

AMENDED IN ASSEMBLY JULY 27, 2004
AMENDED IN ASSEMBLY JUNE 30, 2004
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, 56026.3, 56155.7, 56366.10, 56366.11, and 56836.19 to, the Education Code, ~~and~~ to amend Section 1501.1 of the Health and Safety Code, *and to add Section 16014 to the Welfare and Institutions 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 at least 3 years.

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

Existing law requires the superintendent, 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 *admission or* 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.

This bill would require a 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 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 *of the pupil*.

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 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 provide an opportunity for confidential input from the pupil, as provided~~ *considerations, and determinations*. 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 *provide an opportunity for confidential input from the pupil as provided, and include that, with respect to a nonpublic, nonsectarian school that is associated, as specified, with a licensed children's institution, there be a method of evaluating whether the school meets specified guidelines, and 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 during the school's testing window, as specified, 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 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~~ *1 year*, and would make related changes. *The bill would require a nonpublic, nonsectarian school or agency to make notification of its intent to seek certification.* 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,~~ *a certificate, permit, or other document equivalent to that which staff in a public school would be required to hold* may be certified.

~~The bill would, in addition, prohibit the certification of a nonpublic, nonsectarian school or agency without the prior written verification, as provided, from the 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 school districts, special education local plan areas, or county offices of education that places an individual with exceptional needs in the school~~ *school satisfies various requirements relating to credentialed teachers, teacher-to-pupil ratio, access to standards-based curriculum and instructional materials, access to specific instruction, and a discipline policy.*

Existing law authorizes the superintendent 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 require the superintendent to *conduct an investigation onsite at any time without prior notice under those circumstances and* 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, with respect to a nonpublic, nonsectarian school, to conduct an investigation, which is to include an unannounced onsite visit, if the superintendent receives evidence of a significant deficiency in the quality of educational services provided by the school *or noncompliance with other specified requirements. The bill would place additional requirements on a nonpublic, nonsectarian school regarding financial recordkeeping, submitting an annual budget and an annual audit, and documenting services and programs.*

Existing law requires the superintendent 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 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.

Existing law requires the superintendent to apportion moneys to a school district and county superintendent to fund costs associated with placing a pupil in a nonpublic, nonsectarian school or agency for the purpose of providing special education instruction, designated instruction and services, or both.

This bill would require any funds allocated to a school district and county office of education under an unspecified funding formula, to be used exclusively for special education services provided in either public schools or nonpublic, nonsectarian schools for certain pupils who reside in licensed children's institutions and foster family homes, residential medical facilities, and other similar facilities.

This bill would change all references to a school district, special education local plan area, and county office of education in those provisions to a local educational agency, and would define a local educational agency as a school district, a county office of education, a charter school participating as a member of a special education local plan area, or a special education local plan area, or a special education local plan area.

This bill would require the State Department of Education and the State Department of Social services to collaborate with specified entities to increase access to federal funds for foster youth services.

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 for Research, the subset of children in foster care who are
16 also in special education and who have been placed in nonpublic
17 schools do not always receive the same educational opportunities
18 and often do not have access to the same caliber of instruction and
19 instructional materials as individuals with exceptional needs in
20 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
34 and spend time incarcerated. Some of these problems could be
35 diminished by ensuring that youth in foster care, including those
36 who have been identified as individuals with exceptional needs,
37 also receive the services that will assist them to transition to
38 financial independence.



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

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

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

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

26 (10) State standards are substantially less comprehensive for
27 nonpublic schools than the standards and monitoring applied to
28 California’s public schools.

29 (11) Accountability for educational outcomes for pupils in
30 foster care is vague and the system for monitoring the educational
31 progress of pupils in foster care placed in nonpublic schools, as
32 well as those in the regular public schools, is inadequate.

33 (12) Foster children and other pupils who have been identified
34 as individuals with exceptional needs have the right to the best
35 educational placement, and in accordance with the federal
36 Individuals with Disabilities Education Act requirement for a free
37 appropriate public education that places pupils in the least
38 restrictive environment appropriate to their needs, whether that is
39 in a public school or a nonpublic school.



1 (b) It is therefore the intent of the Legislature to do the
2 following:

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

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

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

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

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

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

23 SEC. 2. Section 49085 is added to the Education Code, to
24 read:

25 49085. The department shall ensure that the California School
26 Information Services system meets the needs of pupils in foster
27 care and includes disaggregated data on pupils in foster care.

28 SEC. 3. Section 52052 of the Education Code is amended to
29 read:

30 52052. (a) (1) By July 1, 1999, the Superintendent of Public
31 Instruction, with approval of the State Board of Education, shall
32 develop an Academic Performance Index (API), to measure the
33 performance of schools, especially the academic performance of
34 pupils, and to demonstrate comparable improvement in academic
35 achievement by all numerically significant ethnic and
36 socioeconomically disadvantaged subgroups within schools.

