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AMENDED IN SENATE JULY 5, 2007
AMENDED IN SENATE JUNE 20, 2007
AMENDED IN ASSEMBLY JUNE 1, 2007
AMENDED IN ASSEMBLY MAY 10, 2007
AMENDED IN ASSEMBLY APRIL 30, 2007
AMENDED IN ASSEMBLY APRIL 10, 2007

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 347

Introduced by Assembly Member Nava

February 14, 2007

An act to amend Sections 1240, 35186, 37254, 52378, and 52380 of the Education Code, relating to pupil instruction, *making an appropriation therefor*, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 347, as amended, Nava. Pupils: high school exit examination: intensive instruction and services.

(1) Existing law requires each pupil completing grade 12 to successfully pass the high school exit examination as a condition of receiving a diploma of graduation or a condition of graduation from high school.

Existing law provides specified funding for eligible pupils, as defined, who are required to pass the high school exit examination, to be used

for intensive instruction and services for those pupils, and provides for the allocation of those funds, based on a per pupil rate calculation, to schools. As a condition of receiving funding, a school district is required to accomplish certain matters, including, among other things, ensure that each eligible pupil receives an appropriate diagnostic assessment to identify that pupil's areas of need and submit an annual report to the Superintendent of Public Instruction relating to the ~~notification and~~ provision of intensive instruction and services to pupils.

This bill, among other things, would revise the definition of "eligible pupil" to include pupils who have not ~~passed one or both parts of the high school exit examination within 2 consecutive academic years of completion of grade 12~~, *satisfied the requirement that they pass the high school exit examination in order to graduate from high school and have failed one or both parts of the examination by the end of grade 12*; revise the calculation for determining the per pupil rate for purposes of funding;; authorize the receipt of intensive instruction and services on Saturdays, evenings, or at a time and location deemed appropriate by the school district for *eligible pupils who have not passed one or both parts of the exit examination within 2 consecutive academic years of completion of grade 12*;; *expand the authorized scope of intensive instruction and services to include instruction in English language arts or mathematics, or both, that eligible pupils need to pass those parts of the high school exit examination not yet passed and the provision of instruction and services by a public or nonpublic entity as determined by the local educational agency*; require a school district to accomplish additional matters relating to pupils who have not passed one or both parts of the exit examination by the end of grade 12;; and require the annual report to also *include information relating to the notification of eligible pupils of the intensive instruction and services provided and* be submitted to the appropriate county superintendent of schools.

(2) Existing law requires a school district to use its uniform complaint process to help identify and resolve any deficiencies related to instructional materials, emergency or urgent facilities conditions that pose a threat to the health and safety of pupils or staff, and teacher vacancy or misassignment. A notice regarding the appropriate subjects of a complaint is required to be posted in each classroom in each school in the school district and a complaint regarding those deficiencies is required to be filed with the principal of the school or his or her designee.

This bill also would require a school district to use its uniform complaint process to help identify and resolve any deficiencies related to intensive instruction and services provided to pupils who have not passed one or both parts of the high school exit examination after the completion of grade 12. The bill would also require the notice, for certain classrooms, to include certain information about the entitlement to receive the intensive instruction and services, and would require a complaint regarding any deficiency related to intensive instruction and services to be submitted to the district official designated by the district superintendent. By imposing additional duties on school districts, this bill would impose a state-mandated local program.

(3) Existing law establishes the Middle and High School Supplemental Counseling Program and requires the governing board of a school district that maintains any of grades 7 to 12, inclusive, as a condition of receiving funds appropriated for purposes of that program, to adopt a counseling program at a public meeting that includes, among other things, a provision for a counselor to meet with each pupil, as specified, to explain the academic and deportment records of the pupil, his or her educational options, the coursework and academic progress needed for satisfactory completion of middle or high school, passage of the high school exit examination, and the availability of career technical education. In addition to these counseling services, a school district is required to identify certain pupils, such as those at risk of not graduating with the rest of their class, and to require its schools to provide certain assistance in developing a list of coursework and experience. As a further condition of receipt of funds, a school district is required to submit an annual report in a manner determined by the Superintendent that describes certain matters, including the number and percentage of pupils who participated in conferences and who fail to pass one or both sections of the high school exit examination.

This bill also would require the counselor to explain the availability of intensive instruction and services options for up to 2 consecutive academic years after the completion of grade 12 or until the pupil has passed both parts of the high school exit examination, whichever comes first, for those pupils who have not passed one or both parts of the exit examination by the end of grade 12. The bill also would require a school district, for the identified pupils, to inform a pupil who has not passed one or both parts of the high school exit examination of the option of intensive instruction and services. The bill would require the report to also be submitted to the appropriate county superintendent of schools

and contain an assurance that the school district has complied with the provision that requires a school counselor to apprise a pupil of certain information during an individual conference.

(4) Existing law requires a county superintendent of schools to undertake specified duties regarding the oversight of the school districts within his or her jurisdiction.

This bill would require a county superintendent of schools to perform additional duties related to conducting school visits and verifying that pupils who have not passed the high school exit examination by the end of grade 12 are informed that they are entitled to receive intensive instruction and services for up to 2 consecutive academic years after completion of grade 12 or until the pupil has passed both parts of the exit examination, whichever comes first, and verifying that those pupils who elected to receive the instruction and services are being served. By imposing additional duties on local educational agencies or officials, the bill would impose a state-mandated local program.

(5) This bill would make other technical, nonsubstantive changes to existing law.

(6) 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, 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.

(7) *By specifying a new purpose for the use of \$1.5 million of funds that would be appropriated to the State Department of Education in the Budget Act of 2007 for allocation to county offices of education, this bill would make an appropriation.*

To the extent that the funds appropriated by this bill are allocated to a school district, which is defined to include, but is not limited to, a county board of education and a county superintendent of schools, which govern and administer, respectively, a county office of education, those funds would be applied toward the minimum funding requirements for school districts and community college districts imposed by Section 8 of Article XVI of the California Constitution.

