

AMENDED IN ASSEMBLY MAY 6, 2015

AMENDED IN ASSEMBLY APRIL 7, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 1012

Introduced by Assembly Member Jones-Sawyer
(Coauthors: Senators Hall and Mitchell)

February 26, 2015

An act to add Sections 51228.1, 51228.2, and 51228.3 to the Education Code, relating to pupil instruction.

LEGISLATIVE COUNSEL'S DIGEST

AB 1012, as amended, Jones-Sawyer. Pupil instruction: course periods without educational content.

(1) Existing law establishes a system of public elementary and secondary education in this state, and requires and authorizes local educational agencies to provide specified instruction at elementary and secondary schools. Existing law prescribes various requirements with respect to a course of study for grades 7 to 12, inclusive, at these schools.

This ~~bill~~ *bill*, commencing with the 2016–17 school year, would prohibit school districts that maintain any of grades 7 to 12, inclusive, from assigning any pupil enrolled in a school, as defined to exclude alternative schools, community day schools, continuation schools, and opportunity schools, in the school district to any course period without educational content, as defined, for more than one week in any semester, except under prescribed conditions. The bill would specifically prohibit school districts from assigning any pupil enrolled in a school in the school district to a course period without educational content because

there are not sufficient curricular course offerings for the pupil to take during the relevant period of the designated schoolday.

The bill would also prohibit school districts that maintain any of grades 7 to 12, inclusive, from assigning a pupil to a course that the pupil has previously completed and received a grade determined by the school district to be sufficient to satisfy the requirements and prerequisites for admission to the California public institutions of postsecondary education and the minimum requirements for receiving a diploma of graduation from high school, except under specified conditions.

The bill would specify that it is not to be interpreted to limit or otherwise affect the authority of a school district to provide evening high school programs, independent study programs, or work-based learning or work experience education.

~~The bill would specify procedures to be followed if a school district determines that, at any point during the current or preceding academic year, one or more of its schools have not satisfied the requirements of the bill. The bill would also authorize members of the public to file complaints alleging violations of the provisions of the bill, and would provide for procedures for the disposition of these complaints. *complaint of noncompliance with the requirements of the bill is filed with a local educational agency. The bill would require the Superintendent of Public Instruction to prepare an annual report detailing actions taken pursuant to these procedures.*~~

~~The bill would require the Superintendent of Public Instruction to adopt regulations governing these provisions.~~

To the extent that this bill would create new duties for local educational agencies, it would constitute a state-mandated local program.

(2) 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 51228.1 is added to the Education Code,
2 to read:

3 51228.1. (a) ~~Except~~ *Commencing with the 2016–17 school*
4 *year, except* as provided in subdivision (e), a school district
5 maintaining any of grades 7 to 12, inclusive, shall not assign any
6 pupil enrolled in a school in the school district to any course period
7 without educational content for more than one week in any
8 semester, unless all of the following conditions are satisfied:

9 (1) For any pupil who has not fulfilled the prerequisites for
10 admission to the California public institutions of postsecondary
11 education or the minimum requirements for receiving a diploma
12 of graduation from high school established in this article:

13 (A) The principal or an assistant principal of the school certifies
14 in a document to be placed in the pupil’s cumulative record that
15 the pupil will benefit from being assigned to the course period,
16 and provides an individualized explanation in the written
17 certification for that conclusion, which may include an
18 individualized determination that the pupil will benefit from
19 mentorship that will be provided by the certificated or certified
20 employee supervising the pupil during the relevant period.

21 (B) The principal or an assistant principal of the school certifies
22 in a document to be placed in the pupil’s cumulative file that
23 providing a course period with educational content is not likely to
24 benefit the pupil to the same extent as providing the course period
25 without educational content, and provides an explanation in the
26 written certification for that conclusion.

27 (C) The principal or an assistant principal of the school certifies
28 in a document to be placed in the pupil’s cumulative record that
29 the pupil is not being assigned to the course because there are no
30 other courses with curricular content for the pupil to take during
31 the relevant period in the designated schoolday.