37 (2) For purposes of this section, a numerically significant
38 ethnic or socioeconomically disadvantaged subgroup is a
39 subgroup that constitutes at least 15 percent of a school's total
40 pupil population and consists of at least 30 pupils. An ethnic or



1 socioeconomically disadvantaged subgroup of at least 100 pupils
2 constitutes a numerically significant subgroup, even if the
3 subgroup does not constitute 15 percent of the total enrollment at
4 a school. For schools whose API scores are based on test scores of
5 no fewer than 11 and no more than 99 pupils, numerically
6 significant subgroups shall be defined by the Superintendent of
7 Public Instruction, with approval by the State Board of Education.

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

15 (A) The pupil data collected for the API that comes from the
16 achievement test administered pursuant to Sections 60640 and
17 60644 and the high school exit examination administered pursuant
18 to Section 60851, when fully implemented, shall be disaggregated
19 by foster children status, special education status, English
20 language learners, socioeconomic status, gender and ethnic group.
21 Only the test scores of pupils who were counted as part of a school
22 district's enrollment in the October California Basic Educational
23 Data System's data collection for the current fiscal year and were
24 continuously enrolled during that year may be included in the test
25 results reported in the API. Results of the achievement test and
26 other tests specified in subdivision (b) shall constitute at least 60
27 percent of the value of the index.

28 (B) Before including high school graduation rates and
29 attendance rates in the index, the Superintendent of Public
30 Instruction shall determine the extent to which the data are
31 currently reported to the state and the accuracy of the data.

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

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



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

3 (2) The nationally normed test designated pursuant to Section
4 60642.

5 (3) The standards-based achievement tests provided for in
6 Section 60642.5.

7 (4) The high school exit examination.

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

30 (d) Upon adoption of state performance standards by the State
31 Board of Education, the Superintendent of Public Instruction shall
32 recommend, and the State Board of Education shall adopt, a
33 statewide API performance target that includes consideration of
34 performance standards and represents the proficiency level
35 required to meet the state performance target. When the API is
36 fully developed, schools must, at a minimum, meet their annual
37 API growth targets to be eligible for the Governor's Performance
38 Award Program as set forth in Section 52057. The State Board of
39 Education may establish additional criteria that schools must meet
40 to be eligible for the Governor's Performance Award Program.



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

3 (1) Measuring the progress of schools selected for participation
4 in the Immediate Intervention/Underperforming Schools Program
5 pursuant to Section 52053.

6 (2) Ranking all public schools in the state for the purpose of the
7 High Achieving/Improving Schools Program pursuant to Section
8 52056.

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

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

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

29 (A) Irregularities in testing procedures occurred.

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

32 (C) Significant demographic changes in the school's pupil
33 population render year-to-year comparisons of pupil performance
34 invalid.

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

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



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

10 SEC. 4. Section 52054 of the Education Code is amended to
11 read:

12 52054. (a) Commencing in the 2001–02 fiscal year, by
13 November 15 of the year that the school is selected to participate,
14 the governing board of a school district having jurisdiction over a
15 school selected for participation in the program shall do one of the
16 following:

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

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

29 (A) Institutions of higher education.

30 (B) County offices of education.

31 (C) School district personnel.

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

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

39 (2) Hold a public meeting at the school, in cooperation with the
40 principal, to which all parents and legal guardians of pupils in the



1 school receive a written invitation. The invitation to the meeting
2 may be combined with the written notice required by paragraph
3 (1).

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

11 (4) Provide technical assistance to the schoolsite.

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

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

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

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



- 1 (2) Identify the current barriers at the school and district toward
2 improvements in pupil achievement.
- 3 (3) Identify schoolwide and districtwide strategies to remove
4 these barriers.
- 5 (4) Review and include school and school district crime
6 statistics, in accordance with Section 628.5 of the Penal Code.
- 7 (5) Examine and consider disaggregated data regarding pupil
8 achievement and other indicators to consider whether all groups
9 and types of pupils make adequate progress toward short-term
10 growth targets and long-term performance goals. The
11 disaggregated data to be included and considered by the plan shall,
12 at a minimum, provide information regarding the achievement of
13 foster children, English language learners, pupils with exceptional
14 needs, pupils who qualify for free and reduced price meals, and
15 pupils in numerically significant subgroups.
- 16 (6) Set short-term academic objectives pursuant to Section
17 52052 for a two-year period that will allow the school to make
18 adequate progress toward the growth targets established for each
19 participating school for pupil achievement as measured by all of
20 the following to the extent that the data is available for the school:
- 21 (A) The achievement test administered pursuant to Section
22 60640.
- 23 (B) Graduation rates for grades 7 to 12, inclusive.
- 24 (C) Attendance rates for pupils and school personnel for
25 elementary, middle, and secondary schools.
- 26 (D) Any other indicators approved by the State Board of
27 Education.
- 28 (e) The school action plan shall focus on improving pupil
29 academic performance, improving the involvement of parents and
30 guardians, improving the effective and efficient allocation of
31 resources and management of the school, and identifying and
32 developing solutions that take into account the underlying causes
33 for low performance by pupils.
- 34 (f) The team, in the development of the action plan, shall
35 consult with the exclusive representatives of employee
36 organizations, where they exist.
- 37 (g) The school action plan may propose to increase the number
38 of instructional days offered at the schoolsite and also may propose
39 to increase up to a full 12 months the amount of time for which



1 certificated employees are contracted, if all of the following
2 conditions are met:

3 (1) Provisions of the plan proposed pursuant to this subdivision
4 shall not violate current applicable collective bargaining
5 agreements.