~~(7)~~

(8) This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: ~~no~~-yes. Fiscal committee: yes.
State-mandated local program: yes.

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

1 SECTION 1. Section 1240 of the Education Code is amended
2 to read:

3 1240. The county superintendent of schools shall do all of the
4 following:

5 (a) Superintend the schools of his or her county.

6 (b) Maintain responsibility for the fiscal oversight of each school
7 district in his or her county pursuant to the authority granted by
8 this code.

9 (c) (1) Visit and examine each school in his or her county at
10 reasonable intervals to observe its operation and to learn of its
11 problems. He or she annually may present a report of the state of
12 the schools in his or her county, and of his or her office, including,
13 but not limited to, his or her observations while visiting the schools,
14 to the board of education and the board of supervisors of his or
15 her county.

16 (2) (A) For fiscal years 2004–05 to 2006–07, inclusive, to the
17 extent that funds are appropriated for purposes of this paragraph,
18 the county superintendent, or his or her designee, annually shall
19 submit a report, at a regularly scheduled November board meeting,
20 to the governing board of each school district under his or her
21 jurisdiction, the county board of education of his or her county,
22 and the board of supervisors of his or her county describing the
23 state of the schools in the county or of his or her office that are
24 ranked in deciles 1 to 3, inclusive, of the 2003 base Academic
25 Performance Index (API), as defined in subdivision (b) of Section
26 17592.70, and shall include, among other things, his or her
27 observations while visiting the schools and his or her
28 determinations for each school regarding the status of all of the
29 circumstances listed in subparagraph (J) and teacher
30 misassignments and teacher vacancies. As a condition for receipt
31 of funds, the county superintendent, or his or her designee, shall
32 use a standardized template to report the circumstances listed in
33 subparagraph (J) and teacher misassignments and teacher
34 vacancies, unless the current annual report being used by the county

1 superintendent, or his or her designee, already includes those details
2 for each school.

3 (B) Commencing with the 2007–08 fiscal year, to the extent
4 that funds are appropriated for purposes of this paragraph, the
5 county superintendent, or his or her designee, annually shall submit
6 a report, at a regularly scheduled November board meeting, to the
7 governing board of each school district under his or her jurisdiction,
8 the county board of education of his or her county, and the board
9 of supervisors of his or her county describing the state of the
10 schools in the county or of his or her office that are ranked in
11 deciles 1 to 3, inclusive, of the 2006 base API, pursuant to Section
12 52056. As a condition for the receipt of funds, the annual report
13 shall include the determinations for each school made by the county
14 superintendent, or his or her designee, regarding the status of all
15 of the circumstances listed in subparagraph (J) and teacher
16 misassignments and teacher vacancies, and the county
17 superintendent, or his or her designee, shall use a standardized
18 template to report the circumstances listed in subparagraph (J) and
19 teacher misassignments and teacher vacancies, unless the current
20 annual report being used by the county superintendent, or his or
21 her designee, already includes those details with the same level of
22 specificity that is otherwise required by this subdivision. For
23 purposes of this section, schools ranked in deciles 1 to 3, inclusive,
24 on the 2006 base API shall include schools determined by the
25 department to meet either of the following:

26 (i) The school meets all of the following criteria:

27 (I) Does not have a valid base API score for 2006.

28 (II) Is operating in fiscal year 2007–08 and was operating in
29 fiscal year 2006–07 during the Standardized Testing and Reporting
30 (STAR) Program testing period.

31 (III) Has a valid base API score for 2005 that was ranked in
32 deciles 1 to 3, inclusive, in that year.

33 (ii) The school has an estimated base API score for 2006 that
34 would be in deciles 1 to 3, inclusive.

35 (C) The department shall estimate an API score for any school
36 meeting the criteria of subclauses (I) and (II) of clause (i) of
37 subparagraph (B) and not meeting the criteria of subclause (III)
38 of clause (i) of subparagraph (B), using available test scores and
39 weighting or corrective factors it deems appropriate. The

1 department shall post the API scores on its Internet Web site on
2 or before May 1.

3 (D) For purposes of this section, references to schools ranked
4 in deciles 1 to 3, inclusive, on the 2006 base API shall exclude
5 schools operated by county offices of education pursuant to Section
6 56140, as determined by the department.

7 (E) In addition to the requirements above, the county
8 superintendent, or his or her designee, annually shall verify both
9 of the following:

10 (i) That pupils who have not passed the high school exit
11 examination by the end of grade 12 are informed that they are
12 entitled to receive intensive instruction and services for up to two
13 consecutive academic years after completion of grade 12 or until
14 the pupil has passed both parts of the high school exit examination,
15 whichever comes first, pursuant to paragraphs (4) and (5) of
16 subdivision (d) of Section 37254.

17 (ii) That pupils who have elected to receive intensive instruction
18 and services, pursuant to paragraphs (4) and (5) of subdivision (d)
19 of Section 37254, are being served.

20 (F) (i) Commencing with the 2010–11 fiscal year and every
21 third year thereafter, the Superintendent shall identify a list of
22 schools ranked in deciles 1 to 3, inclusive, of the API for which
23 the county superintendent, or his or her designee, annually shall
24 submit a report, at a regularly scheduled November board meeting,
25 to the governing board of each school district under his or her
26 jurisdiction, the county board of education of his or her county,
27 and the board of supervisors of his or her county that describes the
28 state of the schools in the county or of his or her office that are
29 ranked in deciles 1 to 3, inclusive, of the base API as defined in
30 clause (ii).

31 (ii) For the 2010–11 fiscal year, the list of schools ranked in
32 deciles 1 to 3, inclusive, of the base API shall be updated using
33 the criteria set forth in clauses (i) and (ii) of subparagraph (B),
34 subparagraph (C), and subparagraph (D), as applied to the 2009
35 base API and thereafter shall be updated every third year using
36 the criteria set forth in clauses (i) and (ii) of subparagraph (B),
37 subparagraph (C), and subparagraph (D), as applied to the base
38 API of the year preceding the third year consistent with clause (i).