32 (D) The principal or an assistant principal of the school certifies
33 in a document to be placed in the pupil’s cumulative record that
34 the pupil and the parent, legal guardian, or educational rights holder
35 of the pupil have consented to the pupil’s enrollment in the course
36 period without educational content and that the school has obtained
37 a consent form, signed by the pupil and the parent, legal guardian,
38 or educational rights holder of the pupil.

1 (E) The pupil is assigned to no more than one course period
 2 without educational content during a single semester.

3 (2) For any pupil who has fulfilled both the prerequisites for
 4 admission to the California public institutions of postsecondary
 5 education and the minimum requirements for receiving a diploma
 6 of graduation from high school established in this article:

7 (A) The principal or an assistant principal of the school certifies
 8 in a document to be placed in the pupil’s cumulative record that
 9 the pupil will benefit from being assigned to the course period and
 10 provides an individualized explanation in the written certification
 11 for that conclusion, which may include an individualized
 12 determination that the pupil will benefit from mentorship that will
 13 be provided by the certificated or certified employee supervising
 14 the pupil during the relevant period or identification of the
 15 educational or employment opportunity that assigning the course
 16 period will allow the pupil to pursue and reason for concluding
 17 the pupil will, in fact, pursue that opportunity.

18 (B) The principal or an assistant principal of the school certifies
 19 in a document to be placed in the pupil’s cumulative record that
 20 the pupil is not being assigned to the course because there are no
 21 other courses with curricular content for the pupil to take during
 22 the relevant period in the designated schoolday.

23 (C) The principal or an assistant principal of the school certifies
 24 in a document to be placed in the pupil’s cumulative record that
 25 the pupil and the parent, legal guardian, or educational rights holder
 26 of the pupil have consented to the pupil’s enrollment in the course
 27 period without educational content and that the school has obtained
 28 a consent form, signed by the pupil and the parent, legal guardian,
 29 or educational rights holder of the pupil.

30 (b) Under no circumstances shall a school district assign any
 31 pupil enrolled in a school in the school district to a course period
 32 without educational content because there are not sufficient
 33 curricular course offerings for the pupil to take during the relevant
 34 period of the designated schoolday.

35 (c) For purposes of this section, “course period without
 36 educational content” is defined as one course period during which
 37 ~~the pupil is expected to engage in activities with no assigned or~~
 38 ~~planned substantive curricular content. This definition includes,~~
 39 ~~but is not limited to, a course period during which a pupil is~~
 40 ~~assigned to a room in which no certificated staff is designated to~~

1 ~~provide instruction or assistance with assignments or curricular~~
2 ~~content from other assigned courses, any of the following occurs:~~

3 (1) *The pupil is sent home or released from campus before the*
4 *conclusion of the designated schoolday, or schoolday.*

5 (2) *The pupil is assigned to service, instructional work*
6 *experience, or to a course that has a different name, but involves*
7 *the pupil providing assistance to a certificated employee in a*
8 *situation in which the ratio of pupil to employee is greater than*
9 *one to one.*

10 (3) *The pupil is not assigned to any course for the relevant course*
11 *period.*

12 (d) Nothing in this section shall be interpreted to limit or
13 otherwise affect the authority of a school district to establish and
14 maintain evening high school programs, as provided for in Article
15 3 (commencing with Section 51720) of Chapter 5, to offer
16 independent study, as provided for in Article 5.5 (commencing
17 with Section 51745) of Chapter 5, to provide courses of work-based
18 learning or work experience education, as provided for in Article
19 7 (commencing with Section 51760) of Chapter 5, or to offer any
20 class or course of instruction authorized under Chapter 5
21 (commencing with Section 51700), if the program otherwise meets
22 all of the requirements of law governing that program.

23 (e) This section shall not apply to a pupil enrolled in any of the
24 following:

- 25 (1) An alternative school.
- 26 (2) A community day school.
- 27 (3) A continuation high school.
- 28 (4) An opportunity school.

29 (f) The Superintendent shall adopt regulations to establish
30 procedures governing this section, including the form of the
31 certifications required pursuant to subdivision (a).

