

AMENDED IN SENATE AUGUST 21, 2006

AMENDED IN SENATE JUNE 22, 2006

AMENDED IN ASSEMBLY MAY 10, 2006

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 2871

Introduced by Assembly Member Huff

February 24, 2006

An act to amend Sections 49069, 56043, and 56504 of the Education Code, relating to pupil records.

LEGISLATIVE COUNSEL'S DIGEST

AB 2871, as amended, Huff. Pupil records: inspection and reproduction.

(1) Existing law authorizes parents of currently enrolled or former pupils access to any and all pupil records related to their children which are maintained by school districts or private schools. Existing law requires each school district to adopt procedures for the granting of requests by parents for copies of all pupil records or to inspect and review records during regular school hours, provided that the requested access is granted no later than 5 days following the date of the request.

This bill would instead require the requested access no later than 5 business days following the date of the request.

(2) Existing law establishes a right of individuals with exceptional needs to receive free and appropriate public education and ensures the right to special education and related services needed to meet their unique needs, in conformity with federal law. Existing law requires all procedural safeguards under the federal Individuals with Disabilities

Education Act to be established and maintained by each noneducational and educational agency that provides education, related services, or both, to children who are individuals with exceptional needs. Existing law provides, as part of procedural safeguards relating to special education, that a parent has the right and opportunity to examine all school records of the child and to receive copies within 5 days after the request is made by the parent.

This bill would instead specify that a parent has the right to examine and receive copies of those records within 5 business days after the request is made by the parent and before any meeting regarding an individualized education program of the parent's child or any hearing *or resolution session*, as provided. The bill would provide that the parent has the right to a response from the public education agency to reasonable requests for explanations and interpretations of the records. The bill would provide that if any school record includes information on more than one pupil, the parent has the right to inspect and review only the information relating to their child. The bill would require a public education agency to provide a parent, on the request of the parent, a list of the types and locations of school records collected, maintained, or used by the agency, thereby imposing a state-mandated local program. The bill would also make conforming changes.

(3) 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.

This bill would provide that no reimbursement is required by this act for a specified reason.

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. Section 49069 of the Education Code is
2 amended to read:
3 49069. Parents of currently enrolled or former pupils have an
4 absolute right to access to any and all pupil records related to
5 their children that are maintained by school districts or private
6 schools. The editing or withholding of any of those records,
7 except as provided for in this chapter, is prohibited.

1 Each school district shall adopt procedures for the granting of
2 requests by parents for copies of all pupil records pursuant to
3 Section 49065, or to inspect and review records during regular
4 school hours, provided that the requested access shall be granted
5 no later than five business days following the date of the request.
6 Procedures shall include the notification to the parent of the
7 location of all official pupil records if not centrally located and
8 the availability of qualified certificated personnel to interpret
9 records if requested.

10 SEC. 2. Section 56043 of the Education Code is amended to
11 read:

12 56043. The primary timelines affecting special education
13 programs are as follows:

14 (a) A proposed assessment plan shall be developed within 15
15 calendar days of referral for assessment, not counting calendar
16 days between the pupil's regular school sessions or terms or
17 calendar days of school vacation in excess of five schooldays
18 from the date of receipt of the referral, unless the parent or
19 guardian agrees, in writing, to an extension, pursuant to
20 subdivision (a) of Section 56321.

21 (b) A parent or guardian shall have at least 15 calendar days
22 from the receipt of the proposed assessment plan to arrive at a
23 decision, pursuant to subdivision (c) of Section 56321.

24 (c) Once a child has been referred for an initial assessment to
25 determine whether the child is an individual with exceptional
26 needs and to determine the educational needs of the child, these
27 determinations shall be made, and an individualized education
28 program team meeting shall occur, within 60 days of receiving
29 parental consent for the assessment, pursuant to subdivision (a)
30 of Section 56302.1, except as specified in subdivision (b) of that
31 section and pursuant to Section 56344.

32 (d) The individualized education program team shall review
33 the pupil's individualized education program periodically, but
34 not less frequently than annually, pursuant to subdivision (d) of
35 Section 56341.1.

