of the terminating year.

32 (2) Notwithstanding paragraph (1), a nonpublic, nonsectarian
33 school or agency shall not be certified without the prior written
34 ~~approval verification from the local educational agency or local~~
35 ~~educational agencies district or districts, county office or county~~
36 ~~offices, or special education local plan area or areas~~ with which
37 the nonpublic, nonsectarian school or agency plans to contract.
38 The written ~~approval verification~~ shall include confirmation that
39 the ~~local educational agency district, county office, or special~~
40 ~~education local plan area cannot or does not intend to provide the~~



1 *special education and related services offered by the nonpublic,*
2 *nonsectarian school or agency and intends to contract with the*
3 *prospective nonpublic, nonsectarian school or agency to provide*
4 *special education and related services for its pupils.*

5 (g) The superintendent shall annually review the certification
6 of each nonpublic, nonsectarian school and agency. For this
7 purpose, a certified school or agency shall annually update its
8 application between August 1 and October 31, unless the board
9 grants a waiver pursuant to Section 56101. The superintendent
10 may conduct an onsite review as part of the annual review.

11 (h) (1) *The superintendent may monitor a nonpublic,*
12 *nonsectarian school or agency onsite at any time without prior*
13 *notice if there is substantial reason to believe that there is an*
14 *immediate danger to the health, safety, or welfare of a child. The*
15 *superintendent shall document the concern and submit it to the*
16 *nonpublic, nonsectarian school or agency at the time of the onsite*
17 *monitoring. The superintendent shall require a written response to*
18 *any noncompliance or deficiency found.*

19 (2) *With respect to a nonpublic, nonsectarian school, the*
20 *superintendent shall conduct an investigation, which shall include*
21 *an unannounced onsite visit, if the superintendent receives*
22 *evidence of a significant deficiency in the quality of educational*
23 *services provided by the nonpublic, nonsectarian school. The*
24 *superintendent shall document the complaint and the results of the*
25 *investigation and shall provide copies of the documentation to the*
26 *complainant, the nonpublic, nonsectarian school, and the*
27 *department.*

28 (i) The superintendent shall monitor the facilities, the
29 educational environment, and the quality of the educational
30 program, including the teaching staff, the credentials authorizing
31 service, the standards-based core curriculum being employed, and
32 the standard focused instructional materials used, of an existing
33 certified nonpublic, nonsectarian school or agency on a three-year
34 cycle, as follows:

35 ~~(A)–~~

36 (1) The nonpublic, nonsectarian school or agency shall
37 complete a self-review in year one.

38 ~~(B)–~~

39 (2) The superintendent shall conduct an onsite review of the
40 nonpublic, nonsectarian school or agency in year two.



1 ~~(C)~~

2 (3) The superintendent shall conduct a followup visit to the
3 nonpublic, nonsectarian school or agency in year three.

4 ~~(2) With respect to a nonpublic, nonsectarian school, the~~
5 ~~superintendent shall conduct an investigation, which shall include~~
6 ~~an unannounced onsite visit, if the superintendent receives~~
7 ~~evidence of a significant deficiency in the quality of educational~~
8 ~~services provided by the nonpublic, nonsectarian school. The~~
9 ~~superintendent shall document the complaint and the results of the~~
10 ~~investigation and shall provide copies of the documentation to the~~
11 ~~complainant, the nonpublic, nonsectarian school, and the~~
12 ~~department.~~

13 ~~(i)~~

14 (j) (1) Notwithstanding any other provision of law, the
15 superintendent may not certify a nonpublic, nonsectarian school
16 or agency that proposes to initiate or expand services to pupils
17 currently educated in the immediate prior fiscal year in a juvenile
18 court program, community school pursuant to Section 56150, or
19 other nonspecial education program, including independent study
20 or adult school, or both, unless the nonpublic, nonsectarian school
21 or agency notifies the county superintendent of schools and the
22 special education local plan area in which the proposed new or
23 expanded nonpublic, nonsectarian school or agency is located of
24 its intent to seek certification.

25 (2) The notification shall occur no later than the December 1
26 prior to the new fiscal year in which the proposed or expanding
27 school or agency intends to initiate services. The notice shall
28 include the following:

29 (A) The specific date upon which the proposed nonpublic,
30 nonsectarian school or agency is to be established.

31 (B) The location of the proposed program or facility.

