

AMENDED IN ASSEMBLY MARCH 21, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1264

Introduced by Assembly Member Conway
(Coauthors: Assembly Members Achadjian, Beth Gaines, Gorell,
Hagman, Harkey, and Morrell, and Nestande)

February 22, 2013

An act to amend Sections 32281, 32282, and 41020 of the Education Code, relating to school safety.

LEGISLATIVE COUNSEL'S DIGEST

AB 1264, as amended, Conway. Comprehensive school safety plans: tactical response plans.

(1) Existing law provides that school districts and county offices of education are responsible for the overall development of—a comprehensive school safety—~~plan~~ *plans* for its schools operating kindergarten or any of grades 1 to 12, inclusive. Existing law requires the schoolsite council of a school to write and develop—the *a* school safety plan relevant to the needs and resources of the particular school, except as specified with regard to a small school district. Existing law requires the school safety plan to include specified strategies and programs that will provide or maintain a high level of school safety. Existing law authorizes a school district or county office of education to elect to not have its schoolsite council develop and write portions of its school safety plan that include tactical responses to criminal incidents, as defined, and instead develop those portions of the school safety plan with law enforcement officials and other specified persons. Existing law provides certain protections from disclosure for this tactical response plan.

This bill would require a comprehensive school safety plan to include a tactical response plan and protocol for teachers to provide notification of ~~pupils~~ *a pupil* identified as having a potential mental health issue that is likely to result in violence or harm to the pupil or others. The bill would revise the definition of “tactical responses to criminal incidents” to include a plan to safeguard against incidents that include a firearm, explosive, or other deadly weapon. The bill would require a school district or county office of education to publicly announce its adoption or update of a tactical response plan, but would not require the school to disclose those portions of the plan that may be kept private pursuant to existing law.

(2) Existing law requires a county superintendent of schools to provide for an audit of all funds under his or her jurisdiction, and requires the governing board of a local educational agency to either provide for an audit of the books and accounts of the local educational agency or make arrangements with the county superintendent of schools having jurisdiction over the local educational agency to provide for that auditing. Existing law requires a county superintendent of schools to be responsible for reviewing the audit exceptions contained in an audit of a local educational agency under his or her jurisdiction related to specified topics, and determining whether the exceptions were either corrected or an acceptable plan of correction was developed. Existing law requires the county office of education to review certain audit exceptions upon submission and receipt of a final audit report. Existing law requires the Superintendent of Public Instruction to be responsible for ensuring that local educational agencies have either corrected or developed plans of correction for specified audit exceptions.

This bill, commencing with the 2014–15 fiscal year, would require the auditor to include in the audit report a summary of the extent to which a local educational agency has complied with the requirement that each of its schools develop a comprehensive school safety plan.

(3) By requiring school districts and county offices of education to perform additional duties in regards to their comprehensive school safety ~~plan~~ *plans*, the bill would impose a state-mandated local program.

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.

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

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

1 SECTION 1. Section 32281 of the Education Code is amended
2 to read:
3 32281. (a) Each school district and county office of education
4 is responsible for the overall development of all comprehensive
5 school safety plans for its schools operating kindergarten or any
6 of grades 1 to 12, inclusive.
7 (b) (1) Except as provided in subdivision (d) ~~with regard to a~~
8 ~~small school district~~, the schoolsite council established pursuant
9 to former Section 52012, as it existed before July 1, 2005, or
10 Section 52852 shall write and develop a comprehensive school
11 safety plan relevant to the needs and resources of that particular
12 school.
13 (2) The schoolsite council may delegate this responsibility to a
14 school safety planning committee made up of the following
15 members:
16 (A) The principal or the principal's designee.
17 (B) One teacher who is a representative of the recognized
18 certificated employee organization.
19 (C) One parent whose child attends the school.
20 (D) One classified employee who is a representative of the
21 recognized classified employee organization.
22 (E) Other members, if desired.
23 (3) The schoolsite council shall consult with a representative
24 from a law enforcement agency in the writing and development
25 of the comprehensive school safety plan.
26 (4) In the absence of a schoolsite council, the members specified
27 in paragraph (2) shall serve as the school safety planning
28 committee.
29 (c) Nothing in this article shall limit or take away the authority
30 of school boards as guaranteed under this code.
31 (d) (1) Subdivision (b) shall not apply to a small school district,
32 as defined in paragraph (2), if the small school district develops a

1 districtwide comprehensive school safety plan that is applicable
2 to each schoolsite.