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

9 (h) The team, in the development of the action plan, shall
10 consult with the exclusive representatives of employee
11 organizations, where they exist.

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

22 (j) Not later than July 15 of the year next following the year in
23 which a school is selected for participation, the State Board of
24 Education shall review and approve or disapprove the school's
25 request for funding, based on the recommendation of the
26 Superintendent of Public Instruction. Within 30 days of the State
27 Board of Education's review, the Superintendent of Public
28 Instruction shall notify the affected school districts of the state of
29 the board's action regarding the request for funding. In
30 conjunction with its approval of a request for funding to
31 implement a school's action plan, the State Board of Education
32 may, at the request of the governing board of the school district or
33 the county board of education for a school under its jurisdiction,
34 waive all or any part of any provision of this code, or any
35 regulation adopted by the State Board of Education, controlling
36 any of the programs listed in clause (i) of subparagraph (B) of
37 paragraph (1) of subdivision (a) of Section 54761 and Section
38 64000 if the waiver does not result in a decrease in the instructional
39 time otherwise required by law or regulation or an increase in state



1 costs and is determined to be consistent with subdivision (a) of
 2 Section 46300.

3 SEC. 5. *Section 56026.3 is added to the Education Code, to*
 4 *read:*

5 56026.3. *“Local educational agency” means a school*
 6 *district, a county office of education, a charter school*
 7 *participating as a member of a special education local plan area,*
 8 *or a special education local plan area.*

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

11 56155.7. A licensed children’s institution may not require that
 12 a child be identified as an individual with exceptional needs as a
 13 condition of *admission or* residency.

14 ~~SEC. 6.—~~

15 SEC. 7. Section 56157 of the Education Code is amended to
 16 read:

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

25 (b) If special education and related services are provided by
 26 contract with a nonpublic, nonsectarian school, or with a licensed
 27 children’s institution under this article, the terms of the contract
 28 shall be developed in accordance with the provisions of Section
 29 56366.

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

37 (d) If an individual with exceptional needs residing in a
 38 licensed children’s institution or foster family home is placed in a
 39 nonpublic, nonsectarian school, the nonpublic, nonsectarian
 40 school shall report to the ~~district, special education local plan area,~~



1 ~~or county office~~ *local educational agency* that made the
2 placement, on a quarterly or trimester basis, as appropriate, the
3 educational progress demonstrated by the individual with
4 exceptional needs towards the attainment of the goals and
5 objectives specified in the individual’s individualized education
6 program.

7 ~~SEC. 7.—~~

8 *SEC. 8.* Section 56366 of the Education Code is amended to
9 read:

10 56366. It is the intent of the Legislature that the role of a
11 nonpublic, nonsectarian school or agency shall be maintained and
12 continued as an alternative special education service available to
13 ~~districts, special education local plan areas, county offices,~~ *a local*
14 *educational agency* and parents.

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

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

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

38 (B) The master contract shall include a description of the
39 process being utilized by the ~~district, special education local plan~~
40 ~~area, or county office~~ *local educational agency* to oversee and



1 evaluate placements in nonpublic, nonsectarian schools, as
2 required by federal law. This description shall include a method for
3 evaluating whether the pupil is making appropriate educational
4 progress. At least once every year, the district, special education
5 local plan area, or county office shall do all of the following and,
6 to the extent possible, the following shall be conducted as part of
7 the development and provision of an individualized education
8 program:

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

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

17 ~~(iii) Evaluate~~

18 (ii) Consider 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. *This consideration shall be made at the*
23 *meeting required by subdivision (d) of Section 56343.*

24 (iii) *Determine the time the pupil will be transferred from the*
25 *nonpublic, nonsectarian school to a regular class in a public*
26 *school for any part of the schoolday as required by paragraph (4)*
27 *of subdivision (b) of Section 56345.*

28 (C) *The master contract shall provide an opportunity for*
29 *confidential input from the pupil regarding his or her educational*
30 *experience, including developing a confidential survey for the*
31 *pupil or conducting a private interview by at least one of the local*
32 *educational agency representatives of the pupil's individualized*
33 *education program team. The requirements of this subparagraph*
34 *shall be accomplished with existing funds of the local educational*
35 *agency.*

36 (D) *In the case of a nonpublic, nonsectarian school that is*
37 *owned, operated by, or associated with a licensed children's*
38 *institution, the master contract shall include a method for*
39 *evaluating whether the nonpublic, nonsectarian school is in*
40 *compliance with the mandate set forth in Section 56366.9 of the*