39 (iii) As a condition for the receipt of funds, the annual report
40 shall include the determinations for each school made by the county

1 superintendent, or his or her designee, regarding the status of all
2 of the circumstances listed in subparagraph (J) and teacher
3 misassignments and teacher vacancies, and the county
4 superintendent, or his or her designee, shall use a standardized
5 template to report the circumstances listed in subparagraph (J) and
6 teacher misassignments and teacher vacancies, unless the current
7 annual report being used by the county superintendent, or his or
8 her designee, already includes those details with the same level of
9 specificity that is otherwise required by this subdivision.

10 (G) The county superintendent of the Counties of Alpine,
11 Amador, Del Norte, Mariposa, Plumas, and Sierra, and the City
12 and County of San Francisco shall contract with another county
13 office of education or an independent auditor to conduct the
14 required visits and make all reports required by this paragraph.

15 (H) On a quarterly basis, the county superintendent, or his or
16 her designee, shall report the results of the visits and reviews
17 conducted that quarter to the governing board of the school district
18 at a regularly scheduled meeting held in accordance with public
19 notification requirements. The results of the visits and reviews
20 shall include the determinations of the county superintendent, or
21 his or her designee, for each school regarding the status of all of
22 the circumstances listed in subparagraph (J) and teacher
23 misassignments and teacher vacancies. If the county
24 superintendent, or his or her designee, conducts no visits or reviews
25 in a quarter, the quarterly report shall report that fact.

26 (I) The visits made pursuant to this paragraph shall be conducted
27 at least annually and shall meet the following criteria:

28 (i) Minimize disruption to the operation of the school.

29 (ii) Be performed by individuals who meet the requirements of
30 Section 45125.1.

31 (iii) Consist of not less than 25 percent unannounced visits in
32 each county. During unannounced visits in each county, the county
33 superintendent shall not demand access to documents or specific
34 school personnel. Unannounced visits shall only be used to observe
35 the condition of school repair and maintenance, and the sufficiency
36 of instructional materials, as defined by Section 60119.

37 (J) The priority objective of the visits made pursuant to this
38 paragraph shall be to determine the status of all of the following
39 circumstances:

1 (i) Sufficient textbooks as defined in Section 60119 and as
2 specified in subdivision (i).

3 (ii) The condition of a facility that poses an emergency or urgent
4 threat to the health or safety of pupils or staff as defined in district
5 policy or paragraph (1) of subdivision (c) of Section 17592.72.

6 (iii) The accuracy of data reported on the school accountability
7 report card with respect to the availability of sufficient textbooks
8 and instructional materials, as defined by Section 60119, and the
9 safety, cleanliness, and adequacy of school facilities, including
10 good repair as required by Sections 17014, 17032.5, 17070.75,
11 and 17089.

12 (iv) The extent to which pupils who have not passed the high
13 school exit examination by the end of grade 12 are informed that
14 they are entitled to receive intensive instruction and services for
15 up to two consecutive academic years after completion of grade
16 12 or until the pupil has passed both parts of the high school exit
17 examination, whichever comes first, pursuant to paragraphs (4)
18 and (5) of subdivision (d) of Section 37254.

19 (v) The extent to which pupils who have elected to receive
20 intensive instruction and services, pursuant to paragraphs (4) and
21 (5) of subdivision (d) of Section 37254, are being served.

22 (K) The county superintendent may make the status
23 determinations described in subparagraph (J) during a single visit
24 or multiple visits. In determining whether to make a single visit
25 or multiple visits for this purpose, the county superintendent shall
26 take into consideration factors such as cost-effectiveness, disruption
27 to the schoolsite, deadlines, and the availability of qualified
28 reviewers.

29 (L) If the county superintendent determines that the condition
30 of a facility poses an emergency or urgent threat to the health or
31 safety of pupils or staff as defined in district policy or paragraph
32 (1) of subdivision (c) of Section 17592.72, or is not in good repair,
33 as specified in subdivision (d) of Section 17002 and required by
34 Sections 17014, 17032.5, 17070.75, and 17089, the county
35 superintendent, among other things, may do any of the following:

36 (i) Return to the school to verify repairs.

37 (ii) Prepare a report that specifically identifies and documents
38 the areas or instances of noncompliance if the district has not
39 provided evidence of successful repairs within 30 days of the visit
40 of the county superintendent or, for major projects, has not

1 provided evidence that the repairs will be conducted in a timely
2 manner. The report may be provided to the governing board of the
3 school district. If the report is provided to the school district, it
4 shall be presented at a regularly scheduled meeting held in
5 accordance with public notification requirements. The county
6 superintendent shall post the report on his or her Internet Web site.
7 The report shall be removed from the Internet Web site when the
8 county superintendent verifies the repairs have been completed.

9 (d) Distribute all laws, reports, circulars, instructions, and blanks
10 that he or she may receive for the use of the school officers.

11 (e) Annually, on or before August 15, present a report to the
12 governing board of the school district and the Superintendent
13 regarding the fiscal solvency of a school district with a disapproved
14 budget, qualified interim certification, or a negative interim
15 certification, or that is determined to be in a position of fiscal
16 uncertainty pursuant to Section 42127.6.

17 (f) Keep in his or her office the reports of the Superintendent.

18 (g) Keep a record of his or her official acts, and of all the
19 proceedings of the county board of education, including a record
20 of the standing, in each study, of all applicants for certificates who
21 have been examined, which shall be open to the inspection of an
22 applicant or his or her authorized agent.

23 (h) Enforce the course of study.

24 (i) (1) Enforce the use of state textbooks and instructional
25 materials and of high school textbooks and instructional materials
26 regularly adopted by the proper authority in accordance with
27 Section 51050.