3 (2) As used in this article, “small school district” means a school
4 district that has fewer than 2,501 units of average daily attendance
5 at the beginning of each fiscal year.

6 (e) (1) When a principal or his or her designee verifies through
7 local law enforcement officials that a report has been filed of the
8 occurrence of a violent crime on the schoolsite of an elementary
9 or secondary school at which he or she is the principal, the principal
10 or the principal’s designee may send to each pupil’s parent or legal
11 guardian and each school employee a written notice of the
12 occurrence and general nature of the crime. If the principal or his
13 or her designee chooses to send the written notice, the Legislature
14 encourages the notice be sent no later than the end of business on
15 the second regular work day after the verification. If, at the time
16 of verification, local law enforcement officials determine that
17 notification of the violent crime would hinder an ongoing
18 investigation, the notification authorized by this subdivision shall
19 be made within a reasonable period of time, to be determined by
20 the local law enforcement agency and the school district. For
21 purposes of this section, an act that is considered a “violent crime”
22 shall meet the definition of Section 67381 and be an act for which
23 a pupil could or would be expelled pursuant to Section 48915.

24 (2) Nothing in this subdivision shall create any liability in a
25 school district or its employees for complying with paragraph (1).

26 (f) (1) Notwithstanding subdivision (b), a school district or
27 county office of education may, in consultation with law
28 enforcement officials, elect to not have its schoolsite council
29 develop and write those portions of its comprehensive school safety
30 plan that include tactical responses to criminal incidents that may
31 result in death or serious bodily injury at the schoolsite. The
32 portions of a school safety plan that include tactical responses to
33 criminal incidents may be developed by administrators of the
34 school district or county office of education in consultation with
35 law enforcement officials and with a representative of an exclusive
36 bargaining unit of employees of that school district or county office
37 of education, if he or she chooses to participate. The school district
38 or county office of education may elect not to disclose those
39 portions of the comprehensive school safety plan that include
40 tactical responses to criminal incidents.

1 (2) As used in this article, “tactical responses to criminal
2 incidents” means steps taken to safeguard pupils and staff, to secure
3 the affected school premises, and to apprehend the criminal
4 perpetrator or perpetrators, including, but not limited to, a plan to
5 safeguard against incidents that include a firearm, explosive, or
6 other deadly weapon.

7 (3) Nothing in this subdivision precludes the governing board
8 of a school district or county office of education from conferring
9 in a closed session with law enforcement officials pursuant to
10 Section 54957 of the Government Code to approve a tactical
11 response plan developed in consultation with those officials
12 pursuant to this subdivision. Any vote to approve the tactical
13 response plan shall be announced in open session following the
14 closed session.

15 (4) A school district or county office of education shall publicly
16 announce its adoption or update of a tactical response plan, but
17 shall not be required to disclose those portions of the plan that may
18 be kept private pursuant to this subdivision.

19 (5) Nothing in this subdivision shall be construed to reduce or
20 eliminate the requirements of Section 32282.

21 SEC. 2. Section 32282 of the Education Code is amended to
22 read:

23 32282. (a) The comprehensive school safety plan shall include,
24 but not be limited to, both of the following:

25 (1) Assessing the current status of school crime committed on
26 school campuses and at school-related functions.

27 (2) Identifying appropriate strategies and programs that will
28 provide or maintain a high level of school safety and address the
29 school’s procedures for complying with existing laws related to
30 school safety, which shall include the development of all of the
31 following:

32 (A) Child abuse reporting procedures consistent with Article
33 2.5 (commencing with Section 11164) of Chapter 2 of Title 1 of
34 Part 4 of the Penal Code.