1 *Education Code and subdivision (b) of Section 1501 of the Health*
2 *and Safety Code.*

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

6 At any time during the term of the contract or individual services
7 agreement, the parent, the nonpublic, nonsectarian school or
8 agency, or the ~~district, special education local plan area, or county~~
9 ~~office~~ *local educational agency* may request a review of the
10 pupil's individualized education program by the individualized
11 education program team. Changes in the administrative or
12 financial agreements of the master contract that do not alter the
13 individual services agreement that outlines each pupil's
14 educational instruction, services, or placement may be made at any
15 time during the term of the contract as mutually agreed by the
16 nonpublic, nonsectarian school or agency and the ~~district, special~~
17 ~~education local plan area, or county office~~ *local educational*
18 *agency.*

19 (4) The master contract or individual services agreement may
20 be terminated for cause. The cause shall not be the availability of
21 a public class initiated during the period of the contract unless the
22 parent agrees to the transfer of the pupil to a public school
23 program. To terminate the contract either party shall give 20 days'
24 notice.

25 (5) The nonpublic, nonsectarian school or agency shall provide
26 all services specified in the individualized education program,
27 unless the nonpublic, nonsectarian school or agency and the
28 ~~district, special education local plan area, or county office~~ *local*
29 *educational agency* agree otherwise in the contract or individual
30 services agreement.

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

36 (7) The nonpublic, nonsectarian school or agency shall report
37 attendance of pupils receiving special education and designated
38 instruction and services as defined by Section 46307 for purposes
39 of submitting a warrant for tuition to each contracting ~~district,~~



1 ~~special education local plan area, or county office~~ *local*
2 *educational agency.*

3 ~~(8) With respect to a nonpublic, nonsectarian school, the school~~
4 ~~shall be part of the Public School Performance Accountability~~
5 ~~Program established by Article 2 (commencing with Section~~
6 ~~52051) of Chapter 6.1 of Part 28, including the alternative~~

7 *(8) (A) A nonpublic, nonsectarian school is subject to the*
8 *alternative accountability system developed pursuant to Section*
9 *52052, in the same manner as public schools and each pupil placed*
10 *in the nonpublic, nonsectarian school by a ~~district, special~~*
11 *~~education local plan area, or county office~~ local educational*
12 *agency shall be tested by qualified staff of the nonpublic,*
13 *nonsectarian school in accordance with that accountability*
14 *program. The test results shall be reported by the nonpublic,*
15 *nonsectarian school to the department.*

16 *(B) Beginning with the 2006–07 school year testing cycle, each*
17 *nonpublic, nonsectarian school shall determine its STAR testing*
18 *period. The nonpublic, nonsectarian school shall determine this*
19 *period based on completion of 85 percent of the instructional year*
20 *at the school, plus and minus 10 days, resulting in a 21-day period.*
21 *Each nonpublic, nonsectarian school shall notify the local*
22 *educational agency of residence of a pupil enrolled in the school*
23 *of its testing period. Staff at the nonpublic, nonsectarian school*
24 *who shall administer the assessments shall attend the regular*
25 *testing training sessions provided by the local educational agency*
26 *of residence. If staff from a nonpublic, nonsectarian school have*
27 *received training from one local educational agency, that training*
28 *is sufficient for all local educational agencies that send pupils to*
29 *the nonpublic, nonsectarian school. The local educational agency*
30 *of residence shall order testing materials for its pupils that have*
31 *been placed in the nonpublic, nonsectarian school shall*
32 *collaborate to facilitate the distribution and collection of testing*
33 *materials.*

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

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



1 *educational agency for* pupils enrolled in the nonpublic,
2 nonsectarian school or agency unless provided directly or
3 subcontracted by that nonpublic, nonsectarian school or agency.

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

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

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

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



1 individuals with exceptional needs. The certification shall result
2 in the school or agency receiving approval to educate pupils under
3 this part for a period no longer than two years from the date of the
4 approval.

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

13 ~~SEC. 8.—~~

14 *SEC. 9.* Section 56366.1 of the Education Code is amended to
15 read:

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

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

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

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

33 (4) An annual operating budget.

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

39 (b) (1) *The applicant shall provide the special education local*
40 *plan area in which the applicant is located with the written*



1 notification of its intent to seek certification or renewal of its
2 certification. The applicant shall submit on a form, developed by
3 the department, a signed verification by local educational agency
4 representatives that they have been notified of the intent to certify
5 or renew certification. The verification shall include a statement
6 that special education local plan area representatives in which the
7 applicant is located have had the opportunity to review the
8 application at least 60 calendar days prior to submission of an
9 initial application to the superintendent, or at least 30 calendar
10 days prior to submission of a renewal application to the
11 superintendent. The signed verification shall provide assurances
12 that local educational agency representatives have had the
13 opportunity to provide input on all required components of the
14 application.

15 (2) If the applicant has not received a response from the local
16 educational agency 30 days from the date of the return receipt, the
17 applicant may file the application with the superintendent. A copy
18 of the return receipt shall be included with the application as
19 verification of notification efforts to the local educational agency.