32 SEC. 2. Section 51228.2 is added to the Education Code, to
33 read:

34 51228.2. (a) Except as provided in subdivision (d), a school
35 district maintaining any of grades 7 to 12, inclusive, shall not assign
36 any pupil enrolled in a school in the school district to a course that
37 the pupil has previously completed and received a grade determined
38 by the school district to be sufficient to satisfy the requirements
39 and prerequisites for admission to the California public institutions
40 of postsecondary education and the minimum requirements for

1 receiving a diploma of graduation from high school established in
2 this article, unless *the pupil is assigned for the purpose of*
3 *improving a lesser grade or because the course has been designed*
4 *to be taken more than once, or unless* all of the following
5 conditions are satisfied:

6 (1) The principal or an assistant principal of the school certifies
7 in a document to be placed in the pupil's cumulative record that
8 the course is designed to be repeated because pupils are exposed
9 to a new curriculum year-to-year and are therefore expected to
10 derive educational value from taking the course again.

11 (2) The principal or an assistant principal of the school certifies
12 in a document to be placed in the pupil's cumulative record that
13 the pupil is not being assigned to the course because there are no
14 other courses with curricular content for the pupil to take during
15 the relevant period in the designated schoolday.

16 (3) The principal or an assistant principal of the school certifies
17 in a document to be placed in the pupil's cumulative record that
18 the pupil has consented to the pupil's enrollment in the course.

19 (b) Under no circumstances shall a school district assign any
20 pupil enrolled in a school in the school district to a course that the
21 pupil has previously completed and received a grade determined
22 by the school district to be sufficient to satisfy the requirements
23 and prerequisites for admission to the California public institutions
24 of postsecondary education and the minimum requirements for
25 receiving a diploma of graduation from high school established in
26 this article because there are not sufficient curricular course
27 offerings for the pupil to take during the relevant period of the
28 designated schoolday.

29 (c) Nothing in this section shall be interpreted to limit or
30 otherwise affect the authority of a school district to establish and
31 maintain evening high school programs, as provided for in Article
32 3 (commencing with Section 51720) of Chapter 5, to offer
33 independent study, as provided for in Article 5.5 (commencing
34 with Section 51745) of Chapter 5, to provide courses of work-based
35 learning or work experience education, as provided for in Article
36 7 (commencing with Section 51760) of Chapter 5, or to offer any
37 class or course of instruction authorized under Chapter 5
38 (commencing with Section 51700), if the program otherwise meets
39 all of the requirements of law governing that program.

1 (d) This section shall not apply to a pupil enrolled in any of the
2 following:

- 3 (1) An alternative school.
- 4 (2) A community day school.
- 5 (3) A continuation high school.
- 6 (4) An opportunity school.

7 (e) The Superintendent shall adopt regulations to establish
8 procedures governing this section, including the form of the
9 certifications required pursuant to subdivision (a).

10 SEC. 3. Section 51228.3 is added to the Education Code, to
11 read:

12 ~~51228.3.—(a) If a school district determines that, at any point~~
13 ~~during the current or preceding academic year, one or more of its~~
14 ~~schools has not satisfied the requirements of Section 51228.1 or~~
15 ~~51228.2, it shall immediately notify the Superintendent and specify~~
16 ~~the steps that the school district has taken, if any, to resolve the~~
17 ~~situation and the changes, if any, to the school district’s policies~~
18 ~~or procedures to ensure that all of its schools satisfy the~~
19 ~~requirements of Sections 51228.1 and 51228.2 in the future.~~

20 ~~(b) Any member of the public may file a complaint directly with~~
21 ~~the department alleging that, at any point during the current or~~
22 ~~preceding academic year, a school district has not satisfied the~~
23 ~~requirements of Section 51228.1 or 51228.2. A complaint may be~~
24 ~~filed anonymously if the complaint provides evidence or~~
25 ~~information leading to evidence to support an allegation that the~~
26 ~~school district has not satisfied the requirements of Section 51228.1~~
27 ~~or 51228.2.~~

28 ~~(c) Within 21 days of receiving a complaint pursuant to~~
29 ~~subdivision (b), the department shall complete an investigation~~
30 ~~into the circumstances giving rise to the report or complaint.~~

