

AMENDED IN SENATE JUNE 21, 2016

AMENDED IN ASSEMBLY MAY 27, 2016

AMENDED IN ASSEMBLY APRIL 13, 2016

AMENDED IN ASSEMBLY MARCH 28, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2091**

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**Introduced by Assembly Member Lopez**

February 17, 2016

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An act to amend Sections 56043 and 56341.5 of, and to add ~~Sections 56348 and 56349~~ *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, if requested by a pupil’s parent, guardian, or educational rights holder, to provide the parent, guardian, or educational rights holder with a translated copy of the individualized education ~~program and program,~~ any revisions to the individualized education ~~program program, and~~ certain documents discussed at an individualized education program team meeting within 60 days of that meeting ~~and to provide a translated copy of certain documents 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 the meeting. *language.* The bill would require the documents to be translated by a qualified translator, as defined, who is proficient in both the English language and the non-English language to be used. The bill would require the ~~department~~ *State Department of Education* to revise its notice of procedural safeguards, in English and in the primary languages for which the department has developed translated versions, to inform parents of their right to request the translation of these documents. 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:

- 1 (a) A proposed assessment plan shall be developed within 15  
2 calendar days of referral for assessment, not counting calendar  
3 days between the pupil's regular school sessions or terms or  
4 calendar days of school vacation in excess of five schooldays, from  
5 the date of receipt of the referral, unless the parent or guardian  
6 agrees in writing to an extension, pursuant to subdivision (a) of  
7 Section 56321.
- 8 (b) A parent or guardian shall have at least 15 calendar days  
9 from the receipt of the proposed assessment plan to arrive at a  
10 decision, pursuant to subdivision (c) of Section 56321.
- 11 (c) Once a child has been referred for an initial assessment to  
12 determine whether the child is an individual with exceptional needs  
13 and to determine the educational needs of the child, these  
14 determinations shall be made, and an individualized education  
15 program team meeting shall occur within 60 days of receiving  
16 parental consent for the assessment, pursuant to subdivision (a) of  
17 Section 56302.1, except as specified in subdivision (b) of that  
18 section, and pursuant to Section 56344.
- 19 (d) The individualized education program team shall review the  
20 pupil's individualized education program periodically, but not less  
21 frequently than annually, pursuant to subdivision (d) of Section  
22 56341.1.
- 23 (e) A parent or guardian shall be notified of the individualized  
24 education program team meeting early enough to ensure an  
25 opportunity to attend, pursuant to subdivision (b) of Section  
26 56341.5. In the case of an individual with exceptional needs who  
27 is 16 years of age or younger, if appropriate, the meeting notice  
28 shall indicate that a purpose of the meeting will be the  
29 consideration of the postsecondary goals and transition services  
30 for the individual with exceptional needs, and the meeting notice  
31 described in this subdivision shall indicate that the individual with  
32 exceptional needs is invited to attend, pursuant to subdivision (e)  
33 of Section 56341.5.
- 34 (f) (1) An individualized education program required as a result  
35 of an assessment of a pupil shall be developed within a total time  
36 not to exceed 60 calendar days, not counting days between the  
37 pupil's regular school sessions, terms, or days of school vacation  
38 in excess of five schooldays, from the date of receipt of the parent's  
39 or guardian's written consent for assessment, unless the parent or

1 guardian agrees in writing to an extension, pursuant to Section  
2 56344.

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

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

16 (2) The individualized education program for pupils in grades  
17 7 to 12, inclusive, shall include any alternative means and modes  
18 necessary for the pupil to complete the district's prescribed course  
19 of study and to meet or exceed proficiency standards for graduation,  
20 pursuant to paragraph (1) of subdivision (b) of Section 56345.

21 (3) Beginning not later than one year before the pupil reaches  
22 18 years of age, the individualized education program shall contain  
23 a statement that the pupil has been informed of the pupil's rights  
24 under this part, if any, that will transfer to the pupil upon reaching  
25 18 years of age, pursuant to Section 56041.5, subdivision (g) of  
26 Section 56345, and Section 300.520 of Title 34 of the Code of  
27 Federal Regulations.