28 (2) For purposes of this subdivision, sufficient textbooks or
29 instructional materials has the same meaning as in subdivision (c)
30 of Section 60119.

31 (3) (A) Commencing with the 2005–06 school year, if a school
32 is ranked in any of deciles 1 to 3, inclusive, of the base API, as
33 specified in paragraph (2) of subdivision (c), and not currently
34 under review pursuant to a state or federal intervention program,
35 the county superintendent specifically shall review that school at
36 least annually as a priority school. A review conducted for purposes
37 of this paragraph shall be completed by the fourth week of the
38 school year. For the 2004–05 fiscal year only, the county
39 superintendent shall make a diligent effort to conduct a visit to

1 each school pursuant to this paragraph within 120 days of receipt
2 of funds for this purpose.

3 (B) In order to facilitate the review of instructional materials
4 before the fourth week of the school year, the county superintendent
5 in a county with 200 or more schools that are ranked in any of
6 deciles 1 to 3, inclusive, of the base API, as specified in paragraph
7 (2) of subdivision (c), may utilize a combination of visits and
8 written surveys of teachers for the purpose of determining
9 sufficiency of textbooks and instructional materials in accordance
10 with subparagraph (A) of paragraph (1) of subdivision (a) of
11 Section 60119 and as defined in subdivision (c) of Section 60119.
12 If a county superintendent elects to conduct written surveys of
13 teachers, the county superintendent shall visit the schools surveyed
14 within the same academic year to verify the accuracy of the
15 information reported on the surveys. If a county superintendent
16 surveys teachers at a school in which the county superintendent
17 has found sufficient textbooks and instructional materials for the
18 previous two consecutive years and determines that the school
19 does not have sufficient textbooks or instructional materials, the
20 county superintendent shall within 10 business days provide a copy
21 of the insufficiency report to the school district as set forth in
22 paragraph (4).

23 (C) For purposes of this paragraph, “written surveys” may
24 include paper and electronic or online surveys.

25 (4) If the county superintendent determines that a school does
26 not have sufficient textbooks or instructional materials in
27 accordance with subparagraph (A) of paragraph (1) of subdivision
28 (a) of Section 60119 and as defined by subdivision (c) of Section
29 60119, the county superintendent shall do all of the following:

30 (A) Prepare a report that specifically identifies and documents
31 the areas or instances of noncompliance.

32 (B) Provide within five business days of the review, a copy of
33 the report to the school district, as provided in subdivision (c), or,
34 if applicable, provide a copy of the report to the school district
35 within 10 business days pursuant to subparagraph (B) of paragraph
36 (3).

37 (C) Provide the school district with the opportunity to remedy
38 the deficiency. The county superintendent shall ensure remediation
39 of the deficiency no later than the second month of the school term.

1 (D) If the deficiency is not remedied as required pursuant to
2 subparagraph (C), the county superintendent shall request the
3 department to purchase the textbooks or instructional materials
4 necessary to comply with the sufficiency requirement of this
5 subdivision. If the department purchases textbooks or instructional
6 materials for the school district, the department shall issue a public
7 statement at the first regularly scheduled meeting of the state board
8 occurring immediately after the department receives the request
9 of the county superintendent and that meets the applicable public
10 notice requirements, indicating that the district superintendent and
11 the governing board of the school district failed to provide pupils
12 with sufficient textbooks or instructional materials as required by
13 this subdivision. Before purchasing the textbooks or instructional
14 materials, the department shall consult with the district to determine
15 which textbooks or instructional materials to purchase. All
16 purchases of textbooks or instructional materials shall comply with
17 Chapter 3.25 (commencing with Section 60420) of Part 33. The
18 amount of funds necessary for the purchase of the textbooks and
19 materials is a loan to the school district receiving the textbooks or
20 instructional materials. Unless the school district repays the amount
21 owed based upon an agreed-upon repayment schedule with the
22 Superintendent, the Superintendent shall notify the Controller and
23 the Controller shall deduct an amount equal to the total amount
24 used to purchase the textbooks and materials from the next
25 principal apportionment of the district or from another
26 apportionment of state funds.

27 (j) Preserve carefully all reports of school officers and teachers.

28 (k) Deliver to his or her successor, at the close of his or her
29 official term, all records, books, documents, and papers belonging
30 to the office, taking a receipt for them, which shall be filed with
31 the department.

32 (l) (1) Submit two reports during the fiscal year to the county
33 board of education in accordance with the following:

34 (A) The first report shall cover the financial and budgetary status
35 of the county office of education for the period ending October
36 31. The second report shall cover the period ending January 31.
37 Both reports shall be reviewed by the county board of education
38 and approved by the county superintendent no later than 45 days
39 after the close of the period being reported.

(B) As part of each report, the county superintendent shall certify in writing whether or not the county office of education is able to meet its financial obligations for the remainder of the fiscal year and, based on current forecasts, for two subsequent fiscal years. The certifications shall be classified as positive, qualified, or negative, pursuant to standards prescribed by the Superintendent, for the purposes of determining subsequent state agency actions pursuant to Section 1240.1. For purposes of this subdivision, a negative certification shall be assigned to a county office of education that, based upon current projections, will not meet its financial obligations for the remainder of the fiscal year or for the subsequent fiscal year. A qualified certification shall be assigned to a county office of education that may not meet its financial obligations for the current fiscal year or two subsequent fiscal years. A positive certification shall be assigned to a county office of education that will meet its financial obligations for the current fiscal year and subsequent two fiscal years. In accordance with those standards, the Superintendent may reclassify a certification. If a county office of education receives a negative certification, the Superintendent, or his or her designee, may exercise the authority set forth in subdivision (c) of Section 1630. Copies of each certification, and of the report containing that certification, shall be sent to the Superintendent at the time the certification is submitted to the county board of education. Copies of each qualified or negative certification and the report containing that certification shall be sent to the Controller at the time the certification is submitted to the county board of education.

