

AMENDED IN SENATE JULY 15, 2010

AMENDED IN ASSEMBLY MAY 28, 2010

AMENDED IN ASSEMBLY APRIL 28, 2010

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 2027

Introduced by Assembly Members Blumenfield and Cook
(Principal coauthor: Assembly Member Torlakson)
(Coauthor: Senator Alquist)

February 17, 2010

An act to ~~add Section 46300.8 to~~ *add and repeal Section 46300.8 of* the Education Code, relating to online education.

LEGISLATIVE COUNSEL'S DIGEST

AB 2027, as amended, Blumenfield. Online education: school attendance.

Existing law establishes the public elementary and secondary school system in this state, and further establishes a funding system pursuant to which the state apportions funds to local educational agencies based on the average daily attendance of pupils at the schools operated by those agencies. Numerous statutes and regulations govern the calculation and reporting of average daily attendance.

This bill, commencing with the 2012–13 fiscal year, would provide that school districts, county offices of education, and charter schools that offer online education courses may claim attendance toward average daily attendance on the basis of a pupil's attendance in an online ~~class or classes~~ *course or courses* that satisfy prescribed criteria.

The bill would require the Superintendent of Public Instruction, in consultation with the *Controller and the* Director of Finance, on or

before December 31, 2011, to make revisions to any attendance accounting manual or guidance provided to school districts, county offices of education, or charter schools that are necessary to conform to these provisions, or to clarify these provisions with respect to attendance accounting procedures for asynchronous online courses, as defined. The bill additionally would require the Superintendent, *in consultation with the Controller and the Director of Finance*, to adopt rules and regulations for the purposes of clarifying or expanding the procedures required for verifying the identification of pupils participating in asynchronous online courses and including pupil attendance in asynchronous online education courses in the calculation of average daily attendance. *The bill would make these provisions inoperative on July 1, 2016, and repeal them on January 1, 2017.*

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

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

- 1 SECTION 1. Section 46300.8 is added to the Education Code,
- 2 to read:
- 3 46300.8. (a) Commencing with the 2012–13 fiscal year, a
- 4 school district, county office of education, or charter school may
- 5 claim attendance toward average daily attendance, for the purposes
- 6 of calculating average daily attendance pursuant to Section 46300,
- 7 on the basis of a pupil’s attendance in an online ~~class or classes~~
- 8 *course or courses* if all of the following apply:
- 9 (1) The pupil is enrolled in grade 9, 10, 11, or 12.
- 10 (2) The pupil is enrolled in classes that include courses in a
- 11 classroom-based setting, courses that are offered through an online
- 12 program, or both.
- 13 (3) The pupil meets minimum instructional time requirements
- 14 pursuant to:
- 15 (A) Section 46141 and Section 46201, 46201.5 or 46202, as
- 16 applicable, for pupils enrolled in a noncharter school in a school
- 17 district or county office of education.
- 18 (B) Section 46170, for pupils enrolled in a continuation school.
- 19 (C) Section 46180, for pupils enrolled in an opportunity school.
- 20 (D) Subdivision (e) of Section 47612.5 for pupils enrolled in a
- 21 charter school.

1 (4) Each online course in which the pupil is enrolled is a
2 high-quality online course.

3 (b) For the purposes of this section, a high-quality online course
4 is defined as an online course that meets all of the following
5 requirements:

6 (1) The online course is approved by the governing board of
7 the school district or county office of education, or the governing
8 body of the charter school.

9 (2) The online course is certified to meet these requirements,
10 through board resolution, by the governing board of the school
11 district or county office of education, or the governing body of the
12 charter school.

13 (3) *The online course is certified by the governing board of the*
14 *school district, county board of education, or governing body of*
15 *a charter school as being as rigorous as a classroom-based course*
16 *and meeting or exceeding all relevant state content standards.*

17 ~~(3)~~

18 (4) Either of the following:

19 (A) The teacher is online at the same time as each pupil, is
20 accessible to each pupil attending the synchronous online course
21 to respond to pupil queries, assign tasks, and dispense information,
22 and is able to make a line-of-sight visual connection with each
23 pupil for the purposes of verifying attendance or providing
24 immediate supervision of the pupil.

25 (B) The teacher is online at different times *as for* each pupil, is
26 accessible to each pupil attending the asynchronous online course
27 to respond to pupil queries, assign tasks, and dispense information,
28 and, for the purposes of verifying attendance, is able to employ at
29 least two of the following:

30 (i) Periodic proctored examinations.

