

AMENDED IN ASSEMBLY MARCH 28, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 2091

Introduced by Assembly Member Lopez

February 17, 2016

An act to amend ~~Section~~ *Sections 56043 and 56341.5* of, and to add Section 56348 to, the Education Code, relating to special education.

LEGISLATIVE COUNSEL’S DIGEST

AB 2091, as amended, Lopez. Special education: individualized education programs: translation services.

(1) Existing law requires local educational agencies to identify, locate, and assess individuals with exceptional needs and to provide those pupils with a free appropriate public education in the least restrictive environment, with special education and related services as reflected in an individualized education program. Existing law requires a local educational agency to initiate and conduct meetings for the purposes of developing, reviewing, and revising the individualized education program of each individual with exceptional needs in accordance federal law. Existing law requires the local educational agency to take any action necessary to ensure that the parent or guardian understands the proceedings at a meeting, including arranging for an interpreter for parents or guardians with deafness or whose native language is a language other than English.

This bill would require a local educational agency to also provide translation services for a pupil’s parent, guardian, or educational rights holder, as specified. The bill would require the local educational agency ~~to, among other things, to~~ provide a pupil’s parent, guardian, or educational rights holder with a translated copy of *the individualized*

education program, any revisions to the individualized education program, and any document discussed at an individualized education program team meeting, including the individualized education program itself, meeting in the parent's, guardian's, or educational rights holder's primary language within 30 days of being requested that meeting and to make available translated copies of any standardized forms or other standardized information that the local educational agency maintains on each schoolsite for purposes of special education, as specified. The bill would require the documents to be translated pursuant to these provisions be translated by a qualified interpreter, as defined, who is proficient in both the English language and the non-English language to be used. By imposing additional duties on local educational agencies, the bill would impose 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 56043 of the Education Code is amended*
- 2 *to read:*
- 3 56043. The primary timelines affecting special education
- 4 programs are as follows:
- 5 (a) A proposed assessment plan shall be developed within 15
- 6 calendar days of referral for assessment, not counting calendar
- 7 days between the pupil's regular school sessions or terms or
- 8 calendar days of school vacation in excess of five schooldays, from
- 9 the date of receipt of the referral, unless the parent or guardian
- 10 agrees in writing to an extension, pursuant to subdivision (a) of
- 11 Section 56321.
- 12 (b) A parent or guardian shall have at least 15 calendar days
- 13 from the receipt of the proposed assessment plan to arrive at a
- 14 decision, pursuant to subdivision (c) of Section 56321.

1 (c) Once a child has been referred for an initial assessment to
2 determine whether the child is an individual with exceptional needs
3 and to determine the educational needs of the child, these
4 determinations shall be made, and an individualized education
5 program team meeting shall occur within 60 days of receiving
6 parental consent for the assessment, pursuant to subdivision (a) of
7 Section 56302.1, except as specified in subdivision (b) of that
8 section, and pursuant to Section 56344.

9 (d) The individualized education program team shall review the
10 pupil's individualized education program periodically, but not less
11 frequently than annually, pursuant to subdivision (d) of Section
12 56341.1.

13 (e) A parent or guardian shall be notified of the individualized
14 education program team meeting early enough to ensure an
15 opportunity to attend, pursuant to subdivision (b) of Section
16 56341.5. In the case of an individual with exceptional needs who
17 is 16 years of age or younger, if appropriate, the meeting notice
18 shall indicate that a purpose of the meeting will be the
19 consideration of the postsecondary goals and transition services
20 for the individual with exceptional needs, and the meeting notice
21 described in this subdivision shall indicate that the individual with
22 exceptional needs is invited to attend, pursuant to subdivision (e)
23 of Section 56341.5.

24 (f) (1) An individualized education program required as a result
25 of an assessment of a pupil shall be developed within a total time
26 not to exceed 60 calendar days, not counting days between the
27 pupil's regular school sessions, terms, or days of school vacation
28 in excess of five schooldays, from the date of receipt of the parent's
29 or guardian's written consent for assessment, unless the parent or
30 guardian agrees in writing to an extension, pursuant to Section
31 56344.