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

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

38 (j) An individualized education program team shall meet at least  
39 annually to review a pupil's progress, the individualized education  
40 program, including whether the annual goals for the pupil are being

1 achieved, the appropriateness of the placement, and to make any  
2 necessary revisions, pursuant to subdivision (d) of Section 56343.  
3 The local educational agency shall maintain procedures to ensure  
4 that the individualized education program team reviews the pupil's  
5 individualized education program periodically, but not less  
6 frequently than annually, to determine whether the annual goals  
7 for the pupil are being achieved, and revises the individualized  
8 education program as appropriate to address, among other matters,  
9 the provisions specified in subdivision (d) of Section 56341.1,  
10 pursuant to subdivision (a) of Section 56380.

11 (k) A reassessment of a pupil shall occur not more frequently  
12 than once a year, unless the parent and the local educational agency  
13 agree otherwise in writing, and shall occur at least once every three  
14 years, unless the parent and the local educational agency agree, in  
15 writing, that a reassessment is unnecessary, pursuant to Section  
16 56381, and in accordance with Section 1414(a)(2) of Title 20 of  
17 the United States Code.

18 (l) A meeting of an individualized education program team  
19 requested by a parent or guardian to review an individualized  
20 education program pursuant to subdivision (c) of Section 56343  
21 shall be held within 30 calendar days, not counting days between  
22 the pupil's regular school sessions, terms, or days of school  
23 vacation in excess of five schooldays, from the date of receipt of  
24 the parent's or guardian's written request, pursuant to Section  
25 56343.5.

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

29 (1) If the child has an individualized education program and  
30 transfers into a district from a district not operating programs under  
31 the same local plan in which he or she was last enrolled in a special  
32 education program within the same academic year, the local  
33 educational agency shall provide the pupil with a free appropriate  
34 public education, including services comparable to those described  
35 in the previously approved individualized education program, in  
36 consultation with the parents or guardians, for a period not to  
37 exceed 30 days, by which time the local educational agency shall  
38 adopt the previously approved individualized education program  
39 or shall develop, adopt, and implement a new individualized

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

3 (2) If the child has an individualized education program and  
4 transfers into a district from a district operating programs under  
5 the same special education local plan area of the district in which  
6 he or she was last enrolled in a special education program within  
7 the same academic year, the new district shall continue, without  
8 delay, to provide services comparable to those described in the  
9 existing approved individualized education program, unless the  
10 parent and the local educational agency agree to develop, adopt,  
11 and implement a new individualized education program that is  
12 consistent with state and federal law, pursuant to paragraph (2) of  
13 subdivision (a) of Section 56325.

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

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

28 (n) The parent or guardian shall have the right and opportunity  
29 to examine all school records of the child and to receive complete  
30 copies within five business days after a request is made by the  
31 parent or guardian, either orally or in writing, and before any  
32 meeting regarding an individualized education program of his or  
33 her child or any hearing or resolution session pursuant to Chapter  
34 5 (commencing with Section 56500), in accordance with Section  
35 56504 and Chapter 6.5 (commencing with Section 49060) of Part  
36 27.

37 (o) Upon receipt of a request from a local educational agency  
38 where an individual with exceptional needs has enrolled, a former  
39 educational agency shall send the pupil's special education records,  
40 or a copy of those records, to the new local educational agency

1 within five working days, pursuant to subdivision (a) of Section  
2 3024 of Title 5 of the California Code of Regulations.

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

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

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

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

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

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

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

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

33 (t) If either party to a due process hearing intends to be  
34 represented by an attorney in the due process hearing, notice of  
35 that intent shall be given to the other party at least 10 calendar  
36 days before the hearing, pursuant to subdivision (a) of Section  
37 56507.

38 (u) Any party to a due process hearing shall have the right to  
39 be informed by the other parties to the hearing, at least 10 calendar  
40 days before the hearing, as to what those parties believe are the

1 issues to be decided at the hearing and their proposed resolution  
2 of those issues, pursuant to paragraph (6) of subdivision (e) of  
3 Section 56505.

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

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

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

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

22 SEC. 2. Section 56341.5 of the Education Code is amended to  
23 read:

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

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

33 (c) The individualized education program team meeting shall  
34 be scheduled at a mutually agreed-upon time and place. The notice  
35 of the meeting under subdivision (b) shall indicate the purpose,  
36 time, and location of the meeting and who shall be in attendance.  
37 Parents or guardians also shall be informed in the notice of the  
38 right, pursuant to Section 300.322(b)(1)(ii) of Title 34 of the Code  
39 of Federal Regulations, to bring other people to the meeting who  
40 have knowledge or special expertise regarding the individual with

1 exceptional needs, and inform the parents of subdivision (i) of  
2 Section 56341 relating to the participation of the infants and  
3 toddlers with disabilities service coordinator under Subchapter III  
4 (commencing with Section 1431) of the federal Individuals with  
5 Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.) at the  
6 initial individualized education program team meeting for a child  
7 previously served under the Subchapter III program.