20 (c) If the applicant operates a facility or program on more than
21 one site, each site shall be certified.

22 ~~(e)~~

23 (d) If the applicant is part of a larger program or facility on the
24 same site, the superintendent shall consider the effect of the total
25 program on the applicant. A copy of the policies and standards for
26 the nonpublic, nonsectarian school or agency and the larger
27 program shall be available to the superintendent.

28 ~~(d)~~

29 (e) Prior to certification, the superintendent shall conduct an
30 onsite review of the facility and program for which the applicant
31 seeks certification. The superintendent may be assisted by
32 representatives of the special education local plan area in which the
33 applicant is located and a nonpublic, nonsectarian school or
34 agency representative who does not have a conflict of interest with
35 the applicant. The superintendent shall conduct an additional
36 onsite review of the facility and program within two years of the
37 certification effective date, unless the superintendent
38 conditionally certifies the school or agency or unless the
39 superintendent receives a formal complaint against the school or



1 agency. In the latter two cases, the superintendent shall conduct an
2 onsite review at least annually.

3 ~~(e)~~

4 (f) The superintendent shall make a determination on an
5 application within 120 days of receipt of the application and shall
6 certify, conditionally certify, or deny certification to the applicant.
7 If the superintendent fails to take one of these actions within 120
8 days, the applicant is automatically granted conditional
9 certification for a period terminating on August 31, of the current
10 school year. If certification is denied, the superintendent shall
11 provide reasons for the denial. The superintendent may certify the
12 school or agency for a period of not longer than ~~two years~~ *one year*.

13 ~~(f)(1)~~

14 (g) Certification becomes effective on the date the nonpublic,
15 nonsectarian school or agency meets all the application
16 requirements and is approved by the superintendent. Certification
17 may be retroactive if the school or agency met all the requirements
18 of this section on the date the retroactive certification is effective.
19 Certification expires on December 31 of the terminating year.

20 ~~(2) Notwithstanding paragraph (1), a nonpublic, nonsectarian~~
21 ~~school or agency shall not be certified without the prior written~~
22 ~~verification from the district or districts, county office or county~~
23 ~~offices, or special education local plan area or areas with which the~~
24 ~~nonpublic, nonsectarian school or agency plans to contract. The~~
25 ~~written verification shall include confirmation that the district,~~
26 ~~county office, or special education local plan area cannot or does~~
27 ~~not intend to provide the special education and related services~~
28 ~~offered by the nonpublic, nonsectarian school or agency and~~
29 ~~intends to contract with the prospective nonpublic, nonsectarian~~
30 ~~school or agency to provide special education and related services~~
31 ~~for its pupils.~~

32 ~~(g)~~

33 (h) The superintendent shall annually review the certification
34 of each nonpublic, nonsectarian school and agency. For this
35 purpose, a certified school or agency shall annually update its
36 application between August 1 and October 31, unless the board
37 grants a waiver pursuant to Section 56101. The superintendent
38 may conduct an onsite review as part of the annual review.

39 ~~(h)~~



1 (i) (1) The superintendent ~~may monitor~~ shall conduct an
2 investigation of a nonpublic, nonsectarian school or agency onsite
3 at any time without prior notice if there is substantial reason to
4 believe that there is an immediate danger to the health, safety, or
5 welfare of a child. The superintendent shall document the concern
6 and submit it to the nonpublic, nonsectarian school or agency at the
7 time of the onsite ~~monitoring~~ investigation. The superintendent
8 shall require a written response to any noncompliance or
9 deficiency found.

10 (2) With respect to a nonpublic, nonsectarian school, the
11 superintendent shall conduct an investigation, which ~~shall~~ may
12 include an unannounced onsite visit, if the superintendent receives
13 evidence of a significant deficiency in the quality of educational
14 services provided or a violation of Section 56366.9 or
15 noncompliance with the policies expressed by subdivision (b) of
16 Section 1501 of the Health and Safety Code by the nonpublic,
17 nonsectarian school. The superintendent shall document the
18 complaint and the results of the investigation and shall provide
19 copies of the documentation to the complainant, the nonpublic,
20 nonsectarian school, and the ~~department~~.

21 ~~(i) contracting local educational agency.~~

22 (3) Violations or noncompliance documented pursuant to
23 paragraph (1) or (2) shall be reflected in the status of the
24 certification of the school, at the discretion of the superintendent,
25 pending an approved plan of correction by the nonpublic,
26 nonsectarian school. The department shall retain for a period of
27 10 years, all violations pertaining to certification of the
28 nonsectarian, nonpublic school or agency.

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

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

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



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

3 ~~(j)~~

4 (k) (1) Notwithstanding any other provision of law, the
5 superintendent may not certify a nonpublic, nonsectarian school
6 or agency that proposes to initiate or expand services to pupils
7 currently educated in the immediate prior fiscal year in a juvenile
8 court program, community school pursuant to Section 56150, or
9 other nonspecial education program, including independent study
10 or adult school, or both, unless the nonpublic, nonsectarian school
11 or agency notifies the county superintendent of schools and the
12 special education local plan area in which the proposed new or
13 expanded nonpublic, nonsectarian school or agency is located of
14 its intent to seek certification.