35 (B) Disaster procedures, routine and emergency, including
36 adaptations for pupils with disabilities in accordance with the
37 federal Americans with Disabilities Act of 1990 (42 U.S.C. Sec.
38 12101 et seq.). The disaster procedures shall also include, but not
39 be limited to, both of the following:

(i) Establishing an earthquake emergency procedure system in every public school building having an occupant capacity of 50 or more pupils or more than one classroom. A district or county office may work with the California Emergency Management Agency and the Seismic Safety Commission to develop and establish the earthquake emergency procedure system. The system shall include, but not be limited to, all of the following:

(I) A school building disaster plan, ready for implementation at any time, for maintaining the safety and care of pupils and staff.

(II) A drop procedure whereby each pupil and staff member takes cover under a table or desk, dropping to his or her knees, with the head protected by the arms, and the back to the windows. A drop procedure practice shall be held at least once each school quarter in elementary schools and at least once a semester in secondary schools.

(III) Protective measures to be taken before, during, and following an earthquake.

(IV) A program to ensure that pupils and both the certificated and classified staff are aware of, and properly trained in, the earthquake emergency procedure system.

(ii) Establishing a procedure to allow a public agency, including the American Red Cross, to use school buildings, grounds, and equipment for mass care and welfare shelters during disasters or other emergencies affecting the public health and welfare. The district or county office shall cooperate with the public agency in furnishing and maintaining the services as the district or county office may deem necessary to meet the needs of the community.

(C) Policies pursuant to subdivision (d) of Section 48915 for pupils who committed an act listed in subdivision (c) of Section 48915 and other school-designated serious acts that would lead to suspension, expulsion, or mandatory expulsion recommendations pursuant to Article 1 (commencing with Section 48900) of Chapter 6 of Part 27 of Division 4 of Title 2.

(D) Procedures to notify teachers of dangerous pupils pursuant to Section 49079.

(E) A discrimination and harassment policy consistent with the prohibition against discrimination contained in Chapter 2 (commencing with Section 200) of Part 1.

(F) The provisions of any schoolwide dress code, pursuant to Section 35183, that prohibits pupils from wearing “gang-related

1 apparel,” if the school has adopted that type of a dress code. For
2 those purposes, the comprehensive school safety plan shall define
3 “gang-related apparel.” The definition shall be limited to apparel
4 that, if worn or displayed on a school campus, reasonably could
5 be determined to threaten the health and safety of the school
6 environment. Any schoolwide dress code established pursuant to
7 this section and Section 35183 shall be enforced on the school
8 campus and at any school-sponsored activity by the principal of
9 the school or the person designated by the principal. For purposes
10 of this paragraph, “gang-related apparel” shall not be considered
11 a protected form of speech pursuant to Section 48950.

12 (G) Procedures for safe ingress and egress of pupils, parents,
13 and school employees to and from school.

14 (H) A safe and orderly environment conducive to learning at
15 the school.

16 (I) The rules and procedures on school discipline adopted
17 pursuant to Sections 35291 and 35291.5.

18 (J) A tactical response plan as provided for in subdivision (f)
19 of Section 32281.

20 (K) Protocol for teachers to provide notification of ~~pupils a~~
21 *pupil* identified as having a potential mental health issue that is
22 likely to result in violence or harm to the pupil or others.

23 (b) It is the intent of the Legislature that schools develop
24 comprehensive school safety plans using existing resources,
25 including the materials and services of the partnership, pursuant
26 to this chapter. It is also the intent of the Legislature that schools
27 use the handbook developed and distributed by the School/Law
28 Enforcement Partnership Program entitled “Safe Schools: A
29 Planning Guide for Action” in conjunction with developing their
30 plan for school safety.

31 (c) Grants to assist schools in implementing their comprehensive
32 school safety ~~plan~~ *plans* shall be made available through the
33 partnership as authorized by Section 32285.

34 (d) Each schoolsite council or school safety planning committee
35 in developing and updating a comprehensive school safety plan
36 shall, where practical, consult, cooperate, and coordinate with
37 other schoolsite councils or school safety planning committees.

38 (e) The comprehensive school safety plan may be evaluated and
39 amended, as needed, by the school safety planning committee, but
40 shall be evaluated at least once a year, to ensure that the

1 comprehensive school safety plan is properly implemented. An
2 updated file of all safety-related plans and materials shall be readily
3 available for inspection by the public.