8 (d) As part of the participation of an individual with exceptional  
9 needs in the development of an individualized education program,  
10 as required by federal law, the individual with exceptional needs  
11 shall be allowed to provide confidential input to any representative  
12 of his or her individualized education program team.

13 (e) For an individual with exceptional needs, beginning no later  
14 than the effective date of the individualized education program in  
15 effect when the individual reaches the age of 16 years, or younger  
16 if determined appropriate by the individualized education program  
17 team, the meeting notice also shall indicate that a purpose of the  
18 meeting will be the consideration of the postsecondary goals and  
19 transition services for the individual, pursuant to Section 56345.1  
20 and Section 1414(d)(1)(A)(i)(VIII) of Title 20 of the United States  
21 Code, and the meeting notice shall indicate that the individual with  
22 exceptional needs is invited to attend. If the pupil does not attend  
23 the individualized education program team meeting, the local  
24 educational agency shall take steps to ensure that the preferences  
25 and interests of the pupil are considered in accordance with Section  
26 300.321(b)(2) of Title 34 of the Code of Federal Regulations.

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

34 (g) Pursuant to Section 300.322(c) of Title 34 of the Code of  
35 Federal Regulations, if no parent or guardian can attend the  
36 meeting, the local educational agency shall use other methods to  
37 ensure parent or guardian participation, including individual or  
38 conference telephone calls, and consistent with Section 300.328  
39 of Title 34 of the Code of Federal Regulations, the parent or

1 guardian and the local educational agency may agree to use  
2 alternative means of meeting participation.

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

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

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

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

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

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

24 SEC. 3. Section 56348 is added to the Education Code, to read:  
25 56348. (a) For purposes of this part, a local educational agency  
26 shall provide translation services for a parent, guardian, or  
27 educational rights holder as follows:

28 (1) The local educational agency shall provide a pupil’s parent,  
29 guardian, or educational rights holder with a translated copy of  
30 the pupil’s completed individualized education program and any  
31 revisions to the pupil’s individualized education program in the  
32 parent’s, guardian’s, or educational rights holder’s primary  
33 language within 60 days of the individualized education program  
34 team meeting, if requested by the pupil’s parent, guardian, or  
35 educational rights holder. Nothing in this paragraph shall be  
36 construed to abridge any right granted to parents under state or  
37 federal law, including the right to give or withhold consent, as  
38 specified in Sections 56021.1 and 56346, to part or all of an  
39 individualized education program before receiving a translated  
40 copy of the individualized education program.

1 (2) (A) The local educational agency shall provide a pupil's  
2 parent, guardian, or educational rights holder with a translated  
3 copy of any document specified in subparagraph (B) discussed at  
4 an individualized education program team meeting in the parent's,  
5 guardian's, or educational rights holder's primary language within  
6 ~~30~~ 60 days of the individualized education program team meeting,  
7 if requested by the pupil's parent, guardian, or educational rights  
8 holder.

9 (B) (i) Documents relating to the pupil's present levels of  
10 academic achievement and functional performance.

11 (ii) Documents relating to the pupil's right to a free and  
12 appropriate public education.

13 (iii) Notes on items discussed at the individualized education  
14 program team meeting.

15 (iv) Documents relating to the goals of the pupil.

16 (v) Progress reports of school staff who provide services in  
17 accordance with the pupil's individualized education program.

18 (b) (1) The documents required to be translated pursuant to this  
19 section shall be translated by a qualified translator who is proficient  
20 in both the English language and the non-English language to be  
21 used.

22 (2) For purposes of this section, "qualified translator" means a  
23 translator who has met the testing or certification standards for  
24 outside or contract translators, as proficient in the ability to  
25 communicate commonly used terms and ideas between the English  
26 language and the non-English language to be used and has  
27 knowledge of basic translator practices, including, but not limited  
28 to, confidentiality, neutrality, accuracy, completeness, and  
29 transparency.

30 (c) The department shall revise its notice of procedural  
31 safeguards, in English and in the primary languages for which the  
32 department has developed translated versions, to inform parents  
33 of their right to request the translation of documents as authorized  
34 by this section.

35 (d) Nothing in this section is intended to affect any other state  
36 or federal law requirement regarding the translation of  
37 education-related documents.

38 SEC. 4. 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.

O