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

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

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

22 (C) The number of pupils proposed for services, the number of
23 pupils currently served in the juvenile court, community school,
24 or other nonspecial education program, the current school services
25 including special education and related services provided for these
26 pupils, and the specific program of special education and related
27 services to be provided under the proposed program.

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

29 (E) The number of staff that will provide special education and
30 designated instruction and services and hold a current valid
31 California credential or license in the service rendered or
32 certificate of registration to provide occupational therapy.

33 (3) In addition to the requirements in subdivisions (a) through
34 ~~(e)~~ (l) , inclusive, the superintendent shall require and consider
35 the following in determining whether to certify a nonpublic,
36 nonsectarian school or agency as described in this subdivision:

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

39 (B) Documentation of the steps taken in preparation for the
40 conversion to a nonpublic, nonsectarian school or agency,



1 including information related to changes in the population to be
2 served and the services to be provided pursuant to each pupil's
3 individualized education program.

4 (4) Notwithstanding any other provision of law, the
5 certification becomes effective no earlier than July 1, if the school
6 or agency provided the notification required pursuant to paragraph
7 (1).

8 ~~(k)~~

9 (m) *(1) Commencing July 1, 2006, notwithstanding any other*
10 *provision of law, the superintendent may not certify or renew the*
11 *certification of a nonpublic, nonsectarian school or agency, unless*
12 *all of the following conditions are met:*

13 (A) *The entity operating the nonpublic, nonsectarian school or*
14 *agency maintains separate financial records for each entity that it*
15 *operates, with each nonpublic, nonsectarian school or agency*
16 *identified separately from any licensed children's institution that*
17 *it operates.*

18 (B) *The entity submits an annual budget that identifies the*
19 *projected costs and revenues for each entity and demonstrates that*
20 *the rates to be charged are reasonable to support the operation of*
21 *the entity.*

22 (C) *The entity submits an entity-wide annual audit that*
23 *identifies its costs and revenues, by entity, in accordance with*
24 *generally accepted accounting and auditing principles. The audit*
25 *shall clearly document the amount of moneys on the education*
26 *program provided by the nonpublic, nonsectarian school.*

27 (D) *The relationship between various entities operated by the*
28 *same entity are documented, defining the responsibilities of the*
29 *entities. The documentation shall clearly identify the services to be*
30 *provided as part of each program, for example, the residential or*
31 *medical program, the mental health program, or the educational*
32 *program. The entity shall not seek funding from a public agency*
33 *for a service, either separately or as part of a package of services,*
34 *if the service is funded by another public agency, either separately*
35 *or as part of a package of services.*

36 (2) *For purposes of this section, the term licensed children's*
37 *institution has the same meaning as it is defined by Section*
38 *56155.5.*

39 (n) The school or agency shall be charged a reasonable fee for
40 certification. The superintendent may adjust the fee annually



1 commensurate with the statewide average percentage inflation
2 adjustment computed for revenue limits of unified school districts
3 with greater than 1,500 units of average daily attendance if the
4 percentage increase is reflected in the district revenue limit for
5 inflation purposes. For purposes of this section, the base fee shall
6 be the following:

7			
8	(1)	1– 5 pupils	\$ 300
9	(2)	6–10 pupils	500
10	(3)	11–24 pupils	1,000
11	(4)	25–75 pupils	1,500
12	(5)	76 pupils and over	2,000

13
14 The school or agency shall pay this fee when it applies for
15 certification and when it updates its application for annual review
16 by the superintendent. The superintendent shall use these fees to
17 conduct onsite reviews, which may include field experts. No fee
18 shall be refunded if the application is withdrawn or is denied by the
19 superintendent.

20 ~~(l)~~
21 (o) (1) Notwithstanding any other provision of law, only those
22 nonpublic, nonsectarian schools and agencies that provide special
23 education and designated instruction and services utilizing staff
24 ~~who hold, or are enrolled in training programs that lead to a~~
25 ~~credential or license authorizing the holder to render service to~~
26 ~~individuals with exceptional needs and are receiving training~~
27 ~~under the direct supervision of a staff member who holds a current~~
28 ~~valid California credential, license, or certificate of registration~~
29 ~~document in the service rendered shall be eligible to~~ *who hold a*
30 *certificate, permit, or other document equivalent to that which*
31 *staff in a public school are required to hold in the service rendered*
32 *are eligible to receive certification.* Only those nonpublic,
33 nonsectarian schools or agencies located outside of California that
34 employ staff who hold a current valid credential or license to
35 render special education and related services as required by that
36 state shall be eligible to be certified.