32 (C) The number of pupils proposed for services, the number of
33 pupils currently served in the juvenile court, community school,
34 or other nonspecial education program, the current school services
35 including special education and related services provided for these
36 pupils, and the specific program of special education and related
37 services to be provided under the proposed program.

38 (D) The reason for the proposed change in services.

39 (E) The number of staff that will provide special education and
40 designated instruction and services and hold a current valid



1 California credential or license in the service rendered or
2 certificate of registration to provide occupational therapy.

3 (3) In addition to the requirements in subdivisions (a) through
4 (e), inclusive, the superintendent shall require and consider the
5 following in determining whether to certify a nonpublic,
6 nonsectarian school or agency as described in this subdivision:

7 (A) A complete statement of the information required as part
8 of the notice under paragraph (1).

9 (B) Documentation of the steps taken in preparation for the
10 conversion to a nonpublic, nonsectarian school or agency,
11 including information related to changes in the population to be
12 served and the services to be provided pursuant to each pupil's
13 individualized education program.

14 (4) Notwithstanding any other provision of law, the
15 certification becomes effective no earlier than July 1, if the school
16 or agency provided the notification required pursuant to paragraph
17 (1).

18 ~~(j)~~

19 (k) The school or agency shall be charged a reasonable fee for
20 certification. The superintendent may adjust the fee annually
21 commensurate with the statewide average percentage inflation
22 adjustment computed for revenue limits of unified school districts
23 with greater than 1,500 units of average daily attendance if the
24 percentage increase is reflected in the district revenue limit for
25 inflation purposes. For purposes of this section, the base fee shall
26 be the following:

27		
28	(1) 1– 5 pupils	\$
29		300
30	(2) 6–10 pupils	
31		500
32	(3) 11–24 pupils	
33		1,000
34	(4) 25–75 pupils	
35		1,500
36	(5) 76 pupils and over	
37		2,000
38		

39 The school or agency shall pay this fee when it applies for
40 certification and when it updates its application for annual review



1 by the superintendent. The superintendent shall use these fees to
2 conduct onsite reviews, which may include field experts. No fee
3 shall be refunded if the application is withdrawn or is denied by the
4 superintendent.

5 ~~(k)~~

6 (l) (1) Notwithstanding any other provision of law, only those
7 nonpublic, nonsectarian schools and agencies that provide special
8 education and designated instruction and services utilizing staff
9 who hold, or are enrolled in training programs that lead to a
10 credential or license authorizing the holder to render service to
11 individuals with exceptional needs and are receiving training
12 under the direct supervision of a staff member who holds a current
13 valid California credential, license, or certificate of registration
14 document in the service rendered shall be eligible to receive
15 certification. Only those nonpublic, nonsectarian schools or
16 agencies located outside of California that employ staff who hold
17 a current valid credential or license to render special education and
18 related services as required by that state shall be eligible to be
19 certified.

20 (2) Nothing in this subdivision restricts student teachers,
21 interns, or other staff who are enrolled in training programs that
22 lead to a license or credential that authorize the holder to render
23 services to special education pupils and who are under the direct
24 supervision of a staff member who holds a current valid California
25 credential, license, or certificate of registration document.

26 (3) A nonpublic, nonsectarian school or agency that employs
27 only persons who hold a valid California credential authorizing
28 substitute teaching pursuant to Section 56060 shall not be
29 certified. At least one full-time person with a current valid
30 California credential, license, or certificate of registration in the
31 area of service to be rendered, or a current valid credential, license,
32 or certificate of registration for appropriate special education and
33 related services rendered that is required in another state, shall be
34 required for purposes of certification under subdivision (d) of
35 Section 56366.

36 (4) A nonpublic, nonsectarian school or agency that employs
37 persons holding a valid emergency credential shall document
38 efforts of recruiting appropriately credentialed, licensed, or
39 registered personnel for the special education and related services
40 rendered as a condition of renewing certification.