36 (e) A parent or guardian shall be notified of the individualized
37 education program meeting early enough to ensure an
38 opportunity to attend, pursuant to subdivision (b) of Section
39 56341.5. In the case of an individual with exceptional needs who
40 is 16 years of age or younger, if appropriate, the meeting notice

1 shall indicate that a purpose of the meeting will be the
2 consideration of the postsecondary goals and transition services
3 for the individual with exceptional needs, and the meeting notice
4 described in this subdivision shall indicate that the individual
5 with exceptional needs is invited to attend, pursuant to
6 subdivision (e) of Section 56341.5.

7 (f) (1) An individualized education program required as a
8 result of an assessment of a pupil shall be developed within a
9 total time not to exceed 60 calendar days, not counting days
10 between the pupil's regular school sessions, terms, or days of
11 school vacation in excess of five schooldays, from the date of
12 receipt of the parent's or guardian's written consent for
13 assessment, unless the parent or guardian agrees, in writing, to an
14 extension, pursuant to Section 56344.

15 (2) A meeting to develop an initial individualized education
16 program for the pupil shall be conducted within 30 days of a
17 determination that the child needs special education and related
18 services pursuant to paragraph (2) of subsection (b) of Section
19 300.343 of Title 34 of the Code of Federal Regulations and in
20 accordance with Section 56344.

21 (g) (1) Beginning not later than the first individualized
22 education program to be in effect when the pupil is 16 years of
23 age, and updated annually thereafter, the individualized
24 education program shall include appropriate measurable
25 postsecondary goals and transition services needed to assist the
26 pupil in reaching those goals, pursuant to paragraph (8) of
27 subdivision (a) of Section 56345.

28 (2) The individualized education program for pupils in grades
29 7 to 12, inclusive, shall include any alternative means and modes
30 necessary for the pupil to complete the district's prescribed
31 course of study and to meet or exceed proficiency standards for
32 graduation, pursuant to paragraph (1) of subdivision (b) of
33 Section 56345.

34 (3) Beginning not later than one year before the pupil reaches
35 the age of 18 years, the individualized education program shall
36 contain a statement that the pupil has been informed of the
37 pupil's rights under this part, if any, that will transfer to the pupil
38 upon reaching the age of 18, pursuant to subdivision (g) of
39 Section 56345.

1 (h) Beginning at age 16 or younger, and annually thereafter, a
2 statement of needed transition services shall be included in the
3 pupil's individualized education program, pursuant to Section
4 56345.1 and subclause (VIII) of clause (i) of subparagraph (A) of
5 paragraph (1) of subsection (d) of Section 1414 of Title 20 of the
6 United States Code.

7 (i) A pupil's individualized education program shall be
8 implemented as soon as possible following the individualized
9 education program meeting, pursuant to Section 3040 of Title 5
10 of the California Code of Regulations.

11 (j) An individualized education program team shall meet at
12 least annually to review a pupil's progress, the individualized
13 education program, including whether the annual goals for the
14 pupil are being achieved, the appropriateness of the placement,
15 and to make any necessary revisions, pursuant to subdivision (d)
16 of Section 56343. The local educational agency shall maintain
17 procedures to ensure that the individualized education program
18 team reviews the pupil's individualized education program
19 periodically, but not less frequently than annually, to determine
20 whether the annual goals for the pupil are being achieved, and
21 revises the individualized education program as appropriate to
22 address, among other matters, the provisions specified in
23 subdivision (d) of Section 56341.1, pursuant to subdivision (a) of
24 Section 56380.

25 (k) A reassessment of a pupil shall occur not more frequently
26 than once a year, unless the parent and the local educational
27 agency agree otherwise in writing, and shall occur at least once
28 every three years, unless the parent and the local educational
29 agency agree, in writing, that a reassessment is unnecessary,
30 pursuant to Section 56381, and in accordance with paragraph (2)
31 of subsection (a) of Section 1414 of Title 20 of the United States
32 Code.

33 (l) A meeting of an individualized education program team
34 requested by a parent or guardian to review an individualized
35 education program pursuant to subdivision (c) of Section 56343
36 shall be held within 30 calendar days, not counting days between
37 the pupil's regular school sessions, terms, or days of school
38 vacation in excess of five schooldays, from the date of receipt of
39 the parent's or guardian's written request, pursuant to Section
40 56343.5.

