

AMENDED IN ASSEMBLY APRIL 13, 2016

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 Sections 56043 and 56341.5 of, and to add ~~Section~~ *Sections 56348 and 56349* 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 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 in the parent's, guardian's, or educational rights holder's primary language within 30 days of that meeting ~~and to make available translated copies of any standardized forms or other standardized information that the local educational agency maintains on each school site for purposes of special education, as specified.~~ *meeting.* The bill would require the documents to be translated by a qualified ~~interpreter,~~ *translator,* 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. *The bill would also require the State Department of Education, on or before January 1, 2018, to post on its Internet Web site standard special education forms commonly used by local educational agencies translated into at least the 10 most commonly used non-English primary languages of the state's pupils.*

(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

1 agrees in writing to an extension, pursuant to subdivision (a) of
2 Section 56321.

3 (b) A parent or guardian shall have at least 15 calendar days
4 from the receipt of the proposed assessment plan to arrive at a
5 decision, pursuant to subdivision (c) of Section 56321.

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

14 (d) The individualized education program team shall review the
15 pupil's individualized education program periodically, but not less
16 frequently than annually, pursuant to subdivision (d) of Section
17 56341.1.

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

29 (f) (1) An individualized education program required as a result
30 of an assessment of a pupil shall be developed within a total time
31 not to exceed 60 calendar days, not counting days between the
32 pupil's regular school sessions, terms, or days of school vacation
33 in excess of five schooldays, from the date of receipt of the parent's
34 or guardian's written consent for assessment, unless the parent or
35 guardian agrees in writing to an extension, pursuant to Section
36 56344.

37 (2) A meeting to develop an initial individualized education
38 program for the pupil shall be conducted within 30 days of a
39 determination that the child needs special education and related

1 services pursuant to Section 300.323(c)(1) of Title 34 of the Code
2 of Federal Regulations and in accordance with Section 56344.

3 (g) (1) Beginning not later than the first individualized
4 education program to be in effect when the pupil is 16 years of
5 age, or younger if determined appropriate by the individualized
6 education program team, and updated annually thereafter, the
7 individualized education program shall include appropriate
8 measurable postsecondary goals and transition services needed to
9 assist the pupil in reaching those goals, pursuant to paragraph (8)
10 of subdivision (a) of Section 56345.

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

16 (3) Beginning not later than one year before the pupil reaches
17 18 years of age, the individualized education program shall contain
18 a statement that the pupil has been informed of the pupil's rights
19 under this part, if any, that will transfer to the pupil upon reaching
20 18 years of age, pursuant to Section 56041.5, subdivision (g) of
21 Section 56345, and Section 300.520 of Title 34 of the Code of
22 Federal Regulations.

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

28 (i) A pupil's individualized education program shall be
29 implemented as soon as possible following the individualized
30 education program team meeting, pursuant to Section 300.323(c)(2)
31 of Title 34 of the Code of Federal Regulations and in accordance
32 with Section 56344.

33 (j) An individualized education program team shall meet at least
34 annually to review a pupil's progress, the individualized education
35 program, including whether the annual goals for the pupil are being
36 achieved, the appropriateness of the placement, and to make any
37 necessary revisions, pursuant to subdivision (d) of Section 56343.
38 The local educational agency shall maintain procedures to ensure
39 that the individualized education program team reviews the pupil's
40 individualized education program periodically, but not less

1 frequently than annually, to determine whether the annual goals
2 for the pupil are being achieved, and revises the individualized
3 education program as appropriate to address, among other matters,
4 the provisions specified in subdivision (d) of Section 56341.1,
5 pursuant to subdivision (a) of Section 56380.

6 (k) A reassessment of a pupil shall occur not more frequently
7 than once a year, unless the parent and the local educational agency
8 agree otherwise in writing, and shall occur at least once every three
9 years, unless the parent and the local educational agency agree, in
10 writing, that a reassessment is unnecessary, pursuant to Section
11 56381, and in accordance with Section 1414(a)(2) of Title 20 of
12 the United States Code.

13 (l) A meeting of an individualized education program team
14 requested by a parent or guardian to review an individualized
15 education program pursuant to subdivision (c) of Section 56343
16 shall be held within 30 calendar days, not counting days between
17 the pupil's regular school sessions, terms, or days of school
18 vacation in excess of five schooldays, from the date of receipt of
19 the parent's or guardian's written request, pursuant to Section
20 56343.5.

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

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

37 (2) If the child has an individualized education program and
38 transfers into a district from a district operating programs under
39 the same special education local plan area of the district in which
40 he or she was last enrolled in a special education program within

1 the same academic year, the new district shall continue, without
2 delay, to provide services comparable to those described in the
3 existing approved individualized education program, unless the
4 parent and the local educational agency agree to develop, adopt,
5 and implement a new individualized education program that is
6 consistent with state and federal law, pursuant to paragraph (2) of
7 subdivision (a) of Section 56325.

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

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

22 (n) The parent or guardian shall have the right and opportunity
23 to examine all school records of the child and to receive complete
24 copies within five business days after a request is made by the
25 parent or guardian, either orally or in writing, and before any
26 meeting regarding an individualized education program of his or
27 her child or any hearing or resolution session pursuant to Chapter
28 5 (commencing with Section 56500), in accordance with Section
29 56504 and Chapter 6.5 (commencing with Section 49060) of Part
30 27.

31 (o) Upon receipt of a request from a local educational agency
32 where an individual with exceptional needs has enrolled, a former
33 educational agency shall send the pupil's special education records,
34 or a copy of those records, to the new local educational agency
35 within five working days, pursuant to subdivision (a) of Section
36 3024 of Title 5 of the California Code of Regulations.