(2) All reports and certifications required under this subdivision shall be in a format or on forms prescribed by the Superintendent, and shall be based on standards and criteria for fiscal stability adopted by the state board pursuant to Section 33127. The reports and supporting data shall be made available by the county superintendent to an interested party upon request.

(3) This subdivision does not preclude the submission of additional budgetary or financial reports by the county superintendent to the county board of education or to the Superintendent.

(4) The county superintendent is not responsible for the fiscal oversight of the community colleges in the county, however, he

1 or she may perform financial services on behalf of those
2 community colleges.

3 (m) If requested, act as agent for the purchase of supplies for
4 the city and high school districts of his or her county.

5 (n) For purposes of Section 44421.5, report to the Commission
6 on Teacher Credentialing the identity of a certificated person who
7 knowingly and willingly reports false fiscal expenditure data
8 relative to the conduct of an educational program. This requirement
9 applies only if, in the course of his or her normal duties, the county
10 superintendent discovers information that gives him or her
11 reasonable cause to believe that false fiscal expenditure data
12 relative to the conduct of an educational program has been reported.

13 SEC. 2. Section 35186 of the Education Code is amended to
14 read:

15 35186. (a) A school district shall use the uniform complaint
16 process it has adopted as required by Chapter 5.1 (commencing
17 with Section 4600) of Title 5 of the California Code of Regulations,
18 with modifications, as necessary, to help identify and resolve any
19 deficiencies related to instructional materials, emergency or urgent
20 facilities conditions that pose a threat to the health and safety of
21 pupils or staff, teacher vacancy or misassignment, and intensive
22 instruction and services provided pursuant to Section 37254 to
23 pupils who have not passed one or both parts of the high school
24 exit examination after the completion of grade 12.

25 (1) A complaint may be filed anonymously. A complainant who
26 identifies himself or herself is entitled to a response if he or she
27 indicates that a response is requested. A complaint form shall
28 include a space to mark to indicate whether a response is requested.
29 If Section 48985 is otherwise applicable, the response, if requested,
30 and report shall be written in English and the primary language in
31 which the complaint was filed. All complaints and responses are
32 public records.

33 (2) The complaint form shall specify the location for filing a
34 complaint. A complainant may add as much text to explain the
35 complaint as he or she wishes.

36 (3) Except as provided pursuant to paragraph (4), a complaint
37 shall be filed with the principal of the school or his or her designee.
38 A complaint about problems beyond the authority of the school
39 principal shall be forwarded in a timely manner but not to exceed

1 10 working days to the appropriate school district official for
2 resolution.

3 (4) A complaint regarding any deficiencies related to intensive
4 instruction and services provided pursuant to Section 37254 to
5 pupils who have not passed one or both parts of the high school
6 exit examination after the completion of grade 12 shall be
7 submitted to the district official designated by the district
8 superintendent. A complaint may be filed at the school district
9 office, or it may be filed at the schoolsite and shall be immediately
10 forwarded to the designee of the district superintendent.

11 (b) The principal or the designee of the district superintendent,
12 as applicable, shall make all reasonable efforts to investigate any
13 problem within his or her authority. The principal or designee of
14 the district superintendent shall remedy a valid complaint within
15 a reasonable time period but not to exceed 30 working days from
16 the date the complaint was received. The principal or designee of
17 the district superintendent shall report to the complainant the
18 resolution of the complaint within 45 working days of the initial
19 filing. If the principal makes this report, the principal shall also
20 report the same information in the same timeframe to the designee
21 of the district superintendent.

22 (c) A complainant not satisfied with the resolution of the
23 principal or the designee of the district superintendent has the right
24 to describe the complaint to the governing board of the school
25 district at a regularly scheduled hearing of the governing board.
26 As to complaints involving a condition of a facility that poses an
27 emergency or urgent threat, as defined in paragraph (1) of
28 subdivision (c) of Section 17592.72, a complainant who is not
29 satisfied with the resolution proffered by the principal or the
30 designee of the district superintendent has the right to file an appeal
31 to the Superintendent, who shall provide a written report to the
32 state board describing the basis for the complaint and, as
33 appropriate, a proposed remedy for the issue described in the
34 complaint.

35 (d) A school district shall report summarized data on the nature
36 and resolution of all complaints on a quarterly basis to the county
37 superintendent of schools and the governing board of the school
38 district. The summaries shall be publicly reported on a quarterly
39 basis at a regularly scheduled meeting of the governing board of
40 the school district. The report shall include the number of

1 complaints by general subject area with the number of resolved
2 and unresolved complaints. The complaints and written responses
3 shall be available as public records.

4 (e) The procedure required pursuant to this section is intended
5 to address all of the following:

6 (1) A complaint related to instructional materials as follows:

7 (A) A pupil, including an English learner, does not have
8 standards-aligned textbooks or instructional materials or
9 state-adopted or district-adopted textbooks or other required
10 instructional material to use in class.

11 (B) A pupil does not have access to instructional materials to
12 use at home or after school.

13 (C) Textbooks or instructional materials are in poor or unusable
14 condition, have missing pages, or are unreadable due to damage.

15 (2) A complaint related to teacher vacancy or misassignment
16 as follows:

17 (A) A semester begins and a teacher vacancy exists.

18 (B) A teacher who lacks credentials or training to teach English
19 learners is assigned to teach a class with more than 20-percent
20 English learner pupils in the class. This subparagraph does not
21 relieve a school district from complying with state or federal law
22 regarding teachers of English learners.

23 (C) A teacher is assigned to teach a class for which the teacher
24 lacks subject matter competency.

25 (3) A complaint related to the condition of facilities that pose
26 an emergency or urgent threat to the health or safety of pupils or
27 staff as defined in paragraph (1) of subdivision (c) of Section
28 17592.72 and any other emergency conditions the school district
29 determines appropriate and the requirements established pursuant
30 to subdivision (a) of Section 35292.5.