32 (2) A meeting to develop an initial individualized education
33 program for the pupil shall be conducted within 30 days of a
34 determination that the child needs special education and related
35 services pursuant to Section 300.323(c)(1) of Title 34 of the Code
36 of Federal Regulations and in accordance with Section 56344.

37 (g) (1) Beginning not later than the first individualized
38 education program to be in effect when the pupil is 16 years of
39 age, or younger if determined appropriate by the individualized
40 education program team, and updated annually thereafter, the

1 individualized education program shall include appropriate
2 measurable postsecondary goals and transition services needed to
3 assist the pupil in reaching those goals, pursuant to paragraph (8)
4 of subdivision (a) of Section 56345.

5 (2) The individualized education program for pupils in grades
6 7 to 12, inclusive, shall include any alternative means and modes
7 necessary for the pupil to complete the district's prescribed course
8 of study and to meet or exceed proficiency standards for graduation,
9 pursuant to paragraph (1) of subdivision (b) of Section 56345.

10 (3) Beginning not later than one year before the pupil reaches
11 18 years of age, the individualized education program shall contain
12 a statement that the pupil has been informed of the pupil's rights
13 under this part, if any, that will transfer to the pupil upon reaching
14 18 years of age, pursuant to Section 56041.5, subdivision (g) of
15 Section 56345, and Section 300.520 of Title 34 of the Code of
16 Federal Regulations.

17 (h) Beginning at the age of 16 years or younger, and annually
18 thereafter, a statement of needed transition services shall be
19 included in the pupil's individualized education program, pursuant
20 to Section 56345.1 and Section 1414(d)(1)(A)(i)(VIII) of Title 20
21 of the United States Code.

22 (i) A pupil's individualized education program shall be
23 implemented as soon as possible following the individualized
24 education program team meeting, pursuant to Section 300.323(c)(2)
25 of Title 34 of the Code of Federal Regulations and in accordance
26 with Section 56344.

27 (j) An individualized education program team shall meet at least
28 annually to review a pupil's progress, the individualized education
29 program, including whether the annual goals for the pupil are being
30 achieved, the appropriateness of the placement, and to make any
31 necessary revisions, pursuant to subdivision (d) of Section 56343.
32 The local educational agency shall maintain procedures to ensure
33 that the individualized education program team reviews the pupil's
34 individualized education program periodically, but not less
35 frequently than annually, to determine whether the annual goals
36 for the pupil are being achieved, and revises the individualized
37 education program as appropriate to address, among other matters,
38 the provisions specified in subdivision (d) of Section 56341.1,
39 pursuant to subdivision (a) of Section 56380.

1 (k) A reassessment of a pupil shall occur not more frequently
2 than once a year, unless the parent and the local educational agency
3 agree otherwise in writing, and shall occur at least once every three
4 years, unless the parent and the local educational agency agree, in
5 writing, that a reassessment is unnecessary, pursuant to Section
6 56381, and in accordance with Section 1414(a)(2) of Title 20 of
7 the United States Code.

8 (l) A meeting of an individualized education program team
9 requested by a parent or guardian to review an individualized
10 education program pursuant to subdivision (c) of Section 56343
11 shall be held within 30 calendar days, not counting days between
12 the pupil's regular school sessions, terms, or days of school
13 vacation in excess of five schooldays, from the date of receipt of
14 the parent's or guardian's written request, pursuant to Section
15 56343.5.

16 (m) If an individual with exceptional needs transfers from
17 district to district within the state, the following are applicable
18 pursuant to Section 56325:

19 (1) If the child has an individualized education program and
20 transfers into a district from a district not operating programs under
21 the same local plan in which he or she was last enrolled in a special
22 education program within the same academic year, the local
23 educational agency shall provide the pupil with a free appropriate
24 public education, including services comparable to those described
25 in the previously approved individualized education program, in
26 consultation with the parents or guardians, for a period not to
27 exceed 30 days, by which time the local educational agency shall
28 adopt the previously approved individualized education program
29 or shall develop, adopt, and implement a new individualized
30 education program that is consistent with federal and state law,
31 pursuant to paragraph (1) of subdivision (a) of Section 56325.