4 (f) As comprehensive school safety plans are reviewed and
5 updated, the Legislature encourages all plans, to the extent that
6 resources are available, to include policies and procedures aimed
7 at the prevention of bullying.

8 (g) The comprehensive school safety plan, as written and
9 updated by the schoolsite council or school safety planning
10 committee, shall be submitted for approval under subdivision (a)
11 of Section 32288.

12 SEC. 3. Section 41020 of the Education Code is amended to
13 read:

14 41020. (a) It is the intent of the Legislature to encourage sound
15 fiscal management practices among local educational agencies for
16 the most efficient and effective use of public funds for the
17 education of children in California by strengthening fiscal
18 accountability at the district, county, and state levels.

19 (b) (1) Not later than May 1 of each fiscal year, each county
20 superintendent of schools shall provide for an audit of all funds
21 under his or her jurisdiction and control, and the governing board
22 of each local educational agency shall either provide for an audit
23 of the books and accounts of the local educational agency,
24 including an audit of income and expenditures by source of funds,
25 or make arrangements with the county superintendent of schools
26 having jurisdiction over the local educational agency to provide
27 for that auditing.

28 (2) A contract to perform the audit of a local educational agency
29 that has a disapproved budget or has received a negative
30 certification on any budget or interim financial report during the
31 current fiscal year or either of the two preceding fiscal years, or
32 for which the county superintendent of schools has otherwise
33 determined that a lack of going concern exists, is not valid unless
34 approved by the responsible county superintendent of schools and
35 the governing board.

36 (3) If the governing board of a local educational agency has not
37 provided for an audit of the books and accounts of the local
38 educational agency by April 1, the county superintendent of schools
39 having jurisdiction over the local educational agency shall provide
40 for the audit of each local educational agency.

1 (4) An audit conducted pursuant to this section shall comply
2 fully with the Government Auditing Standards issued by the
3 Comptroller General of the United States.

4 (5) For purposes of this section, “local educational agency” does
5 not include community colleges.

6 (c) Each audit conducted in accordance with this section shall
7 include all funds of the local educational agency, including the
8 student body and cafeteria funds and accounts and any other funds
9 under the control or jurisdiction of the local educational agency.
10 Each audit shall also include an audit of pupil attendance
11 procedures.

12 (d) All audit reports for each fiscal year shall be developed and
13 reported using a format established by the Controller after
14 consultation with the Superintendent and the Director of Finance.

15 (e) (1) The cost of the audits provided for by the county
16 superintendent of schools shall be paid from the county school
17 service fund, and the county superintendent of schools shall transfer
18 the pro rata share of the cost chargeable to each district from district
19 funds.

20 (2) The cost of the audit provided for by a governing board shall
21 be paid from local educational agency funds. The audit of the funds
22 under the jurisdiction and control of the county superintendent of
23 schools shall be paid from the county school service fund.

24 (f) (1) The audits shall be made by a certified public accountant
25 or a public accountant, licensed by the California Board of
26 Accountancy, and selected by the local educational agency, as
27 applicable, from a directory of certified public accountants and
28 public accountants deemed by the Controller as qualified to conduct
29 audits of local educational agencies, which shall be published by
30 the Controller not later than December 31 of each year.

31 (2) Commencing with the 2003–04 fiscal year and except as
32 provided in subdivision (d) of Section 41320.1, it is unlawful for
33 a public accounting firm to provide audit services to a local
34 educational agency if the lead audit partner, or coordinating audit
35 partner, having primary responsibility for the audit, or the audit
36 partner responsible for reviewing the audit, has performed audit
37 services for that local educational agency in each of the six previous
38 fiscal years. The Education Audit Appeals Panel may waive this
39 requirement if the panel finds that no otherwise eligible auditor is
40 available to perform the audit.