31 ~~(ii) Biometric verification.~~

32 (ii) *Direct teacher-pupil meetings no less than twice per*
33 *calendar month.*

34 (iii) A line-of-sight visual connection including, but not limited
35 to, Internet Webcam.

36 ~~(4)~~

37 (5) (A) The ratio of full-time equivalent certificated teachers
38 teaching the online course to pupils enrolled in that course is
39 ~~greater than or equal to~~ *equal to or less than* the ratio of teachers
40 to pupils in traditional classroom study of the same subject matter

1 in the school, school district, or the unified school district with the
2 largest average daily attendance of pupils in that county *for the*
3 *prior school year, as reported on the Internet Web site of the*
4 *department.*

5 (B) *If the online course is new or deemed by the governing board*
6 *of the school district, county board of education, or governing*
7 *body of the charter school to be unique to the online setting, the*
8 *ratio of full-time equivalent certificated teachers to pupils enrolled*
9 *in that course shall not exceed 30 to 1.*

10 ~~(5)~~

11 (6) (A) The teacher of the online course has taught the same
12 *existing* course to pupils in a traditional classroom setting or in an
13 online setting at any time within the immediately preceding
14 two-year period.

15 ~~(6) The subject matter content is the same for the online course~~
16 ~~as for the traditional classroom-based course in the school, school~~
17 ~~district, or the unified school district with the largest average daily~~
18 ~~attendance of pupils in that county.~~

19 (B) *If the online course is new or deemed by the governing board*
20 *of the school district, county board of education, or governing*
21 *body of the charter school to be unique to the online setting, the*
22 *teacher of the online course, at a minimum, shall meet the*
23 *requirements described in paragraph (8).*

24 (7) *When a traditional classroom-based course of the same*
25 *course title exists within the school district, county office of*
26 *education, or charter school, the subject matter content of the*
27 *online course is the same as for the traditional classroom-based*
28 *course.*

29 ~~(7)~~

30 (8) The teacher of the online course holds the appropriate subject
31 matter credential *and meets the requirements for a highly qualified*
32 *teacher pursuant to the federal No Child Left Behind Act of 2001*
33 *(20 U.S.C. Sec. 6301).*

34 ~~(8)~~

35 (9) Statewide testing results for online pupils are reported and
36 assigned to the school, school district, or county office of education
37 in which the pupil is enrolled for regular classroom courses.

38 ~~(9)~~

39 (10) The online course is offered by a high school, continuation
40 school, or county office of education.

1 ~~(10)~~

2 (11) No pupil is assigned to the online course unless the pupil
3 voluntarily elects to participate in the online course and the parent
4 or guardian of the pupil provides written consent before the pupil
5 participates in the online course.

6 ~~(11)~~

7 (12) No pupil voluntarily electing to participate in the online
8 course is denied access because the pupil lacks the computer
9 hardware or software necessary to participate in the online course.

10 ~~(12)~~

11 (13) No pupil is charged for his or her participation in the online
12 course.

13 ~~(13)~~

14 (14) Pupils enrolled in the online course take examinations by
15 proctor or other reliable methods are used to ensure test integrity,
16 and there is a clear record of pupil work, using the same method
17 of documentation and assessment as used in a classroom-based
18 course.

19 ~~(14)~~

20 (15) Contemporaneous records of the time that a pupil spends
21 online in the course and in related activities, and of the time the
22 teacher is online with pupils, are maintained by the school, school
23 district, or county office of education.

24 (c) A school district, county office of education, or charter
25 school offering an online course may contract with a school district
26 to provide an online course meeting all of the requirements
27 specified in subdivisions (a) and (b) to pupils of the offering school
28 district.

29 (1) A teacher of an online course shall be an employee of the
30 providing school district, and shall meet all of the requirements
31 for a teacher of an online course specified in subdivision (b).

32 (2) For the purposes of subdivision (a) of Section 46300 only,
33 a teacher meeting the requirements of paragraph (1) shall be
34 deemed to be an employee of the offering school district, county
35 office of education, or charter school.

36 (3) Contract terms shall be determined by mutual agreement of
37 the school districts.

38 (4) School districts that provide online courses pursuant to the
39 contract shall contract directly with the offering school district,
40 county office of education, or charter school, and shall not enter

1 into direct contracts with the pupils of the offering school district
2 or otherwise attempt to enroll those pupils.

3 (d) Nothing in this section shall be interpreted to mean that a
4 charter school provides classroom-based or nonclassroom-based
5 instruction for the purposes of the state board determination made
6 pursuant to Section 47612.5.

