

AMENDED IN ASSEMBLY MAY 24, 2013

AMENDED IN ASSEMBLY APRIL 29, 2013

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CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 342

Introduced by Assembly Member Blumenfield

February 13, 2013

An act to amend Sections 46300.8, 51745, 51745.6, and 51747 of the Education Code, relating to online instruction and independent study.

LEGISLATIVE COUNSEL'S DIGEST

AB 342, as amended, Blumenfield. Online instruction and independent study.

(1) 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, among other factors, 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.

Existing law, commencing with the 2014–15 school year, authorizes, for purposes of computing average daily attendance, the inclusion of pupils in grades 9 to 12, inclusive, under the immediate supervision and control of a certificated employee of the school district or county office of education who is delivering synchronous, online instruction, as defined, provided that this instruction meets specified criteria. Existing law requires, if a school district or county office of education

elects to offer synchronous, online instruction, that the school district or county office of education provide all pupils who choose to enroll in a synchronous, online course access to the computer hardware or software necessary for the pupil to participate in the course.

Existing law requires the Superintendent of Public Instruction to establish rules and regulations for purposes of implementing these provisions, and requires those rules and regulations to, at a minimum, address specified matters. Existing law also authorizes the Superintendent to provide guidance regarding the ability of a school district or county office of education to provide synchronous, online instruction.

This bill would make these provisions applicable to technology-based synchronous instruction, as defined, rather than synchronous, online instruction.

(2) Existing law authorizes the governing board of a school district or a county office of education to offer independent study to meet the educational needs of pupils in accordance with prescribed criteria. Existing law requires that not more than 10% of the pupils participating in an opportunity school or program, or a continuation high school, calculated as specified by the State Department of Education, be eligible for apportionment credit for independent study.

This bill would require the calculation to be based on the prior year average daily attendance reported to the department.

(3) Existing law requires the ratio of average daily attendance for independent study pupils 18 years of age or less to full-time equivalent certificated employees responsible for independent study to not exceed a specified ratio.

This bill would authorize a school district or a county office of education to establish a different ratio of average daily attendance for independent study pupils 18 years of age or less to full-time equivalent certificated employees responsible for independent study through a locally bargained agreement.

(4) Existing law provides that a school district or county office of education is not eligible to receive apportionments for independent study pupils unless it has adopted and implemented certain policies, including, but not limited to, policies related to the maximum length of time that may elapse between the time an independent study assignment is made and the date by which the pupil must complete the assigned work, the number of missed assignments that will be allowed before an evaluation is conducted to determine whether it is in the best

interests of the pupil to remain in independent study, the manner, time, frequency, and place for submitting a pupil's assignments and for reporting his or her progress, and requiring a written agreement for each independent study pupil to be maintained on file.

This bill would ~~extend these provisions to charter schools, and would require a school district, district or county office of education, or charter school~~ *education* to adopt different policies to be eligible to receive apportionments for independent study pupils, including policies requiring periodic contact, as defined, between the certificated employee providing instruction and the pupil to assess whether satisfactory educational progress, as defined, is made. The bill would require the written agreement for each independent study pupil that is maintained on file to include additional information, *including a copy of the governing board of the school district's, county board of education's, or governing body of a charter school's independent study authorization*, and would authorize the written agreement to be maintained in a paper or electronic copy, as defined. The bill would authorize independent study to commence upon receipt of an electronic copy of the agreement.

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 of the Education Code is
2 amended to read:
3 46300.8. (a) Commencing with the 2014–15 school year,
4 attendance of pupils in grades 9 to 12, inclusive, under the
5 immediate supervision and control of a certificated employee of
6 the school district or county office of education who is delivering
7 technology-based synchronous instruction shall be included in
8 computing average daily attendance, provided that all of the
9 following occur:
10 (1) The certificated employee providing the instruction confirms
11 pupil attendance through visual recognition during the class period.
12 A pupil logon, without any other pupil identification, is not
13 sufficient to confirm pupil attendance.
14 (2) The class has regularly scheduled starting and ending times,
15 and the pupil is scheduled to attend the entire class period. Average
16 daily attendance shall be counted only for attendance in classes
17 held at the regularly scheduled time.

1 (3) An individual with exceptional needs, as defined in Section
2 56026, may participate in technology-based synchronous
3 instruction only if his or her individualized education program
4 developed pursuant to Article 3 (commencing with Section 56340)
5 of Chapter 4 of Part 30 specifically provides for that participation.