(3) It is the intent of the Legislature that, notwithstanding paragraph (2), the rotation within public accounting firms conform to provisions of the federal Sarbanes-Oxley Act of 2002 (P.L. 107-204; 15 U.S.C. Sec. 7201 et seq.), and upon release of the report required by the act of the Comptroller General of the United States addressing the mandatory rotation of registered public accounting firms, the Legislature intends to reconsider the provisions of paragraph (2). In determining which certified public accountants and public accountants shall be included in the directory, the Controller shall use the following criteria:

(A) The certified public accountants or public accountants shall be in good standing as certified by the Board of Accountancy.

(B) The certified public accountants or public accountants, as a result of a quality control review conducted by the Controller pursuant to Section 14504.2, shall not have been found to have conducted an audit in a manner constituting noncompliance with subdivision (a) of Section 14503.

(g) (1) The auditor's report shall include each of the following:

(A) A statement that the audit was conducted pursuant to standards and procedures developed in accordance with Chapter 3 (commencing with Section 14500) of Part 9 of Division 1 of Title 1.

(B) A summary of audit exceptions and management improvement recommendations.

(C) An evaluation by the auditor on whether there is substantial doubt about the ability of the local educational agency to continue as a going concern for a reasonable period of time. This evaluation shall be based on the Statement of Auditing Standards (SAS) No. 59, as issued by the AICPA regarding disclosure requirements relating to the ability of the entity to continue as a going concern.

(D) Commencing with the 2014–15 fiscal year, a summary of the extent to which the local educational agency has complied with the requirement that each of its schools develop a comprehensive school safety plan pursuant to Section 32281.

(2) To the extent possible, a description of correction or plan of correction shall be incorporated in the audit report, describing the specific actions that are planned to be taken, or that have been taken, to correct the problem identified by the auditor. The descriptions of specific actions to be taken or that have been taken shall not solely consist of general comments such as “will

1 implement,” “accepted the recommendation,” or “will discuss at
2 a later date.”

3 (h) Not later than December 15, a report of each local
4 educational agency audit for the preceding fiscal year shall be filed
5 with the county superintendent of schools of the county in which
6 the local educational agency is located, the department, and the
7 Controller. The Superintendent shall make any adjustments
8 necessary in future apportionments of all state funds to correct any
9 audit exceptions revealed by those audit reports.

10 (i) (1) Commencing with the 2002–03 audit of local educational
11 agencies pursuant to this section and subdivision (d) of Section
12 41320.1, each county superintendent of schools shall be responsible
13 for reviewing the audit exceptions contained in an audit of a local
14 educational agency under his or her jurisdiction related to
15 attendance, inventory of equipment, internal control, and any
16 miscellaneous items, and determining whether the exceptions have
17 been either corrected or an acceptable plan of correction has been
18 developed.

19 (2) Commencing with the 2004–05 audit of local educational
20 agencies pursuant to this section and subdivision (d) of Section
21 41320.1, each county superintendent of schools shall include in
22 the review of audit exceptions performed pursuant to this
23 subdivision those audit exceptions related to use of instructional
24 materials program funds, teacher misassignments pursuant to
25 Section 44258.9, and information reported on the school
26 accountability report card required pursuant to Section 33126, and
27 shall determine whether the exceptions are either corrected or an
28 acceptable plan of correction has been developed.

29 (j) Upon submission of the final audit report to the governing
30 board of each local educational agency and subsequent receipt of
31 the audit by the county superintendent of schools having
32 jurisdiction over the local educational agency, the county office
33 of education shall do all of the following:

34 (1) Review audit exceptions related to attendance, inventory of
35 equipment, internal control, and other miscellaneous exceptions.
36 Attendance exceptions or issues shall include, but not be limited
37 to, those related to revenue limits, adult education, and independent
38 study.

39 (2) If a description of the correction or plan of correction has
40 not been provided as part of the audit required by this section, then

1 the county superintendent of schools shall notify the local
2 educational agency and request the governing board of the local
3 educational agency to provide to the county superintendent of
4 schools a description of the corrections or plan of correction by
5 March 15.

6 (3) Review the description of correction or plan of correction
7 and determine its adequacy. If the description of the correction or
8 plan of correction is not adequate, the county superintendent of
9 schools shall require the local educational agency to resubmit that
10 portion of its response that is inadequate.