32 (2) If the child has an individualized education program and
33 transfers into a district from a district operating programs under
34 the same special education local plan area of the district in which
35 he or she was last enrolled in a special education program within
36 the same academic year, the new district shall continue, without
37 delay, to provide services comparable to those described in the
38 existing approved individualized education program, unless the
39 parent and the local educational agency agree to develop, adopt,
40 and implement a new individualized education program that is

1 consistent with state and federal law, pursuant to paragraph (2) of
2 subdivision (a) of Section 56325.

3 (3) If the child has an individualized education program and
4 transfers from an educational agency located outside the state to
5 a district within the state within the same academic year, the local
6 educational agency shall provide the pupil with a free appropriate
7 public education, including services comparable to those described
8 in the previously approved individualized education program, in
9 consultation with the parents or guardians, until the local
10 educational agency conducts an assessment as specified in
11 paragraph (3) of subdivision (a) of Section 56325.

12 (4) In order to facilitate the transition for an individual with
13 exceptional needs described in paragraphs (1) to (3), inclusive, the
14 new school in which the pupil enrolls shall take reasonable steps
15 to promptly obtain the pupil's records, as specified, pursuant to
16 subdivision (b) of Section 56325.

17 (n) The parent or guardian shall have the right and opportunity
18 to examine all school records of the child and to receive complete
19 copies within five business days after a request is made by the
20 parent or guardian, either orally or in writing, and before any
21 meeting regarding an individualized education program of his or
22 her child or any hearing or resolution session pursuant to Chapter
23 5 (commencing with Section 56500), in accordance with Section
24 56504 and Chapter 6.5 (commencing with Section 49060) of Part
25 27.

26 (o) Upon receipt of a request from a local educational agency
27 where an individual with exceptional needs has enrolled, a former
28 educational agency shall send the pupil's special education records,
29 or a copy of those records, to the new local educational agency
30 within five working days, pursuant to subdivision (a) of Section
31 3024 of Title 5 of the California Code of Regulations.

32 (p) The department shall do all of the following:

33 (1) Have a time limit of 60 calendar days after a complaint is
34 filed with the state educational agency to investigate the complaint.

35 (2) Give the complainant the opportunity to submit additional
36 information about the allegations in the complaint.

37 (3) Review all relevant information and make an independent
38 determination as to whether there is a violation of a requirement
39 of this part or Part B of the federal Individuals with Disabilities
40 Education Act (20 U.S.C. Sec. 1400 et seq.).

1 (4) Issue a written decision pursuant to Section 300.152(a)(5)
2 of Title 34 of the Code of Federal Regulations.

3 (q) A prehearing mediation conference shall be scheduled within
4 15 calendar days of receipt by the Superintendent of the request
5 for mediation, and shall be completed within 30 calendar days
6 after the request for mediation, unless both parties to the prehearing
7 mediation conference agree to extend the time for completing the
8 mediation, pursuant to Section 56500.3.

9 (r) Any request for a due process hearing arising from
10 subdivision (a) of Section 56501 shall be filed within two years
11 from the date the party initiating the request knew or had reason
12 to know of facts underlying the basis for the request, except that
13 this timeline shall not apply to a parent if the parent was prevented
14 from requesting the due process hearing, pursuant to subdivision
15 (l) of Section 56505.

16 (s) The Superintendent shall ensure that, within 45 calendar
17 days after receipt of a written due process hearing request, the
18 hearing is immediately commenced and completed, including any
19 mediation requested at any point during the hearing process, and
20 a final administrative decision is rendered, pursuant to subdivision
21 (f) of Section 56502.