6 (4) If a school district or county office of education elects to
7 offer technology-based synchronous instruction pursuant to this
8 paragraph, the school district or county office of education shall
9 not deny enrollment to a pupil based solely on the pupil's lack of
10 access to the computer hardware or software necessary to
11 participate in the technology-based synchronous instruction course.
12 If a pupil chooses to enroll in a technology-based synchronous
13 instruction course and does not have access to the necessary
14 equipment, the school district or county office of education shall
15 provide, for each pupil who chooses to enroll in a technology-based
16 synchronous instruction course, access to the computer hardware
17 or software necessary to participate in the technology-based
18 synchronous instruction course.

19 (5) The ratio of average daily attendance for technology-based
20 pupils who are 18 years of age or younger to school district
21 full-time equivalent certificated employees responsible for
22 technology-based synchronous instruction, calculated as specified
23 by the department, shall not exceed the equivalent ratio of pupils
24 to full-time certificated employees for all other educational
25 programs operated by the school district, unless a higher or lower
26 ratio is negotiated in a collective bargaining agreement.

27 (6) The ratio of average daily attendance for technology-based
28 pupils who are 18 years of age or younger to county office of
29 education full-time equivalent certificated employees who provide
30 technology-based synchronous instruction, to be calculated in a
31 manner prescribed by the department, shall not exceed the
32 equivalent ratio of pupils to full-time certificated employees for
33 all other educational programs operated by the high school or
34 unified school district with the greatest average daily attendance
35 of pupils in that county, unless a higher or lower ratio is provided
36 for in a collective bargaining agreement. The computation of the
37 ratios specified in paragraph (5) and this paragraph shall be
38 performed annually by the reporting agency at the time of, and in
39 connection with, the second principal apportionment report to the
40 Superintendent.

1 (b) The Superintendent shall establish rules and regulations for
2 purposes of implementing this section that address all of the
3 following:

4 (1) How school districts or county offices of education include
5 pupil attendance in technology-based synchronous instruction
6 courses in the calculation of average daily attendance pursuant to
7 Section 46300.

8 (2) How to ensure a pupil meets minimum instructional time
9 requirements pursuant to the following:

10 (A) Section 46141 and Section 46201, 46201.5, or 46202, as
11 applicable, for pupils enrolled in a noncharter school in a school
12 district or county office of education.

13 (B) Section 46170, for pupils enrolled in a continuation school.

14 (C) Section 46180, for pupils enrolled in an opportunity school.

15 (3) Require statewide testing results for technology-based pupils
16 to be reported and assigned to the school in which the pupil is
17 enrolled for regular classroom courses, and to any school district
18 or county office of education within which that school's testing
19 results are aggregated. Testing results may be disaggregated for
20 the purpose of comparing technology-based pupils' testing results
21 to the results of those pupils enrolled in regular classroom courses.

22 (4) Require attendance accounted for pursuant to this section
23 to be subject to the audit conducted pursuant to Section 41020.

24 (c) The Superintendent may provide guidance regarding the
25 ability of a school district or county office of education to provide
26 technology-based synchronous instruction.

27 (d) A technology-based synchronous instruction course shall
28 be approved by the governing board of the school district or county
29 office of education, shall be as rigorous as a classroom-based
30 course, and shall meet or exceed all relevant state content standards.

31 (e) For purposes of this section, "technology-based synchronous
32 instruction" means a class or course in which the pupil and the
33 certificated employee who is providing instruction are online at
34 the same time through the use of electronic means, including, but
35 not necessarily limited to, the use of real-time, Internet-based
36 collaborative software that combines audio, video, file sharing,
37 and other forms of interaction.

38 (f) This section shall become inoperative on July 1, 2019, and,
39 as of January 1, 2020, is repealed, unless a later enacted statute,

1 that becomes operative on or before January 1, 2020, deletes or
2 extends the dates on which it becomes inoperative and is repealed.

3 SEC. 2. Section 51745 of the Education Code is amended to
4 read:

5 51745. (a) Commencing with the 1990–91 school year, the
6 governing board of a school district or a county office of education
7 may offer independent study to meet the educational needs of
8 pupils in accordance with the requirements of this article.
9 Educational opportunities offered through independent study may
10 include, but shall not be limited to, the following:

11 (1) Special assignments extending the content of regular courses
12 of instruction.

13 (2) Individualized study in a particular area of interest or in a
14 subject not currently available in the regular school curriculum.

15 (3) Individualized alternative education designed to teach the
16 knowledge and skills of the core curriculum. Independent study
17 shall not be provided as an alternative curriculum.