31 ~~(d) To the extent that the department concludes, in response to~~
32 ~~a school district’s report pursuant to subdivision (a), or following~~
33 ~~an investigation required by subdivision (c) in response to a~~
34 ~~complaint filed under subdivision (b), that the school district has~~
35 ~~not taken appropriate action to resolve the situation that gave rise~~
36 ~~to a report or complaint, the Superintendent shall immediately~~
37 ~~convene a local assistance committee to develop a written plan to~~
38 ~~ensure that the school district satisfies the requirements of Sections~~
39 ~~51228.1 and 51228.2. The local assistance committee shall include~~
40 ~~representatives from the department, the school district, the school,~~

1 and, to the extent practicable, shall also include a representative
2 from the applicable county office of education. In developing the
3 plan, the local assistance committee shall consult with pupils,
4 parents, legal guardians or educational rights holders, and teachers
5 at the affected schools. The local assistance committee shall
6 complete the plan no later than 21 days after the department makes
7 the determination required pursuant to this subdivision.

8 51228.3. (a) A complaint of noncompliance with the
9 requirements of Section 51228.1 or 51228.2 may be filed with the
10 local educational agency under the Uniform Complaint Procedures
11 set forth in Chapter 5.1 (commencing with Section 4600) of
12 Division 1 of Title 5 of the California Code of Regulations.

13 (b) Within five schooldays of a local educational agency's
14 receipt of a complaint alleging a violation of the requirements of
15 Section 51228.1 or 51228.2, the local educational agency shall
16 conduct a complete investigation and issue a written local
17 educational agency decision. The investigation and decision shall
18 comply with the requirements of subdivisions (b) to (d), inclusive,
19 and paragraphs (1) to (7), inclusive, of subdivision (e), of Section
20 4631 of Title 5 of the California Code of Regulations. When a local
21 educational agency determines that a complaint filed pursuant to
22 this section has merit, it shall provide a report to the department
23 regarding the basis for the complaint, the findings, and the remedy
24 provided.

25 (c) A complainant not satisfied with the decision of a local
26 educational agency may appeal the decision to the department
27 pursuant to Chapter 5.1 (commencing with Section 4600) of
28 Division 1 of Title 5 of the California Code of Regulations.

29 (d) If the complainant appeals a local educational agency
30 decision regarding an alleged violation of the requirements of
31 Section 51228.1 or 51228.2, the department shall issue a written
32 decision regarding the appeal within 30 days of the department's
33 receipt of the appeal.

34 (e) If the department renders a decision in favor of the
35 complainant, the local educational agency shall immediately
36 convene a local assistance committee to develop a written plan to
37 ensure that the school district satisfies the requirements of Sections
38 51228.1 and 51228.2. The local assistance committee shall include
39 representatives from the department, the school district, the school,
40 and, to the extent practicable, shall also include a representative

1 *from the applicable county office of education. In developing the*
2 *plan, the local assistance committee shall consult with pupils,*
3 *parents, legal guardians or educational rights holders, and*
4 *teachers at the affected schools. The local assistance committee*
5 *shall complete the plan no later than 21 days after the department*
6 *makes the determination required pursuant to this subdivision.*

7 (e)

8 (f) The Superintendent shall prepare an annual report detailing
9 actions taken pursuant to this section. ~~The~~ *By January 1 of each*
10 *fiscal year, the Superintendent shall submit the report to the*
11 *Legislature in advance of the department's budget hearing each*
12 *fiscal year. The report shall be submitted in compliance with*
13 ~~Section 9795 of the Government Code.~~ *appropriate fiscal and*
14 *policy committees of the Legislature.*

15 (f)

16 (g) The Superintendent shall have all power and authority
17 necessary to effectuate the requirements of this section. The
18 Superintendent shall adopt regulations that set forth the procedures
19 governing this section.

20 SEC. 4. If the Commission on State Mandates determines that
21 this act contains costs mandated by the state, reimbursement to
22 local agencies and school districts for those costs shall be made
23 pursuant to Part 7 (commencing with Section 17500) of Division
24 4 of Title 2 of the Government Code.