22 (t) If either party to a due process hearing intends to be
23 represented by an attorney in the due process hearing, notice of
24 that intent shall be given to the other party at least 10 calendar
25 days before the hearing, pursuant to subdivision (a) of Section
26 56507.

27 (u) Any party to a due process hearing shall have the right to
28 be informed by the other parties to the hearing, at least 10 calendar
29 days before the hearing, as to what those parties believe are the
30 issues to be decided at the hearing and their proposed resolution
31 of those issues, pursuant to paragraph (6) of subdivision (e) of
32 Section 56505.

33 (v) Any party to a due process hearing shall have the right to
34 receive from other parties to the hearing, at least five business days
35 before the hearing, a copy of all documents, including all
36 assessments completed and not completed by that date, and a list
37 of all witnesses and their general area of testimony that the parties
38 intend to present at the hearing, pursuant to paragraph (7) of
39 subdivision (e) of Section 56505.

1 (w) An appeal of a due process hearing decision shall be made
2 within 90 calendar days of receipt of the hearing decision, pursuant
3 to subdivision (k) of Section 56505.

4 (x) A complaint filed with the department shall allege a violation
5 of the federal Individuals with Disabilities Education Act (20
6 U.S.C. Sec. 1400 et seq.) or a provision of this part that occurred
7 not more than one year before the date that the complaint is
8 received by the department, pursuant to Section 56500.2 and
9 Section 300.153(c) of Title 34 of the Code of Federal Regulations.

10 (y) *The timeline for the production of translated copies of special*
11 *education-related documents shall be as specified in Section 56348.*

12 ~~SECTION 1.~~

13 SEC. 2. Section 56341.5 of the Education Code is amended to
14 read:

15 56341.5. (a) Each local educational agency convening a
16 meeting of the individualized education program team shall take
17 steps to ensure that no less than one of the parents or guardians of
18 the individual with exceptional needs are present at each
19 individualized education program team meeting or are afforded
20 the opportunity to participate.

21 (b) Parents or guardians shall be notified of the individualized
22 education program team meeting early enough to ensure an
23 opportunity to attend.

24 (c) The individualized education program team meeting shall
25 be scheduled at a mutually agreed-upon time and place. The notice
26 of the meeting under subdivision (b) shall indicate the purpose,
27 time, and location of the meeting and who shall be in attendance.
28 Parents or guardians also shall be informed in the notice of the
29 right, pursuant to Section 300.322(b)(1)(ii) of Title 34 of the Code
30 of Federal Regulations, to bring other people to the meeting who
31 have knowledge or special expertise regarding the individual with
32 exceptional needs, and inform the parents of subdivision (i) of
33 Section 56341 relating to the participation of the infants and
34 toddlers with disabilities service coordinator under Subchapter III
35 (commencing with Section 1431) of the federal Individuals with
36 Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.) at the
37 initial individualized education program team meeting for a child
38 previously served under the Subchapter III program.

39 (d) As part of the participation of an individual with exceptional
40 needs in the development of an individualized education program,

1 as required by federal law, the individual with exceptional needs
2 shall be allowed to provide confidential input to any representative
3 of his or her individualized education program team.

4 (e) For an individual with exceptional needs, beginning no later
5 than the effective date of the individualized education program in
6 effect when the individual reaches the age of 16 years, or younger
7 if determined appropriate by the individualized education program
8 team, the meeting notice also shall indicate that a purpose of the
9 meeting will be the consideration of the postsecondary goals and
10 transition services for the individual, pursuant to Section 56345.1
11 and Section 1414(d)(1)(A)(i)(VIII) of Title 20 of the United States
12 Code, and the meeting notice shall indicate that the individual with
13 exceptional needs is invited to attend. If the pupil does not attend
14 the individualized education program team meeting, the local
15 educational agency shall take steps to ensure that the preferences
16 and interests of the pupil are considered in accordance with Section
17 300.321(b)(2) of Title 34 of the Code of Federal Regulations.

