

AMENDED IN ASSEMBLY JANUARY 4, 2016

AMENDED IN ASSEMBLY APRIL 13, 2015

AMENDED IN ASSEMBLY MARCH 26, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

## ASSEMBLY BILL

No. 412

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**Introduced by Assembly Member Chávez**

February 19, 2015

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An act to amend Section ~~51210~~ 56000.5 of the Education Code, relating to ~~pupil instruction~~: *special education*.

### LEGISLATIVE COUNSEL'S DIGEST

AB 412, as amended, Chávez. ~~Pupil instruction: required courses of study: physical education complaint procedure.~~ *Special education: nonverbal pupils.*

*Existing law makes certain findings and declarations relating to the education of hard-of-hearing and deaf pupils.*

*This bill would revise those findings and declarations to include nonverbal pupils.*

Existing law requires the adopted course of study for grades 1 to 6, inclusive, to include certain areas of study, including, among others, English, mathematics, social sciences, science, and physical education, as specified. Existing law requires that physical education have a total period of time of not less than 200 minutes each 10 schooldays, as provided.

This bill would authorize a complaint that a school district or county superintendent of schools has not complied with the physical education requirements of the adopted course of study for grades 1 to 6, inclusive, to be filed with the school district or county superintendent of schools

~~pursuant to the local complaint procedures, if any, or the Uniform Complaint Procedures, as specified. The bill would authorize a complainant not satisfied with the school district's or county superintendent of schools decision to file an appeal with the Superintendent of Public Instruction. If a school district or county superintendent of schools finds merit in the complaint, or the Superintendent finds merit in the appeal, the bill would require the school district or county superintendent of schools to provide a remedy, as provided. To the extent this bill would impose additional duties on school districts or county education officials, the bill would impose a state-mandated local program. The bill would prohibit specified civil actions against a school district or county superintendent of schools relating to noncompliance with the physical education requirements unless the complainant first follows local complaint procedures, if any, or the Uniform Complaint Procedures, if no local complaint procedures exist.~~

~~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-no. State-mandated local program: yes-no.~~

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

1     SECTION 1. Section 56000.5 of the Education Code is amended  
 2     to read:  
 3     56000.5. (a) The Legislature finds and declares that:  
 4     (1) Pupils with low-incidence disabilities, as a group, make up  
 5     less than 1 percent of the total statewide enrollment for  
 6     kindergarten through grade 12.  
 7     (2) Pupils with low-incidence disabilities require highly  
 8     specialized services, equipment, and materials.  
 9     (b) The Legislature further finds and declares that:  
 10    (1) Deafness involves the most basic of human needs—the  
 11    ability to communicate with other human beings. Many  
 12    ~~hard-of-hearing and deaf~~ *hard-of-hearing, deaf, and nonverbal*

1 children use an appropriate communication mode, sign language,  
2 which may be their primary language, while others express and  
3 receive language orally and aurally, with or without visual signs  
4 or cues. Still others, typically young ~~hard-of-hearing and deaf~~  
5 *hard-of-hearing, deaf, and nonverbal* children, lack any significant  
6 language skills. It is essential for the well-being and growth of  
7 ~~hard-of-hearing and deaf~~ *hard-of-hearing, deaf, and nonverbal*  
8 children that educational programs recognize the unique nature of  
9 deafness and ensure that all ~~hard-of-hearing and deaf~~  
10 *hard-of-hearing, deaf, and nonverbal* children have appropriate,  
11 ongoing, and fully accessible educational opportunities.

12 (2) It is essential that ~~hard-of-hearing and deaf~~ *hard-of-hearing,*  
13 *deaf, and nonverbal* children, like all children, have an education  
14 in which their unique communication mode is respected, utilized,  
15 and developed to an appropriate level of proficiency.

16 (3) It is essential that ~~hard-of-hearing and deaf~~ *hard-of-hearing,*  
17 *deaf, and nonverbal* children have an education in which special  
18 education teachers, psychologists, speech therapists, assessors,  
19 administrators, and other special education personnel understand  
20 the unique nature of deafness and are specifically trained to work  
21 with ~~hard-of-hearing and deaf~~ *hard-of-hearing, deaf, and nonverbal*  
22 pupils. It is essential that ~~hard-of-hearing and deaf~~ *hard-of-hearing,*  
23 *deaf, and nonverbal* children have an education in which their  
24 special education teachers are proficient in the primary language  
25 mode of those children.

26 (4) It is essential that ~~hard-of-hearing and deaf~~ *hard-of-hearing,*  
27 *deaf, and nonverbal* children, like all children, have an education  
28 with a sufficient number of language mode peers with whom they  
29 can communicate directly and who are of the same, or  
30 approximately the same, age and ability level.

31 (5) It is essential that ~~hard-of-hearing and deaf~~ *hard-of-hearing,*  
32 *deaf, and nonverbal* children have an education in which their  
33 parents and, where appropriate, ~~hard-of-hearing and deaf~~  
34 *hard-of-hearing, deaf, and nonverbal* people are involved in  
35 determining the extent, content, and purpose of programs.