11 (k) Each county superintendent of schools shall certify to the
12 Superintendent and the Controller, not later than May 15, that his
13 or her staff has reviewed all audits of local educational agencies
14 under his or her jurisdiction for the prior fiscal year, that all
15 exceptions that the county superintendent was required to review
16 were reviewed, and that all of those exceptions, except as otherwise
17 noted in the certification, have been corrected by the local
18 educational agency or that an acceptable plan of correction has
19 been submitted to the county superintendent of schools. In addition,
20 the county superintendent shall identify, by local educational
21 agency, any attendance-related audit exception or exceptions
22 involving state funds, and require the local educational agency to
23 which the audit exceptions were directed to submit appropriate
24 reporting forms for processing by the Superintendent.

25 (l) In the audit of a local educational agency for a subsequent
26 year, the auditor shall review the correction or plan or plans of
27 correction submitted by the local educational agency to determine
28 if the exceptions have been resolved. If not, the auditor shall
29 immediately notify the appropriate county office of education and
30 the department and restate the exception in the audit report. After
31 receiving that notification, the department shall either consult with
32 the local educational agency to resolve the exception or require
33 the county superintendent of schools to follow up with the local
34 educational agency.

35 (m) (1) The Superintendent shall be responsible for ensuring
36 that local educational agencies have either corrected or developed
37 plans of correction for any one or more of the following:

38 (A) All federal and state compliance audit exceptions identified
39 in the audit.

1 (B) Any exceptions that the county superintendent certifies as
2 of May 15 have not been corrected.

3 (C) Any repeat audit exceptions that are not assigned to a county
4 superintendent to correct.

5 (2) In addition, the Superintendent shall be responsible for
6 ensuring that county superintendents of schools and each county
7 board of education that serves as the governing board of a local
8 educational agency either correct all audit exceptions identified in
9 the audits of county superintendents of schools and of the local
10 educational agencies for which the county boards of education
11 serve as the governing boards or develop acceptable plans of
12 correction for those exceptions.

13 (3) The Superintendent shall report annually to the Controller
14 on his or her actions to ensure that school districts, county
15 superintendents of schools, and each county board of education
16 that serves as the governing board of a school district have either
17 corrected or developed plans of correction for any of the exceptions
18 noted pursuant to paragraph (1).

19 (n) To facilitate correction of the exceptions identified by the
20 audits issued pursuant to this section, commencing with 2002–03
21 audits pursuant to this section, the Controller shall require auditors
22 to categorize audit exceptions in each audit report in a manner that
23 will make it clear to both the county superintendent of schools and
24 the Superintendent which exceptions they are responsible for
25 ensuring the correction of by a local educational agency. In
26 addition, the Controller annually shall select a sampling of county
27 superintendents of schools, perform a followup of the audit
28 resolution process of those county superintendents of schools, and
29 report the results of that followup to the Superintendent and the
30 county superintendents of schools that were reviewed.

31 (o) County superintendents of schools shall adjust subsequent
32 local property tax requirements to correct audit exceptions relating
33 to local educational agency tax rates and tax revenues.

34 (p) If a governing board or county superintendent of schools
35 fails or is unable to make satisfactory arrangements for the audit
36 pursuant to this section, the Controller shall make arrangements
37 for the audit, and the cost of the audit shall be paid from local
38 educational agency funds or the county school service fund, as the
39 case may be.

1 (q) Audits of regional occupational centers and programs are
2 subject to the provisions of this section.

3 (r) This section does not authorize examination of, or reports
4 on, the curriculum used or provided for in any local educational
5 agency.

6 (s) Notwithstanding any other law, a nonauditing, management,
7 or other consulting service to be provided to a local educational
8 agency by a certified public accounting firm while the certified
9 public accounting firm is performing an audit of the agency
10 pursuant to this section shall be in accord with Government
11 Accounting Standards, Amendment No. 3, as published by the
12 United States General Accounting Office.

13 SEC. 4. If the Commission on State Mandates determines that
14 this act contains costs mandated by the state, reimbursement to
15 local agencies and school districts for those costs shall be made
16 pursuant to Part 7 (commencing with Section 17500) of Division
17 4 of Title 2 of the Government Code.