1 (m) If an individual with exceptional needs transfers from
2 district to district within the state, the following are applicable
3 pursuant to Section 56325:

4 (1) If the child has an individualized education program and
5 transfers into a district from a district not operating programs
6 under the same local plan in which he or she was last enrolled in
7 a special education program within the same academic year, the
8 local educational agency shall provide the pupil with a free
9 appropriate public education, including services comparable to
10 those described in the previously approved individualized
11 education program, in consultation with the parents, for a period
12 not to exceed 30 days, by which time the local educational
13 agency shall adopt the previously approved individualized
14 education program or shall develop, adopt, and implement a new
15 individualized education program that is consistent with federal
16 and state law, pursuant to paragraph (1) of subdivision (a) of
17 Section 56325.

18 (2) If the child has an individualized education program and
19 transfers into a district from a district operating programs under
20 the same special education local plan area of the district in which
21 he or she was last enrolled in a special education program within
22 the same academic year, the new district shall continue, without
23 delay, to provide services comparable to those described in the
24 existing approved individualized education program, unless the
25 parent and the local educational agency agree to develop, adopt,
26 and implement a new individualized education program that is
27 consistent with state and federal law, pursuant to paragraph (2) of
28 subdivision (a) of Section 56325.

29 (3) If the child has an individualized education program and
30 transfers from an educational agency located outside the state to
31 a district within the state within the same academic year, the
32 local educational agency shall provide the pupil with a free
33 appropriate public education, including services comparable to
34 those described in the previously approved individualized
35 education program, in consultation with the parents, until the
36 local educational agency conducts an assessment as specified in
37 paragraph (3) of subdivision (a) of Section 56325.

38 (4) In order to facilitate the transition for an individual with
39 exceptional needs described in paragraphs (1) to (3), inclusive,
40 the new school in which the pupil enrolls shall take reasonable

1 steps to promptly obtain the pupil’s records, as specified,
2 pursuant to subdivision (b) of Section 56325.

3 (n) The parent or guardian shall have the right and opportunity
4 to examine all school records of the child and to receive complete
5 copies within five business days after a request is made by the
6 parent or guardian, either orally or in writing, and before any
7 meeting regarding an individualized education program of their
8 child or any hearing *or resolution session* pursuant to Chapter 5
9 (commencing with Section 56500), in accordance with Section
10 56504 and Chapter 6.5 (commencing with Section 49060) of Part
11 27.

12 (o) Upon receipt of a request from an educational agency
13 where an individual with exceptional needs has enrolled, a
14 former educational agency shall send the pupil’s special
15 education records, or a copy thereof, to the new educational
16 agency within five working days, pursuant to subdivision (a) of
17 Section 3024 of Title 5 of the California Code of Regulations.

18 (p) The department shall do all of the following:

19 (1) Have a time limit of 60 calendar days after a complaint is
20 filed with the state education agency to investigate the complaint.

21 (2) Give the complainant the opportunity to submit additional
22 information about the allegations in the complaint.

23 (3) Review all relevant information and make an independent
24 determination as to whether there is a violation of a requirement
25 of this part or Part B of the Individuals with Disabilities
26 Education Act (20 U.S.C. Sec. 1400 et seq.).

27 (4) Issue a written decision, pursuant to Section 300.661 of
28 Title 34 of the Code of Federal Regulations.

29 (q) A prehearing mediation conference shall be scheduled
30 within 15 calendar days of receipt by the Superintendent of the
31 request for mediation, and shall be completed within 30 calendar
32 days after the request for mediation, unless both parties to the
33 prehearing mediation conference agree to extend the time for
34 completing the mediation, pursuant to Section 56500.3.

35 (r) Any request for a due process hearing arising from
36 subdivision (a) of Section 56501 shall be filed within three years
37 from the date the party initiating the request knew or had reason
38 to know of facts underlying the basis for the request, except that
39 this timeline shall not apply to a parent if the parent was

1 prevented from requesting the due process hearing, pursuant to
2 subdivision (l) of Section 56505.

3 (s) The Superintendent shall ensure that, within 45 calendar
4 days after receipt of a written due process hearing request, the
5 hearing is immediately commenced and completed, including
6 any mediation requested at any point during the hearing process,
7 and a final administrative decision is rendered, pursuant to
8 subdivision (a) of Section 56502.