7 (e) Attendance accounted for pursuant to subdivision (a) and
8 compliance with the requirements of subdivision (b) are subject
9 to the audit conducted pursuant to Section 41020.

10 (f) *A pupil shall not be credited with more than five days of*
11 *course attendance per calendar week or more than the total number*
12 *of calendar days that regular classes are maintained by the school*
13 *district, county office of education, or charter school during the*
14 *fiscal year.*

15 ~~(f)~~

16 (g) No provision of this section may be waived unless the waiver
17 is specifically authorized in statute.

18 ~~(g)~~

19 (h) The Superintendent, in consultation with *the Controller and*
20 *the Director of Finance*, on or before December 31, 2011, shall do
21 all of the following:

22 (1) Make revisions to any attendance accounting manual or
23 guidance provided to school districts, county offices of education,
24 or charter schools that are necessary to conform to this section.

25 (2) Make revisions to any attendance accounting manual or
26 guidance provided to school districts, county offices of education,
27 or charter schools that are necessary to clarify attendance
28 accounting procedures for asynchronous online courses.

29 (3) Make recommendations to the appropriate policy and fiscal
30 committees in both houses of the Legislature and to the Governor
31 regarding statutory changes that would be necessary to allow pupil
32 attendance in asynchronous online courses to be included in the
33 calculation of average daily attendance pursuant to Section 46300.

34 ~~(h)~~

35 (i) Pupil attendance in asynchronous online courses shall not
36 be included in the calculation of average daily attendance pursuant
37 to Section 46300 until the Superintendent has adopted rules and
38 regulations pursuant to subdivision ~~(f)~~ (m).

39 ~~(i)~~

1 (j) For the purposes of calculating average daily attendance
2 pursuant to Section 46300 and meeting the minimum instructional
3 time requirements specified in paragraph (3) of subdivision (a), a
4 pupil engaged in educational activities in an online course meeting
5 the requirements of subdivisions (a) and (b) shall be deemed to be
6 under the immediate supervision and control of an employee of
7 the district or county office who possesses a valid certification
8 document, registered as required by law, and shall be deemed to
9 be attending at the schoolsite of the charter school.

10 (j)

11 (k) For the purposes of calculating average daily attendance
12 pursuant to Section 46300, a school district, county office of
13 education, or charter school claiming pupil attendance in an online
14 course meeting the requirements of subdivision (b) shall not be
15 required to meet the requirements of Article 5.5 (commencing with
16 Section 51745) of Chapter 5 of Part 28.

17 (k)

18 (l) For the purposes of this section, the following definitions
19 apply:

20 (1) “Asynchronous online course” means a course where the
21 teacher and pupil may be online at different times and are unable
22 to interact simultaneously.

23 ~~(2) “Biometric” means any means by which a person can be~~
24 ~~uniquely identified by evaluating one or more distinguishing~~
25 ~~biological traits. Unique identifiers within the meaning of this~~
26 ~~paragraph include, but are not necessarily limited to, fingerprints,~~
27 ~~hand geometry, voice waves, and signatures.~~

28 (3)

29 (2) “Synchronous online course” means a course where the
30 teacher and pupil are online at the same time and able to interact
31 at that time.

32 (t)

33 (m) The Superintendent, in consultation with the Department
34 of Finance, shall adopt rules and regulations, pursuant to the
35 rulemaking provisions of the Administrative Procedure Act,
36 Chapter 3.5 (commencing with Section 11340) of Part 1 of Division
37 3 of Title 2 of the Government Code, for both of the following
38 purposes:

39 (1) Clarifying or expanding the procedures required for verifying
40 the identification of pupils participating in asynchronous online

1 courses meeting all of the requirements of subdivisions (a) and
2 (b).

3 (2) Including pupil attendance in asynchronous online courses
4 in the calculation of average daily attendance pursuant to Section
5 46300. The Superintendent shall ensure that the rules and
6 regulations adopted for this purpose are consistent with the
7 revisions and recommendations required pursuant to subdivision
8 ~~(g)~~ (h).

9 *(n) This section shall become inoperative on July 1, 2016, and,*
10 *as of January 1, 2017, is repealed, unless a later enacted statute,*
11 *that becomes operative on or before January 1, 2017, deletes or*
12 *extends the dates on which it becomes inoperative and is repealed.*

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15 **CORRECTIONS:**

16 **Text—Pages 2 and 3.**

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