31 (4) A complaint related to the provision of intensive instruction
32 and services pursuant to paragraphs (4) and (5) of subdivision (d)
33 of Section 37254.

34 (f) In order to identify appropriate subjects of complaint, a notice
35 shall be posted in each classroom in each school in the school
36 district notifying parents, guardians, pupils, and teachers of the
37 following:

38 (1) There should be sufficient textbooks and instructional
39 materials. For there to be sufficient textbooks and instructional
40 materials each pupil, including English learners, must have a

1 textbook or instructional materials, or both, to use in class and to
2 take home.

3 (2) School facilities must be clean, safe, and maintained in good
4 repair.

5 (3) There should be no teacher vacancies or misassignments as
6 defined in paragraphs (2) and (3) of subdivision (h).

7 (4) Pupils who have not passed the high school exit examination
8 by the end of grade 12 are entitled to receive intensive instruction
9 and services for up to two consecutive academic years after
10 completion of grade 12 or until the pupil has passed both parts of
11 the high school exit examination, whichever comes first, pursuant
12 to paragraphs (4) and (5) of subdivision (d) of Section 37254. The
13 information in this paragraph, which is to be included in the notice
14 required pursuant to this subdivision, shall only be included in
15 notices posted in classrooms in schools with grades 10 to 12,
16 inclusive.

17 (5) The location at which to obtain a form to file a complaint
18 in case of a shortage. Posting a notice downloadable from the
19 Internet Web site of the department shall satisfy this requirement.

20 (g) A local educational agency shall establish local policies and
21 procedures, post notices, and implement this section on or before
22 January 1, 2005.

23 (h) For purposes of this section, the following definitions apply:

24 (1) "Good repair" has the same meaning as specified in
25 subdivision (d) of Section 17002.

26 (2) "Misassignment" means the placement of a certificated
27 employee in a teaching or services position for which the employee
28 does not hold a legally recognized certificate or credential or the
29 placement of a certificated employee in a teaching or services
30 position that the employee is not otherwise authorized by statute
31 to hold.

32 (3) "Teacher vacancy" means a position to which a single
33 designated certificated employee has not been assigned at the
34 beginning of the year for an entire year or, if the position is for a
35 one-semester course, a position to which a single designated
36 certificated employee has not been assigned at the beginning of a
37 semester for an entire semester.

38 SEC. 3. Section 37254 of the Education Code is amended to
39 read:

1 37254. (a) For purposes of this section, “eligible pupil” means
2 a pupil who ~~is required to pass~~ *has not met* the California High
3 School Exit Examination *requirement* for high school graduation
4 pursuant to Chapter 8 (commencing with Section 60850) of Part
5 33, and who has failed one or both parts of that examination;
6 ~~including pupils who have not passed one or both parts of the~~
7 ~~examination within two consecutive academic years of completion~~
8 *by the end of grade 12.*

9 (b) (1) From the funds appropriated for purposes of this section
10 in the annual Budget Act or other statute, the Superintendent shall
11 determine a per pupil rate of funding by dividing the total amount
12 of funds appropriated for purposes of this section by the number
13 of eligible pupils in grade 12 ~~and the number of pupils who have~~
14 ~~not passed the high school exit examination within two consecutive~~
15 ~~academic years of completion of grade 12~~ *as reported by school*
16 *districts in accordance with paragraph (7) of subdivision (d).* The
17 Superintendent shall then apportion to each school district an
18 amount equal to the per pupil rate determined pursuant to this
19 paragraph multiplied by the number of eligible grade 12 pupils
20 ~~and the number of pupils who have not passed both parts of the~~
21 ~~high school exit examination within two consecutive academic~~
22 ~~years of completion of grade 12 reported pursuant to paragraph~~
23 ~~(7) of subdivision (d).~~

24 (2) If funds appropriated for purposes of paragraph (1) are not
25 exhausted after the apportionment pursuant to paragraph (1) is
26 made, the Superintendent shall determine a per pupil rate of
27 funding for eligible pupils in grade 11 by dividing the total amount
28 of funds appropriated for purposes of this section remaining after
29 the apportionment pursuant to paragraph (1) has been made by
30 dividing the total number of eligible pupils in grade 11 reported
31 by school districts in accordance with paragraph (7) of subdivision
32 (d). The Superintendent shall apportion to each school district an
33 amount equal to the per pupil rate determined pursuant to this
34 paragraph multiplied by the number of eligible grade 11 pupils
35 reported pursuant to paragraph (7) of subdivision (d).

36 (3) The maximum per pupil rate of funding shall not exceed
37 five hundred dollars (\$500) and shall be increased annually by the
38 percentage determined in paragraph (2) of subdivision (b) of
39 Section 42238.1

1 (c) (1) The funds described in subdivision (b) shall be used to
2 provide intensive instruction and services designed to help eligible
3 pupils pass the California High School Exit Examination.

4 (2) Intensive instruction and services may be provided during
5 the regular schoolday provided that they do not supplant the
6 instruction of the pupil in the core curriculum areas as defined in
7 paragraph (5) of subdivision (a) of Section 60603, or physical
8 education instruction. ~~Pupils who have not passed one or both parts~~
9 ~~of the high school exit examination within two consecutive~~
10 ~~academic years of completion of grade 12~~ *Eligible pupils* may
11 receive intensive instruction and services on Saturdays, evenings,
12 or at a time and location deemed appropriate by the school district
13 in order to meet the needs of these pupils.

14 (3) Intensive instruction and services may include, but are not
15 limited to, all of the following:

- 16 (A) Individual or small group instruction.
- 17 (B) The hiring of additional teachers.
- 18 (C) Purchasing, scoring, and reviewing diagnostic assessments.
- 19 (D) Counseling.
- 20 (E) Designing instruction to meet specific needs of eligible
21 pupils.
- 22 (F) Appropriate teacher training to meet the needs of eligible
23 pupils.
- 24 (G) Instruction in English language arts or mathematics, or both,
25 that eligible pupils need to pass those parts of the high school exit
26 examination not yet passed. A school district may employ different
27 intensive instruction and services strategies more aligned to the
28 needs and circumstances of pupils who have not passed one or
29 both parts of the high school exit examination ~~within two~~
30 ~~consecutive academic years of completion~~ *by the end* of grade 12
31 as compared to grade 12 pupils with similar needs in a
32 comprehensive high school of the district.