9 (t) If either party to a due process hearing intends to be
10 represented by an attorney in the due process hearing, notice of
11 that intent shall be given to the other party at least 10 calendar
12 days prior to the hearing, pursuant to subdivision (a) of Section
13 56507.

14 (u) Any party to a due process hearing shall have the right to
15 be informed by the other parties to the hearing, at least 10
16 calendar days prior to the hearing, as to what those parties
17 believe are the issues to be decided at the hearing and their
18 proposed resolution of those issues, pursuant to paragraph (6) of
19 subdivision (e) of Section 56505.

20 (v) Any party to a due process hearing shall have the right to
21 receive from other parties to the hearing, at least five business
22 days prior to the hearing, a copy of all documents, including all
23 assessments completed and not completed by that date, and a list
24 of all witnesses and their general area of testimony that the
25 parties intend to present at the hearing, pursuant to paragraph (7)
26 of subdivision (e) of Section 56505.

27 (w) An appeal of a due process hearing decision shall be made
28 within 90 calendar days of receipt of the hearing decision,
29 pursuant to subdivision (i) of Section 56505.

30 (x) When an individualized education program calls for a
31 residential placement as a result of a review by an expanded
32 individualized education program team, the individualized
33 education program shall include a provision for a review, at least
34 every six months, by the full individualized education program
35 team of all of the following pursuant to paragraph (2) of
36 subdivision (c) of Section 7572.5 of the Government Code:

37 (1) The case progress.

38 (2) The continuing need for out-of-home placement.

39 (3) The extent of compliance with the individualized education
40 program.

1 (4) Progress toward alleviating the need for out-of-home care.

2 (y) No later than the pupil's 17th birthday, a statement shall be
3 included in the pupil's individualized education program that the
4 pupil has been informed of his or her rights that will transfer to
5 the pupil upon reaching 18 years of age pursuant to Section
6 300.517 of Title 34 of the Code of Federal Regulations, Section
7 56041.5, and paragraph (8) of subdivision (a) of Section 56345.

8 (z) A complaint filed with the department shall allege a
9 violation of the Individuals with Disabilities Education Act (20
10 U.S.C. Sec. 1400 et seq.) or a provision of this part that occurred
11 not more than one year prior to the date that the complaint is
12 received by the department, pursuant to Section 56500.2 and
13 subsection (c) of Section 300.662 of Title 34 of the Code of
14 Federal Regulations.

15 SEC. 3. Section 56504 of the Education Code is amended to
16 read:

17 56504. The parent shall have the right and opportunity to
18 examine all school records of his or her child and to receive
19 copies pursuant to this section and to Section 49065 within five
20 business days after the request is made by the parent, either
21 orally or in writing, ~~and before any meeting regarding an~~
22 ~~individualized education program of his or her child or any~~
23 ~~hearing pursuant to this chapter. The public education agency~~
24 ~~shall comply with a request for school records without~~
25 ~~unnecessary delay before any meeting regarding an~~
26 ~~individualized education program or any hearing pursuant to~~
27 ~~Section 300.507 or Sections 300.530 to 300.532, inclusive, of~~
28 ~~Title 34 of the Code of Federal Regulations or resolution session~~
29 ~~pursuant to Section 300.510 of Title 34 of the Code of Federal~~
30 ~~Regulations and in no case more than five business days after the~~
31 ~~request is made orally or in writing.~~ The parent shall have the
32 right to a response from the public education agency to
33 reasonable requests for explanations and interpretations of the
34 records. If any school record includes information on more than
35 one pupil, the parents of those pupils have the right to inspect and
36 review only the information relating to their child or to be
37 informed of that specific information. A public education agency
38 shall provide a parent, on request of the parent, a list of the types
39 and locations of school records collected, maintained, or used by
40 the agency. A public education agency may charge no more than

1 the actual cost of reproducing the records, but if this cost
2 effectively prevents the parent from exercising the right to
3 receive the copy or copies the copy or copies shall be reproduced
4 at no cost.

5 SEC. 4. No reimbursement is required by this act pursuant to
6 Section 6 of Article XIII B of the California Constitution because
7 this act implements a federal law or regulation and results only in
8 costs mandated by the federal government, within the meaning of
9 Section 17556 of the Government Code.

O