1 (5) The State Board of Education shall ~~issue~~ *develop*
2 regulations to implement this subdivision. ~~The regulations shall be~~
3 ~~developed by the superintendent, in collaboration with the~~
4 ~~Commission on Teacher Credentialing and other public agencies~~
5 ~~responsible for issuing licenses or certificates of registration to~~
6 ~~individuals providing designated instruction and services to~~
7 ~~individuals with exceptional needs. The regulations also shall be~~
8 ~~developed in consultation with statewide organizations~~
9 ~~representing public and nonpublic, nonsectarian schools or~~
10 ~~agencies that provide special education and designated instruction~~
11 ~~and services. The regulations shall include, but shall not be~~
12 ~~necessarily limited to, all of the following:~~

13 (A) ~~Requirements for minimum personnel qualifications for~~
14 ~~credentials to provide special education to individuals with~~
15 ~~exceptional needs issued by the Commission on Teacher~~
16 ~~Credentialing pursuant to this code and applicable federal laws.~~

17 (B) ~~Requirements for minimum personnel qualifications for~~
18 ~~licenses or certifications of registration to provide designated~~
19 ~~instruction and services to individuals with exceptional needs~~
20 ~~issued by the California Board of Medical Quality Assurance, the~~
21 ~~Board of Behavioral Science Examiners, the Board of Consumer~~
22 ~~Affairs, and other state licensure agencies that are authorized~~
23 ~~under the Business and Professions Code to grant licenses or~~
24 ~~certificates of registration that may be applicable to the provision~~
25 ~~of designated instruction and services to individuals with~~
26 ~~exceptional needs.~~

27 (C) ~~Requirements for personnel who are not licensed or~~
28 ~~credentialed to provide special education or designated instruction~~
29 ~~and services to pupils under the supervision of a credentialed or~~
30 ~~licensed professional in the service rendered, including direct and~~
31 ~~nondirect supervision requirements established by this code and~~
32 ~~the Business and Professions Code, and related regulations.~~

33 (D) ~~Requirements for the certification of nonpublic,~~
34 ~~nonsectarian schools and agencies to provide individual and group~~
35 ~~designated instruction and services to individuals with exceptional~~
36 ~~needs.~~

37 (l) ~~The superintendent shall establish guidelines for the~~
38 ~~implementation of subdivision (a) in consultation with statewide~~
39 ~~organizations representing providers of special education and~~
40 ~~designated instruction and services.~~



1 ~~(m) (1) The superintendent shall, in consultation with~~
2 ~~statewide organizations representing providers of special~~
3 ~~education and designated instruction and services, develop the~~
4 ~~procedures, methods, and areas of certification, including, but not~~
5 ~~limited to, the following:~~

6 ~~(A) Information required for purposes of the application~~
7 ~~specified in subdivision (a).~~

8 ~~(B) Procedures for conducting onsite reviews of the nonpublic,~~
9 ~~nonsectarian school or agency program.~~

10 ~~(C) Provisions specific to minimum staff qualifications to~~
11 ~~provide special education and designated instruction and services~~
12 ~~that are required for certification.~~

13 ~~(D) Provisions specific to the provision of special education~~
14 ~~and related services to individuals with exceptional needs from~~
15 ~~birth to preschool.~~

16 ~~(2) The board shall issue as rules and regulations the~~
17 ~~procedures, methods, and areas of certification developed~~
18 ~~pursuant to paragraph (1).~~

19 ~~(n)~~

20 ~~(m)~~ In addition to meeting the standards adopted by the board,
21 a nonpublic, nonsectarian school or agency shall provide written
22 assurances that it meets all applicable standards relating to fire,
23 health, sanitation, and building safety.

24 SEC. 9. Section 56366.5 of the Education Code is amended
25 to read:

26 56366.5. (a) Upon receipt of a request from a nonpublic,
27 nonsectarian school for payment for services provided under a
28 contract entered into pursuant to Sections 56365 and 56366, the
29 ~~local educational agency district, special education local plan~~
30 ~~area, or county office~~ shall either (1) send a warrant for the amount
31 requested within 45 days, or (2) notify the nonpublic, nonsectarian
32 school within 10 working days of any reason why the requested
33 payment shall not be paid.

34 (b) If the ~~local educational agency district, special education~~
35 ~~local plan area, or county office~~ fails to comply with subdivision
36 (a), the nonpublic, nonsectarian school may require the ~~local~~
37 ~~educational agency district, special education local plan area, or~~
38 ~~county office~~ to pay an additional amount of 1¹/₂ percent of the
39 unpaid balance per month until full payment is made. The ~~local~~
40 ~~educational agency district, special education local plan area, or~~



1 *county office* may not claim reimbursement from the state for the
2 additional amount pursuant to any provision of law, including any
3 provision contained in Chapter 3 (commencing with Section 2201)
4 of Part 4 of Division 1 of the Revenue and Taxation Code.