33 *(H) The provision of instruction and services by a public or*
34 *nonpublic entity, as determined by the local educational agency.*

35 (d) As a condition of receiving funds pursuant to subdivision
36 (c), the school district shall accomplish all of the following:

37 (1) Ensure that each eligible pupil receives an appropriate
38 diagnostic assessment to identify that pupil's areas of need.

1 (2) Ensure that each pupil receives intensive instruction and
2 services based on the results of the diagnostic assessment, and
3 prior results on the high school exit examination.

4 (3) Ensure that all pupils who have not passed one or both parts
5 of the high school exit examination by the end of grade 12 are
6 notified in writing at the last known address before the end of each
7 school term of the availability of the services in sufficient time to
8 register for or avail themselves of those services each term for two
9 consecutive academic years thereafter and are notified of the right
10 of a pupil to file a complaint regarding those services as set forth
11 in Section 35186. In addition to notifying the pupil, or his or her
12 parent or legal guardian if the pupil is under the age of 18, in
13 writing, the notice shall be posted in the school office and district
14 office and on the Internet Web site of the school district, if
15 applicable. The notice shall comply with the translation
16 requirements of Section 48985.

17 (4) Ensure that all pupils who have not passed one or both parts
18 of the high school exit examination by the end of grade 12 have
19 the opportunity to receive intensive instruction and services as
20 needed based on the results of the diagnostic assessment and prior
21 results on the high school exit examination, as specified in
22 paragraph (2), for up to two consecutive academic years after
23 completion of grade 12 or until the pupil has passed both parts of
24 the high school exit examination, whichever comes first. A school
25 district shall employ strategies for intensive instruction and services
26 that are most likely to result in these pupils passing the parts of
27 the high school exit examination that they have not yet passed.

28 (5) Ensure that all English learners who have not passed one or
29 both parts of the high school exit examination by the end of grade
30 12 have the opportunity to receive intensive instruction and services
31 provided under paragraph (3) of subdivision (c) that also shall
32 include services to improve English proficiency as needed based
33 on the results of the diagnostic assessment and prior results on the
34 high school exit examination, as specified in paragraph (2), to pass
35 those parts of the high school exit examination not yet passed, for
36 up to two consecutive academic years after completion of grade
37 12 or until the pupil has passed both parts of the high school exit
38 examination, whichever comes first. A school district shall employ
39 strategies for intensive instruction and services that are most likely

1 to result in these pupils passing the parts of the high school exit
2 examination that they have not yet passed.

3 (6) Demonstrate that funds will be used to supplement and not
4 supplant existing services.

5 (7) Provide to the Superintendent, in a manner and by a date
6 certain determined by the Superintendent, the number of eligible
7 pupils at each high school in the school district.

8 (8) Submit an annual report to the Superintendent and the
9 appropriate county superintendent of schools in a manner
10 determined by the Superintendent that describes the manner and
11 frequency in which eligible pupils were notified of the intensive
12 instruction and services provided, the number of pupils served for
13 each type of service provided, and the number of pupils in the
14 school district who successfully pass the high school exit
15 examination by each type of service provided.

16 SEC. 4. Section 52378 of the Education Code is amended to
17 read:

18 52378. The Middle and High School Supplemental Counseling
19 Program is hereby established for the purpose of providing
20 additional counseling services to pupils in grades 7 to 12, inclusive.
21 As a condition of receiving funds, the governing board of each
22 school district maintaining any of grades 7 to 12, inclusive, shall
23 do all of the following:

24 (a) The program shall be adopted at a public meeting of the
25 governing board and shall include all of the following:

26 (1) A provision for individualized review of the pupil's academic
27 and deportment records.

28 (2) A provision for a counselor to meet with each pupil and if
29 practicable, the parents or legal guardian of the pupil, to explain
30 the academic and deportment records of the pupil, his or her
31 educational options, the coursework and academic progress needed
32 for satisfactory completion of middle or high school, passage of
33 the high school exit examination, the availability of intensive
34 instruction and services options, *including those described in*
35 *paragraph (3) of subdivision (c) of Section 37254*, for up to two
36 consecutive academic years after the completion of grade 12 or
37 until the pupil has passed both parts of the high school exit
38 examination, whichever comes first, for those pupils who have not
39 passed one or both parts of the high school exit examination by
40 the end of grade 12, and the availability of career technical

1 education. The educational options explained at the meeting, if
2 services are available, shall include college preparatory program
3 and vocational programs, including regional occupational centers
4 and programs and any other alternatives available to pupils within
5 the district.

6 (b) In addition to the counseling services described in
7 subdivision (a), school districts shall identify pupils who are at
8 risk of not graduating with the rest of their class, are not earning
9 credits at a rate that will enable them to pass the high school exit
10 examination, or do not have sufficient training to allow them to
11 fully engage in their chosen career, and shall do all of the
12 following:

13 (1) Require each school within its jurisdiction that enrolls pupils
14 in grades 10 and 12 to develop a list of coursework and experience
15 necessary to assist each pupil in their respective grade that has not
16 passed one or both parts of the high school exit examination and
17 to successfully transition to postsecondary education or
18 employment.

19 (2) Require each school within its jurisdiction that enrolls pupils
20 in grade 7 to develop a list of coursework and experience necessary
21 to assist each pupil in grade 7 who is deemed to be at the far below
22 basic level in English language arts or mathematics pursuant to
23 California Standards Tests administered to pupils in grade 6 to
24 successfully transition to high school and meet all graduation
25 requirements, including passing the high school exit examination.