36 (6) ~~Hard-of-hearing and deaf~~ *hard-of-hearing, deaf, and*  
37 *nonverbal* children would benefit from an education in which they  
38 are exposed to ~~hard-of-hearing and deaf~~ *hard-of-hearing, deaf,*  
39 *and nonverbal* role models.

(7) It is essential that ~~hard-of-hearing and deaf~~ *hard-of-hearing, deaf, and nonverbal* children, like all children, have programs in which they have direct and appropriate access to all components of the educational process, including, but not limited to, recess, lunch, and extracurricular social and athletic activities.

(8) It is essential that ~~hard-of-hearing and deaf~~ *hard-of-hearing, deaf, and nonverbal* children, like all children, have programs in which their unique vocational needs are provided for, including appropriate research, curricula, programs, staff, and outreach.

(9) Each ~~hard-of-hearing and deaf~~ *hard-of-hearing, deaf, and nonverbal* child should have a determination of the least restrictive educational environment that takes into consideration these legislative findings and declarations.

(10) Given their unique communication needs, ~~hard-of-hearing and deaf~~ *hard-of-hearing, deaf, and nonverbal* children would benefit from the development and implementation of regional programs for children with low-incidence disabilities.

SECTION 1. ~~Section 51210 of the Education Code is amended to read:~~

51210. (a) ~~The adopted course of study for grades 1 to 6, inclusive, shall include instruction, beginning in grade 1 and continuing through grade 6, in the following areas of study:~~

(1) ~~English, including knowledge of, and appreciation for literature and the language, as well as the skills of speaking, reading, listening, spelling, handwriting, and composition.~~

(2) ~~Mathematics, including concepts, operational skills, and problem solving.~~

(3) ~~Social sciences, drawing upon the disciplines of anthropology, economics, geography, history, political science, psychology, and sociology, designed to fit the maturity of the pupils. Instruction shall provide a foundation for understanding the history, resources, development, and government of California and the United States of America; the development of the American economic system, including the role of the entrepreneur and labor; the relations of persons to their human and natural environment; eastern and western cultures and civilizations; contemporary issues; and the wise use of natural resources.~~

(4) ~~Science, including the biological and physical aspects, with emphasis on the processes of experimental inquiry and on the place of humans in ecological systems.~~

1     ~~(5) Visual and performing arts, including instruction in the~~  
2 ~~subjects of dance, music, theater, and visual arts, aimed at the~~  
3 ~~development of aesthetic appreciation and the skills of creative~~  
4 ~~expression.~~

5     ~~(6) Health, including instruction in the principles and practices~~  
6 ~~of individual, family, and community health.~~

7     ~~(7) Physical education, with emphasis upon the physical~~  
8 ~~activities for the pupils that may be conducive to health and vigor~~  
9 ~~of body and mind, for a total period of time of not less than 200~~  
10 ~~minutes each 10 schooldays, exclusive of recesses and the lunch~~  
11 ~~period.~~

12     ~~(8) Other studies that may be prescribed by the governing board.~~

13     ~~(b) (1) A complaint that a school district or county~~  
14 ~~superintendent of schools has not complied with the physical~~  
15 ~~education requirements of paragraph (7) of subdivision (a) may~~  
16 ~~be filed with a school district or county superintendent of schools~~  
17 ~~pursuant to the local complaint procedures, if any, or the Uniform~~  
18 ~~Complaint Procedures set forth in Chapter 5.1 (commencing with~~  
19 ~~Section 4600) of Division 1 of Title 5 of the California Code of~~  
20 ~~Regulations.~~

21     ~~(2) A complainant not satisfied with the decision of the school~~  
22 ~~district or county superintendent of schools may appeal the decision~~  
23 ~~to the Superintendent and shall receive a written appeal decision~~  
24 ~~within 60 days of the Superintendent's receipt of the appeal.~~

25     ~~(3) If a school district or county superintendent of schools finds~~  
26 ~~merit in a complaint filed pursuant to this subdivision, or if the~~  
27 ~~Superintendent finds merit in an appeal made pursuant to paragraph~~  
28 ~~(2), the school district or county superintendent of schools shall~~  
29 ~~provide a remedy to all affected pupils, parents, and guardians.~~

30     ~~(4) A private right of action or civil action shall not be brought~~  
31 ~~against a school district or county superintendent of schools relating~~  
32 ~~to noncompliance with the physical education requirements of~~  
33 ~~paragraph (7) of subdivision (a) unless the complainant first follows~~  
34 ~~the local complaint procedures, if any, or the Uniform Complaint~~  
35 ~~Procedures, pursuant to Chapter 5.1 (commencing with Section~~  
36 ~~4600) of Division 1 of Title 5 of the California Code of~~  
37 ~~Regulations, if no local complaint procedures exist.~~

38     ~~SEC. 2. If the Commission on State Mandates determines that~~  
39 ~~this act contains costs mandated by the state, reimbursement to~~  
40 ~~local agencies and school districts for those costs shall be made~~

- 1 pursuant to Part 7 (commencing with Section 17500) of Division
- 2 4 of Title 2 of the Government Code.

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