5 (c) Any educational funds received by a ~~local educational~~
6 ~~agency~~ *district, special education local plan area, or county office*
7 for the educational costs of individuals with exceptional needs it
8 has placed in nonpublic, nonsectarian schools shall be used solely
9 for those purposes and not for the costs of a residential program.

10 SEC. 10. Section 56366.9 of the Education Code is amended
11 to read:

12 56366.9. A licensed children's institution at which
13 individuals with exceptional needs reside shall not require as a
14 condition of residential placement that it provide the appropriate
15 educational programs to those individuals through a nonpublic,
16 nonsectarian school or agency owned, operated by, or associated
17 with, a licensed children's institution. Those services may only be
18 provided if the special education local plan area determines that
19 appropriate public alternative educational programs are not
20 available.

21 SEC. 11. Section 56366.10 is added to the Education Code, to
22 read:

23 56366.10. In addition to the certification requirements set
24 forth in Sections 56366 and 56366.1, a nonpublic, nonsectarian
25 school that provides services to an individual with exceptional
26 needs shall certify in writing to the superintendent that it meets all
27 of the following requirements:

28 (a) The teachers at the nonpublic, nonsectarian school hold
29 valid special education teaching credentials authorizing service
30 for the disabling conditions of individuals with exceptional needs
31 enrolled in the nonpublic, nonsectarian school.

32 (b) The nonpublic, nonsectarian school will provide pupils
33 with access to a core curriculum that is based on state-adopted
34 standards and the same instructional materials used by at least one
35 of the ~~local educational agencies~~ *districts, special education local*
36 *plan areas, or county offices* that places individuals with
37 exceptional needs in the nonpublic, nonsectarian school.

38 SEC. 12. Section 1501.1 of the Health and Safety Code is
39 amended to read:



1 1501.1. (a) It is the policy of the state to facilitate the proper
2 placement of every child in residential care facilities where the
3 placement is in the best interests of the child. A county may require
4 placement or licensing agencies, or both placement and licensing
5 agencies, to actively seek out-of-home care facilities capable of
6 meeting the varied needs of the child. Therefore, in placing
7 children in out-of-home care, particular attention should be given
8 to the individual child's needs, the ability of the facility to meet
9 those needs, the needs of other children in the facility, the licensing
10 requirements of the facility as determined by the licensing agency,
11 and the impact of the placement on the family reunification plan.

12 (b) Pursuant to this section, children with varying designations
13 and varying needs, except as provided by statute, may be placed
14 in the same facility provided the facility is licensed, complies with
15 all licensing requirements relevant to the protection of the child,
16 and has a special permit, if necessary, to meet the needs of each
17 child so placed. A facility may not require, as a condition of
18 placement, that a child be identified as an individual with
19 exceptional needs as defined by Section 56026 of the Education
20 Code.

21 (c) Neither the requirement for any license nor any regulation
22 shall restrict the implementation of the provisions of this section.
23 Implementation of this section does not obviate the requirement
24 for a facility to be licensed by the department.

25 (d) Pursuant to this section, children with varying designations
26 and varying needs, except as provided by statute, may be placed
27 in the same licensed foster family home or with a foster family
28 agency for subsequent placement in a certified family home.
29 Children with developmental disabilities, mental disorders, or
30 physical disabilities may be placed in licensed foster family homes
31 or certified family homes, provided that an appraisal of the child's
32 needs and the ability of the receiving home to meet those needs is
33 made jointly by the placement agency and the licensee in the case
34 of licensed foster family homes or the placement agency and the
35 foster family agency in the case of certified family homes, and is
36 followed by written confirmation prior to placement. The
37 appraisal shall confirm that the placement poses no threat to any
38 child in the home.



1 For purposes of this chapter, the placing of children by foster
2 family agencies shall be referred to as “subsequent placement” to
3 distinguish the activity from the placing by public agencies.
4 SEC. 13. Notwithstanding Section 17610 of the Government
5 Code, if the Commission on State Mandates determines that this
6 act contains costs mandated by the state, reimbursement to local
7 agencies and school districts for those costs shall be made pursuant
8 to Part 7 (commencing with Section 17500) of Division 4 of Title
9 2 of the Government Code. If the statewide cost of the claim for
10 reimbursement does not exceed one million dollars (\$1,000,000),
11 reimbursement shall be made from the State Mandates Claims
12 Fund.