18 (4) Continuing and special study during travel.

19 (5) Volunteer community service activities and leadership
20 opportunities that support and strengthen pupil achievement.

21 (b) Not more than 10 percent of the pupils participating in an
22 opportunity school or program, or a continuation high school,
23 calculated by prior year average daily attendance reported to the
24 department, shall be eligible for apportionment credit for
25 independent study pursuant to this article. A pupil who is pregnant
26 or is a parent who is the primary caregiver for one or more of his
27 or her children shall not be counted within the 10-percent cap.

28 (c) An individual with exceptional needs, as defined in Section
29 56026, shall not participate in independent study, unless his or her
30 individualized education program developed pursuant to Article
31 3 (commencing with Section 56340) of Chapter 4 of Part 30
32 specifically provides for that participation.

33 (d) A temporarily disabled pupil shall not receive individual
34 instruction pursuant to Section 48206.3 through independent study.

35 (e) No course included among the courses required for high
36 school graduation under Section 51225.3 shall be offered
37 exclusively through independent study.

38 SEC. 3. Section 51745.6 of the Education Code is amended to
39 read:

1 51745.6. (a) The ratio of average daily attendance for
2 independent study pupils 18 years of age or less to school district
3 full-time equivalent certificated employees responsible for
4 independent study, calculated as specified by the department, shall
5 not exceed the equivalent ratio of pupils to full-time certificated
6 employees for all other educational programs operated by the
7 school district, unless a different ratio is established through a
8 locally bargained agreement. The ratio of average daily attendance
9 for independent study pupils 18 years of age or less to county office
10 of education full-time equivalent certificated employees responsible
11 for independent study, to be calculated in a manner prescribed by
12 the department, shall not exceed the equivalent ratio of pupils to
13 full-time certificated employees for all other educational programs
14 operated by the high school district or unified school district with
15 the largest average daily attendance of pupils in that county, unless
16 a different ratio is established through a locally bargained
17 agreement. The computation of those ratios shall be performed
18 annually by the reporting agency at the time of, and in connection
19 with, the second principal apportionment report to the
20 Superintendent.

21 (b) Only those units of average daily attendance for independent
22 study that reflect a pupil-teacher ratio that does not exceed the
23 ratio described in subdivision (a) shall be eligible for apportionment
24 pursuant to Section 42238.5, for school districts, and Section 2558,
25 for county offices of education. This section shall not prevent a
26 school district or county office of education from serving additional
27 units of average daily attendance greater than the ratio described
28 in subdivision (a), except that those additional units shall not be
29 funded pursuant to Section 2558 *or* 42238.5 ~~or 2558~~.

30 (c) The calculations performed for purposes of this section shall
31 not include either of the following:

32 (1) The average daily attendance generated by special education
33 pupils enrolled in special day classes on a full-time basis, or the
34 teachers of those classes.

35 (2) The average daily attendance or teachers in necessary small
36 schools that are eligible to receive funding pursuant to Article 4
37 (commencing with Section 42280) of Chapter 7 of Part 24 of
38 Division 3.

39 (d) The pupil-teacher ratio described in subdivision (a) in a
40 unified school district participating in the class size reduction

1 program pursuant to Chapter 6.10 (commencing with Section
2 52120) may, at the school district's option, be calculated separately
3 for kindergarten and grades 1 to 6, inclusive, and for grades 7 to
4 12, inclusive.

5 (e) The pupils-to-certificated-employee ratio described in
6 subdivision (a) may, in a charter school, be calculated by using a
7 fixed pupils-to-certificated-employee ratio of 25 to one, or by being
8 a ratio of less than 25 pupils per certificated employee. All charter
9 school pupils, regardless of age, shall be included in
10 pupils-to-certificated-employee ratio calculations.

11 SEC. 4. Section 51747 of the Education Code is amended to
12 read:

13 51747. (a) A school ~~district, district or~~ county office of
14 ~~education, or charter school~~ education shall not be eligible to
15 receive apportionments for independent study by pupils, regardless
16 of age, unless it has adopted written policies, and has implemented
17 those policies, pursuant to rules and regulations adopted by the
18 Superintendent, that include, at a minimum, all of the following:

19 (1) The maximum length of time, by grade level and type of
20 program, that may elapse between the time an independent study
21 assignment is made and the date by which the pupil must complete
22 the assigned work.

23 (2) (A) (i) A requirement of periodic contact between the
24 certificated employee providing instruction and the pupil to assess
25 whether satisfactory educational progress is made.