18 (f) The local educational agency, to the extent appropriate, with
19 the consent of the parents or individual with exceptional needs
20 who has reached the age of majority, and in accordance with
21 Section 300.321(b)(3) of Title 34 of the Code of Federal
22 Regulations, shall invite a representative of any participating
23 agency that is likely to be responsible for providing or paying for
24 transition services.

25 (g) Pursuant to Section 300.322(c) of Title 34 of the Code of
26 Federal Regulations, if no parent or guardian can attend the
27 meeting, the local educational agency shall use other methods to
28 ensure parent or guardian participation, including individual or
29 conference telephone calls, and consistent with Section 300.328
30 of Title 34 of the Code of Federal Regulations, the parent or
31 guardian and the local educational agency may agree to use
32 alternative means of meeting participation.

33 (h) A meeting may be conducted without a parent or guardian
34 in attendance if the local educational agency is unable to convince
35 the parent or guardian that he or she should attend. In this event,
36 the local educational agency shall maintain a record of its attempts
37 to arrange a mutually agreed-upon time and place, such as:

38 (1) Detailed records of telephone calls made or attempted and
39 the results of those calls.

(2) Copies of correspondence sent to the parents or guardians and any responses received.

(3) Detailed records of visits made to the home or place of employment of the parent or guardian and the results of those visits.

(i) The local educational agency shall take any action necessary to ensure that the parent or guardian understands the proceedings at a meeting, including arranging for an interpreter for parents or guardians with deafness or whose native language is a language other than English and providing translation services, as specified in Section 56348.

(j) The local educational agency shall give the parent or guardian a copy of the individualized education program, at no cost to the parent or guardian, and as specified in Section 56348, if applicable.

~~SEC. 2.~~

SEC. 3. Section 56348 is added to the Education Code, to read: 56348. (a) For purposes of this part, a local educational agency shall provide translation services for a parent, guardian, or educational rights holder as follows:

(1) The local educational agency shall provide a pupil's parent, guardian, or educational rights holder with a translated copy of the pupil's completed individualized education program and any revisions to the pupil's individualized education program in the parent's, guardian's, or educational rights holder's primary language ~~at the final individualized education program team meeting before seeking the parent or guardian's informed consent pursuant to Section 56346.~~ *within 30 days of the individualized education program team meeting.*

(2) The local educational agency shall provide a pupil's parent, guardian, or educational rights holder with a translated copy of any document discussed at an individualized education program team ~~meeting, including the individualized education program itself,~~ *meeting* in the parent's, guardian's, or educational rights holder's primary language within 30 days of ~~being requested.~~ *the individualized education program team meeting.*

(3) (A) The local educational agency shall make available translated copies of any standardized forms or other standardized information that the local educational agency maintains on each schoolsite for purposes of this part.

1 (B) The local educational agency shall make the documents and
2 information referenced in subparagraph (A) available in each
3 primary language identified by the department for each school
4 pursuant to Section 48985.

5 (b) (1) The documents required to be translated pursuant to this
6 section shall be translated by a qualified interpreter who is
7 proficient in both the English language and the non-English
8 language to be used.

9 (2) For purposes of this section, “qualified interpreter” means
10 an interpreter who has met the testing or certification standards
11 for outside or contract interpreters, as proficient in the ability to
12 communicate commonly used terms and ideas between the English
13 language and the non-English language to be used and has
14 knowledge of basic interpreter practices, including, but not limited
15 to, confidentiality, neutrality, accuracy, completeness, and
16 transparency.

17 (c) *Nothing in this section is intended to affect any other state*
18 *or federal law requirement regarding the translation of*
19 *education-related documents.*

20 ~~SEC. 3.~~

21 *SEC. 4.* If the Commission on State Mandates determines that
22 this act contains costs mandated by the state, reimbursement to
23 local agencies and school districts for those costs shall be made
24 pursuant to Part 7 (commencing with Section 17500) of Division
25 4 of Title 2 of the Government Code.