37 ~~(2) Nothing in this subdivision restricts student teachers,~~
38 ~~interns, or other staff who are enrolled in training programs that~~
39 ~~lead to a license or credential that authorize the holder to render~~
40 ~~services to special education pupils and who are under the direct~~



1 ~~supervision of a staff member who holds a current valid California~~
2 ~~credential, license, or certificate of registration document.~~

3 ~~(3) A nonpublic, nonsectarian school or agency that employs~~
4 ~~only persons who hold a valid California credential authorizing~~
5 ~~substitute teaching pursuant to Section 56060 shall not be~~
6 ~~certified. At least one full-time person with a current valid~~
7 ~~California credential, license, or certificate of registration in the~~
8 ~~area of service to be rendered, or a current valid credential, license,~~
9 ~~or certificate of registration for appropriate special education and~~
10 ~~related services rendered that is required in another state, shall be~~
11 ~~required for purposes of certification under subdivision (d) of~~
12 ~~Section 56366.~~

13 ~~(4) A nonpublic, nonsectarian school or agency that employs~~
14 ~~persons holding a valid emergency credential shall document~~
15 ~~efforts of recruiting appropriately credentialed, licensed, or~~
16 ~~registered personnel for the special education and related services~~
17 ~~rendered as a condition of renewing certification.~~

18 ~~(5) —~~

19 (2) The State Board of Education shall develop regulations to
20 implement this subdivision.

21 ~~(m) —~~

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

26 ~~SEC. 9. —~~

27 *SEC. 10.* Section 56366.5 of the Education Code is amended
28 to read:

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

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



1 made. The district, special education local plan area, or county
2 office may not claim reimbursement from the state for the
3 additional amount pursuant to any provision of law, including any
4 provision contained in Chapter 3 (commencing with Section 2201)
5 of Part 4 of Division 1 of the Revenue and Taxation Code.

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

11 ~~SEC. 10.—~~

12 *SEC. 11.* Section 56366.9 of the Education Code is amended
13 to read:

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

23 ~~SEC. 11.—~~

24 *SEC. 12.* Section 56366.10 is added to the Education Code, to
25 read:

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

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

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



1 ~~SEC. 12.~~—

2 (a) *Commencing with the 2009–10 school year, or commencing*
3 *July 1, 2009, whichever is later, each pupil shall be taught by a*
4 *teacher with a valid special education teaching credential issued*
5 *by the Commission on Teacher Credentialing authorizing service*
6 *for the disabling conditions of individuals with exceptional needs*
7 *enrolled in the nonpublic, nonsectarian school.*

8 (b) *The teacher-to-pupil ratio shall not exceed 12 pupils per*
9 *teacher, except that the number of pupils may be temporarily*
10 *increased to 14 pupils if necessary to provide special education*
11 *and related services to individuals with exceptional needs and with*
12 *approval by an authorized local educational agency*
13 *representative.*

14 (c) *Pupils have access to standards-based, core curriculum and*
15 *the same instructional materials used by the local educational*
16 *agency in which the nonpublic, nonsectarian school is located.*

17 (d) *Pupils have access to college preparation courses.*

18 (e) *Pupils have access to a variety of extracurricular activities,*
19 *including art, sports, music, and academic clubs.*

20 (f) *Pupils have access to career preparation and vocational*
21 *training, consistent with transition plans pursuant to state and*
22 *federal law.*

23 (g) *Pupils have access to supplemental assistance, including*
24 *individual academic tutoring, psychological counseling, and*
25 *career and college counseling.*

26 (h) *The teachers and staff provide academic instruction and*
27 *support services to pupils with the goal of integrating pupils into*
28 *public schools.*

29 (i) *The school has and abides by a written policy for pupil*
30 *discipline which is consistent with state and federal law and*
31 *regulations.*

32 ~~SEC. 12.~~ *Section 56366.11 is added to the Education Code, to*
33 *read:*

34 *56366.11. The department shall implement a program to*
35 *integrate individuals with exceptional needs placed in nonpublic,*
36 *nonsectarian schools into public schools. Under the program, a*
37 *pupil placed in a nonpublic, nonsectarian school and each*
38 *individual who has the right to make educational decisions for the*
39 *pupil shall be informed of all their rights relating to the*
40 *educational placement of the pupil. Existing dispute resolution*



1 *procedures involving public school enrollment or attendance shall*
2 *be explained to a pupil placed in a nonpublic, nonsectarian school*
3 *in an age and developmentally appropriate manner. The Foster*
4 *Child Ombudsman shall disseminate the information on education*
5 *rights to every foster child residing in a licensed children's*
6 *institution or foster family home.*

7 *SEC. 13.* Section 56836.19 is added to the Education Code, to
8 read:

9 56836.19. Any funds allocated to a district and county office
10 under the funding formula defined in Section ____ shall be used
11 exclusively for special education services provided in either public
12 schools or nonpublic, nonsectarian schools for pupils meeting the
13 requirements of Section 56155 who reside in licensed children's
14 institutions and foster family homes as defined in Section 56155.5,
15 residential medical facilities, and other similar facilities.