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

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

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

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

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

9 (q) A prehearing mediation conference shall be scheduled within
10 15 calendar days of receipt by the Superintendent of the request
11 for mediation, and shall be completed within 30 calendar days
12 after the request for mediation, unless both parties to the prehearing
13 mediation conference agree to extend the time for completing the
14 mediation, pursuant to Section 56500.3.

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

22 (s) The Superintendent shall ensure that, within 45 calendar
23 days after receipt of a written due process hearing request, the
24 hearing is immediately commenced and completed, including any
25 mediation requested at any point during the hearing process, and
26 a final administrative decision is rendered, pursuant to subdivision
27 (f) of Section 56502.

28 (t) If either party to a due process hearing intends to be
29 represented by an attorney in the due process hearing, notice of
30 that intent shall be given to the other party at least 10 calendar
31 days before the hearing, pursuant to subdivision (a) of Section
32 56507.

33 (u) Any party to a due process hearing shall have the right to
34 be informed by the other parties to the hearing, at least 10 calendar
35 days before the hearing, as to what those parties believe are the
36 issues to be decided at the hearing and their proposed resolution
37 of those issues, pursuant to paragraph (6) of subdivision (e) of
38 Section 56505.

39 (v) Any party to a due process hearing shall have the right to
40 receive from other parties to the hearing, at least five business days

1 before the hearing, a copy of all documents, including all
2 assessments completed and not completed by that date, and a list
3 of all witnesses and their general area of testimony that the parties
4 intend to present at the hearing, pursuant to paragraph (7) of
5 subdivision (e) of Section 56505.

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

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

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

17 SEC. 2. Section 56341.5 of the Education Code is amended to
18 read:

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

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

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

1 initial individualized education program team meeting for a child
2 previously served under the Subchapter III program.

3 (d) As part of the participation of an individual with exceptional
4 needs in the development of an individualized education program,
5 as required by federal law, the individual with exceptional needs
6 shall be allowed to provide confidential input to any representative
7 of his or her individualized education program team.

8 (e) For an individual with exceptional needs, beginning no later
9 than the effective date of the individualized education program in
10 effect when the individual reaches the age of 16 years, or younger
11 if determined appropriate by the individualized education program
12 team, the meeting notice also shall indicate that a purpose of the
13 meeting will be the consideration of the postsecondary goals and
14 transition services for the individual, pursuant to Section 56345.1
15 and Section 1414(d)(1)(A)(i)(VIII) of Title 20 of the United States
16 Code, and the meeting notice shall indicate that the individual with
17 exceptional needs is invited to attend. If the pupil does not attend
18 the individualized education program team meeting, the local
19 educational agency shall take steps to ensure that the preferences
20 and interests of the pupil are considered in accordance with Section
21 300.321(b)(2) of Title 34 of the Code of Federal Regulations.

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

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

37 (h) A meeting may be conducted without a parent or guardian
38 in attendance if the local educational agency is unable to convince
39 the parent or guardian that he or she should attend. In this event,

1 the local educational agency shall maintain a record of its attempts
2 to arrange a mutually agreed-upon time and place, such as:

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

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

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

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

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

19 SEC. 3. Section 56348 is added to the Education Code, to read:

20 56348. (a) For purposes of this part, a local educational agency
21 shall provide translation services for a parent, guardian, or
22 educational rights holder as follows:

23 (1) The local educational agency shall provide a pupil's parent,
24 guardian, or educational rights holder with a translated copy of
25 the pupil's completed individualized education program and any
26 revisions to the pupil's individualized education program in the
27 parent's, guardian's, or educational rights holder's primary
28 language within 30 days of the individualized education program
29 team meeting. *Nothing in this paragraph shall be construed as to*
30 *abridge any right granted to parents under state or federal law,*
31 *including the right to give or withhold consent, as specified in*
32 *Sections 56021.1 and 56346, to part or all of an individualized*
33 *education program before receiving a translated copy of the*
34 *individualized education program.*

35 (2) The local educational agency shall provide a pupil's parent,
36 guardian, or educational rights holder with a translated copy of
37 any document discussed at an individualized education program
38 team meeting in the parent's, guardian's, or educational rights
39 holder's primary language within 30 days of the individualized
40 education program team meeting.

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

5 ~~(B) The local educational agency shall make the documents and~~
6 ~~information referenced in subparagraph (A) available in each~~
7 ~~primary language identified by the department for each school~~
8 ~~pursuant to Section 48985.~~

9 (b) (1) The documents required to be translated pursuant to this
10 section shall be translated by a qualified ~~interpreter~~ *translator* who
11 is proficient in both the English language and the non-English
12 language to be used.

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

22 (c) Nothing in this section is intended to affect any other state
23 or federal law requirement regarding the translation of
24 education-related documents.

25 ~~SEC. 4. Section 56349 is added to the Education Code, to read:~~
26 ~~56349. On or before January 1, 2018, the department shall~~
27 ~~post on its Internet Web site standard special education forms~~
28 ~~commonly used by local educational agencies translated into at~~
29 ~~least the 10 most commonly used non-English primary languages~~
30 ~~of the state’s pupils. The department is encouraged to review~~
31 ~~translations created by other states for this purpose and to include,~~
32 ~~in smaller type, an English translation on those translated forms~~
33 ~~in order to minimize the risk of error when school personnel not~~
34 ~~fluent in the parent’s language fill out those forms.~~

35 ~~SEC. 4.~~

36 ~~SEC. 5. If the Commission on State Mandates determines that~~
37 ~~this act contains costs mandated by the state, reimbursement to~~
38 ~~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.

O