26 (3) A copy of the list of coursework and experience necessary
27 shall be provided to the pupil and his or her parent or legal
28 guardian. The school district shall ensure that the list of coursework
29 and experience is part of the cumulative records of the pupil.

30 (4) Inform the pupil who has not passed one or both parts of the
31 high school exit examination of the option of intensive instruction
32 and services.

33 (c) (1) In addition to the items identified in subdivision (b), the
34 list of coursework and experience for a pupil enrolled in grade 12
35 shall include options for continuing his or her education if he or
36 she fails to meet graduation requirements. These options shall
37 include, but not be limited to, all of the following:

38 (A) Enrolling in an adult education program.

39 (B) Enrolling in a community college.

40 (C) Continuing enrollment in the pupil's school district.

1 (D) Continuing to receive intensive instruction and services for
2 up to two consecutive academic years after completion of grade
3 12 or until the pupil has passed both parts of the high school exit
4 examination, whichever comes first.

5 (2) A copy of the list of coursework and experience necessary
6 shall be provided to the pupil and his or her parent or legal
7 guardian. The school district shall ensure that the list of coursework
8 and experience is part of the cumulative records of the pupil.

9 (d) As a condition of receipt of funds pursuant to this article, a
10 school district shall require each school within its jurisdiction to
11 offer and schedule an individual conference with each pupil,
12 identified in paragraphs (1) and (2) of subdivision (b), and his or
13 her parent or legal guardian, and a school counselor. The individual
14 conference shall be scheduled, to the extent feasible, according to
15 the following requirements:

16 (1) For a pupil enrolled in grade 7, the conference shall occur
17 before January of that school year in which the pupil is enrolled
18 in grade 7.

19 (2) For a pupil enrolled in grade 10, the conference shall occur
20 between the spring of that school year in which the pupil is enrolled
21 in grade 10 and the fall of the following school year in which the
22 pupil would be enrolled in grade 11. For the 2006–07 school year,
23 the conference shall occur on or before December 31, 2006.

24 (3) For a pupil enrolled in grade 12, the conference shall occur
25 after November of that school year in which the pupil is enrolled
26 in grade 12, but before March of the same school year.

27 (e) During the individual conference described in subdivision
28 (d), the school counselor shall apprise the pupil identified in
29 paragraphs (1) and (2) of subdivision (b), and his or her parent or
30 legal guardian of the following:

31 (1) Consequences of not passing the high school exit
32 examination.

33 (2) Programs, courses, and career technical education options
34 available for pupils needed for satisfactory completion of middle
35 or high school.

36 (3) Cumulative records and transcripts of the pupil.

37 (4) Performance on standardized and diagnostic assessments of
38 the pupil.

39 (5) Remediation strategies, high school courses, and alternative
40 education options available to the pupil, including, but not limited

1 to, informing pupils of the option to receive intensive instruction
2 and services for up to two consecutive academic years after
3 completion of grade 12 or until the pupil has passed both parts of
4 the high school exit examination, whichever comes first.

5 (6) Information on postsecondary education and training.

6 (7) The pupil's score on the English language arts or
7 mathematics portion of the California Standards Test administered
8 in grade 6, as applicable.

9 SEC. 5. Section 52380 of the Education Code is amended to
10 read:

11 52380. As a condition of receipt of funds pursuant to this
12 chapter, a school district shall submit an annual report to the
13 Superintendent and the appropriate county superintendent of
14 schools in a manner determined by the Superintendent that
15 describes the number of pupils served, the number of school
16 counselors involved in conferences, the number and percentage
17 of pupils who participated in conferences and who successfully
18 pass the high school exit examination, and the number and
19 percentage of pupils who participated in conferences and who fail
20 to pass one or both sections of the exit examination, and a summary
21 of the most prevalent results for pupils based on the graduation
22 plans developed pursuant to this chapter. The report also shall
23 contain an assurance that the school district has complied with
24 subdivision (e) of Section 52378.

25 SEC. 6. If the Commission on State Mandates determines that
26 this act contains costs mandated by the state, reimbursement to
27 local agencies and school districts for those costs shall be made
28 pursuant to Part 7 (commencing with Section 17500) of Division
29 4 of Title 2 of the Government Code.

30 SEC. 7. (a) *Of the funds appropriated in Item 6110-266-0001*
31 *of Section 2.00 of the Budget Act of 2007, up to one million five*
32 *hundred thousand dollars (\$1,500,000) may be used to provide*
33 *funding to county offices of education for the oversight activities*
34 *required pursuant to subparagraph (E) of paragraph (2) of*
35 *subdivision (c) of Section 1240 of the Education Code. The*
36 *statewide organization that represents county superintendents of*
37 *schools shall recommend a methodology for allocation of these*
38 *funds to the Superintendent of Public Instruction by October 1,*
39 *2007. The Superintendent of Public Instruction may modify the*
40 *methodology, subject to approval by the Department of Finance*

1 *and 30-day notification to the appropriate policy and fiscal*
2 *committees of the Legislature. Funds shall not be allocated prior*
3 *to the expiration of the 30-day notification period.*

4 *(b) It is the intent of the Legislature that the allocation method*
5 *specified in subdivision (a) be applied for the 2007–08 fiscal year*
6 *and the determination of allocations for the 2008–09 fiscal year*
7 *and each fiscal year thereafter be subject to the normal budget*
8 *process.*

9 ~~SEC. 7.~~

10 ~~SEC. 8.~~ This act is an urgency statute necessary for the
11 immediate preservation of the public peace, health, or safety within
12 the meaning of Article IV of the Constitution and shall go into
13 immediate effect. The facts constituting the necessity are:

14 In order to provide timely assistance to the pupils of the classes
15 of 2006 and 2007 who have not passed one or both sections of the
16 high school exit examination by the end of grade 12, it is necessary
17 that this bill take effect immediately.