16 ~~SEC. 13.—~~

17 *SEC. 14.* Section 1501.1 of the Health and Safety Code is
18 amended to read:

19 1501.1. (a) It is the policy of the state to facilitate the proper
20 placement of every child in residential care facilities where the
21 placement is in the best interests of the child. A county may require
22 placement or licensing agencies, or both placement and licensing
23 agencies, to actively seek out-of-home care facilities capable of
24 meeting the varied needs of the child. Therefore, in placing
25 children in out-of-home care, particular attention should be given
26 to the individual child's needs, the ability of the facility to meet
27 those needs, the needs of other children in the facility, the licensing
28 requirements of the facility as determined by the licensing agency,
29 and the impact of the placement on the family reunification plan.

30 (b) Pursuant to this section, children with varying designations
31 and varying needs, except as provided by statute, may be placed
32 in the same facility provided the facility is licensed, complies with
33 all licensing requirements relevant to the protection of the child,
34 and has a special permit, if necessary, to meet the needs of each
35 child so placed. A facility may not require, as a condition of
36 placement, that a child be identified as an individual with
37 exceptional needs as defined by Section 56026 of the Education
38 Code.

39 (c) Neither the requirement for any license nor any regulation
40 shall restrict the implementation of the provisions of this section.



1 Implementation of this section does not obviate the requirement
2 for a facility to be licensed by the department.

3 (d) Pursuant to this section, children with varying designations
4 and varying needs, except as provided by statute, may be placed
5 in the same licensed foster family home or with a foster family
6 agency for subsequent placement in a certified family home.
7 Children with developmental disabilities, mental disorders, or
8 physical disabilities may be placed in licensed foster family homes
9 or certified family homes, provided that an appraisal of the child's
10 needs and the ability of the receiving home to meet those needs is
11 made jointly by the placement agency and the licensee in the case
12 of licensed foster family homes or the placement agency and the
13 foster family agency in the case of certified family homes, and is
14 followed by written confirmation prior to placement. The
15 appraisal shall confirm that the placement poses no threat to any
16 child in the home.

17 For purposes of this chapter, the placing of children by foster
18 family agencies shall be referred to as "subsequent placement" to
19 distinguish the activity from the placing by public agencies.

20 ~~SEC. 14.~~—

21 *SEC. 15. Section 16014 is added to the Welfare and*
22 *Institutions Code, to read:*

23 (a) *It is the intent of the Legislature to maximize federal funding*
24 *for foster youth services provided by local education agencies.*

25 (b) *The State Department of Education and the State*
26 *Department of Social Services shall collaborate with the County*
27 *Welfare Directors Association and representatives from local*
28 *educational agencies to establish roles and responsibilities,*
29 *claiming requirements, and sharing of eligibility information*
30 *eligible for funding under Part E (commencing with Section 470)*
31 *of Title IV of the federal Social Security Act (42 U.S.C. 301, et*
32 *seq.). These state agencies shall also assist counties and local*
33 *educational agencies in drafting memorandums of understanding*
34 *between agencies to access to that funding for case management*
35 *activities associated with providing foster youth services for*
36 *eligible children. That federal funding shall be an augmentation*
37 *to the current program and shall not supplant existing state*
38 *general funds allocated to this program.*

39 (c) *School districts shall be responsible for 100 percent of the*
40 *nonfederal share of payments received under that act.*



1 *SEC. 16. Public schools are encouraged to apply for all*
2 *available federal state and local supplemental sources of funding*
3 *to accomplish the goals set forth in this act, including funding*
4 *available for neglected or delinquent pupils who are at risk of*
5 *dropping out of school, as funded by Section 6421 of Title 20 of the*
6 *United States Code, funding pursuant to the federal Stewart B.*
7 *McKinney Homeless Assistance Act (42 U.S.C. Sec. 11301 et seq.),*
8 *and the federal Individuals with Disabilities Education Act (20*
9 *U.S.C. Sec. 1400 et seq.).*

10 *SEC. 17. For all nonpublic agency services provided to foster*
11 *youth who are individuals with exceptional needs, the nonpublic*
12 *agency shall first submit a claim for federal reimbursement of*
13 *activities eligible for funding under Title XIX of the federal Social*
14 *Security Act (42 U.S.C. Sec. 301 et seq.) before submitting those*
15 *claims to a local educational agency for reimbursement of any*
16 *noneligible services. The State Department of Education shall*
17 *work with the State Department of Health Services to issue*
18 *instructions on the claiming process, to the extent necessary.*

19 *SEC. 18. Notwithstanding Section 17610 of the Government*
20 *Code, if the Commission on State Mandates determines that this*
21 *act contains costs mandated by the state, reimbursement to local*
22 *agencies and school districts for those costs shall be made pursuant*
23 *to Part 7 (commencing with Section 17500) of Division 4 of Title*
24 *2 of the Government Code. If the statewide cost of the claim for*
25 *reimbursement does not exceed one million dollars (\$1,000,000),*
26 *reimbursement shall be made from the State Mandates Claims*
27 *Fund.*