26 (ii) For purposes of this section, "periodic contact" means
27 communication that occurs at least twice per month and consists
28 of either in-person interaction or interaction through electronic
29 means, including, but not necessarily limited to, the use of
30 real-time, Internet-based collaborative software that combines
31 audio, video, file sharing, and other forms of interaction.

32 (B) If satisfactory educational progress is not made, a certificated
33 employee shall notify the pupil and the pupil's parent or guardian.

34 (C) If satisfactory educational progress is not made, an
35 evaluation shall be conducted to determine whether it is in the best
36 interests of the pupil to remain in independent study, or whether
37 he or she should return to the regular school program. A written
38 record of the findings of ~~any~~ an evaluation made pursuant to this
39 subdivision shall be treated as a mandatory interim pupil record.
40 The record shall be maintained for a period of three years from

1 the date of the evaluation and, if the pupil transfers to another
2 California public school, the record shall be forwarded to that
3 school. A pupil shall not continue to participate in independent
4 study without evidence of satisfactory educational progress unless
5 independent study is determined by the district or county
6 superintendent, or charter administrator or designee, to be in the
7 best interest of the pupil.

8 (D) For purposes of this section, “satisfactory educational
9 progress” includes meeting measures such as applicable statewide
10 accountability measures and assessments, the completion of
11 assignments, locally approved or state-approved formative
12 assessments, required laboratories or online workgroups, or other
13 indicators that the pupil is working on assignments and learning
14 required concepts, as determined by the supervising certificated
15 employee.

16 (3) A requirement of a current written agreement for each
17 independent study pupil that is maintained on file in a paper or
18 electronic copy. The written agreement shall include a copy of the
19 ~~governing board’s~~ independent study authorization *of the governing*
20 *board of a school district or county board of education, or*
21 *governing body of a charter school, as applicable, and shall*
22 include, but is not limited to, all of the following:

23 (A) The manner, time, frequency, and place for submitting a
24 pupil’s assignments and for reporting his or her progress.

25 (B) The objectives and methods of study for the pupil’s work,
26 and the methods used to evaluate that work.

27 (C) The specific resources, including materials and personnel,
28 that will be made available to the pupil.

29 (D) A statement of the policies adopted pursuant to paragraph
30 (2) and as determined by each ~~local educational agency~~ *school*
31 *district, county office of education, or charter school* that specifies
32 periodic contact between pupils and certificated employees and
33 identifies the accountability measures and assessments that will
34 be used to determine satisfactory educational progress. In all cases,
35 the authorization for independent study shall include the learning
36 objectives required to achieve satisfactory educational progress.

37 (E) The duration of the independent study agreement, including
38 the beginning and ending dates for the pupil’s participation in
39 independent study under the agreement. No independent study

1 agreement shall be valid for any period longer than one semester,
2 or one-half year for a school on a year-round calendar.

3 (F) A statement of the number of course credits or, for the
4 elementary grades, other measures of academic accomplishment
5 appropriate to the agreement, to be earned by the pupil upon
6 completion.

7 (G) The inclusion of a statement in each independent study
8 agreement that independent study is an optional educational
9 alternative in which no pupil may be required to participate. In the
10 case of a pupil who is referred or assigned to any school, class, or
11 program pursuant to Section 48915 or 48917, the agreement also
12 shall include the statement that instruction may be provided to the
13 pupil through independent study only if the pupil is offered the
14 alternative of classroom instruction.

15 (H) The signatures, affixed before the commencement of
16 independent study, of the pupil, the pupil’s parent, legal guardian,
17 or caregiver if the pupil is less than 18 years of age, and the
18 certificated employee who has been designated as having
19 responsibility for the general supervision of independent study.
20 For purposes of this paragraph “caregiver” means a person who
21 has met the requirements of Part 1.5 (commencing with Section
22 6550) of Division 11 of the Family Code.

23 (b) Independent study may commence upon receipt of an
24 electronic copy of the agreement specified in paragraph (3) of
25 subdivision (a).

26 (c) For purposes of this section, an “electronic copy” includes
27 a computer or electronic stored image of an original document,
28 including, but not limited to, portable document format (PDF),
29 JPEG, or other digital image file type, which may be sent via fax
30 machine, email, or other electronic means.

31 (d) As a condition of apportionment, ~~local educational agencies~~
32 *school districts, county offices of education, or charter schools*
33 shall retain written or electronic documentation that demonstrates
34 satisfactory educational progress for independent study pupils.