

AMENDED IN SENATE MARCH 17, 2016

**SENATE BILL**

**No. 884**

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**Introduced by Senator Beall**

January 19, 2016

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*An act to amend Sections 56301, 56345, and 56500.4 of, and to add Sections 56600.7, 56607, 56608, and 56609 to, the Education Code, relating to special education.*

LEGISLATIVE COUNSEL'S DIGEST

SB 884, as amended, Beall. ~~Pupil services: mental health services: Special education: procedural safeguards and records.~~

(1) Existing law requires the Superintendent of Public Instruction to administer the special education provisions of the Education Code and ensure provision of, and supervise, education and related services to individuals with exceptional needs, as required pursuant to the federal Individuals with Disabilities Education Act.

~~This bill would state the intent of the Legislature to enact legislation relating to the provision of mental health services to pupils with exceptional needs.~~

*Existing law establishes certain rights and procedural safeguards for parents and pupils of individuals with disabilities, and requires a public agency to give prior written notice to parents or guardians of an individual with exceptional needs when certain actions are taken with respect his or her placement, identification, and assessment or the provision of a free and appropriate education.*

*This bill would require prior written notice also to be given when there are any changes to the planned type or level of individualized education program services, would require a copy of the parent and pupil's rights and procedural safeguards to be given each time prior*

written notice is given, and would require a local educational agency responsible for a pupil's individualized education program to ensure a copy of each prior written notice is included in the pupil's records. The bill would require each special education local plan area to establish additional written policies and procedures requiring local educational agencies to provide certain information to parents in their annual parent notification information, including information regarding family empowerment centers and parent training and information centers. The bill would require a pupil's individualized education program to include the type of provider delivering each related service listed. By imposing new duties on local educational agencies, the bill would impose a state-mandated local program.

(2) Existing law requires the Superintendent to ensure that pupil and program performance results are monitored, and requires special education local plan areas to submit certain data to the Superintendent to evaluate special education programs, as specified.

The bill would require a school district or special education local plan area to document and report to the department funding allocations and expenditures for all mental health and special education services, and would require the department to post the information on the department's Internet Web site. The bill would require the department to align accounting code systems, as specified. The bill would also require a local educational agency responsible for a pupil's individualized education program to annually report to the department the frequency and duration of related services provided, and to annually report certain data needed to document pupil outcomes on 6 outcome indicators, as specified. The bill would require the department to monitor the related services reported annually by local educational agencies, and to review and require corrections to each local educational agency's procedures and documents.

(3) 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: ~~no~~-yes.  
State-mandated local program: ~~no~~-yes.

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

1     **SECTION 1.** *Section 56301 of the Education Code is amended*  
2 *to read:*

3     56301. (a) All children with disabilities residing in the state,  
4 including children with disabilities who are homeless children or  
5 are wards of the state and children with disabilities attending  
6 private, including religious, elementary and secondary schools,  
7 regardless of the severity of their disabilities, and who are in need  
8 of special education and related services, shall be identified,  
9 located, and assessed and a practical method ~~is~~ *shall be* developed  
10 and implemented to determine which children with disabilities are  
11 currently receiving needed special education and related services  
12 as required by Section 1412(a)(3) and (10)(A)(ii) of Title 20 of  
13 the United States Code. A child is not required to be classified by  
14 his or her disability so long as each child who has a disability listed  
15 in Section 1401(3) of Title 20 of the United States Code and who,  
16 by reason of that disability, needs special education and related  
17 services as an individual with exceptional needs defined in Section  
18 56026.

19     (b) (1) In accordance with Section 300.111(c) of Title 34 of  
20 the Code of Federal Regulations, the requirements of this section  
21 also apply to highly mobile individuals with exceptional needs,  
22 including migrant children, and children who are suspected of  
23 being an individual with exceptional needs pursuant to Section  
24 56026 and in need of special education, even though they are  
25 advancing from grade to grade.

26     (2) In accordance with Section 300.213 of Title 34 of the Code  
27 of Federal Regulations, the local educational agency shall cooperate  
28 in the efforts of the federal Secretary of Education, under Section  
29 6398 of Title 20 of the United States Code, to ensure the linkage  
30 of records pertaining to migratory children with disabilities for the  
31 purpose of electronically exchanging, among other states, health  
32 and educational information regarding those children.

33     (c) (1) The child find process shall ensure the equitable  
34 participation in special education and related services of parentally  
35 placed private schoolchildren with disabilities and an accurate  
36 count of those children. Child find activities conducted by local  
37 educational agencies, or where applicable, the department, shall

1 be similar to those activities undertaken for pupils in public  
2 schools.

3 (2) In accordance with Section 1412(a)(10)(A)(ii)(IV) of Title  
4 20 of the United States Code, the cost of the child find activities  
5 in private, including religious, elementary and secondary schools,  
6 may not be considered in determining whether a local educational  
7 agency has met its obligations under the proportionate funding  
8 provisions for children enrolled in private, including religious,  
9 elementary and secondary schools.

10 (3) The child find process described in paragraph (1) shall be  
11 completed in a time period comparable to that for other pupils  
12 attending public schools in the local educational agency.

13 (d) (1) Each special education local plan area shall establish  
14 written policies and procedures pursuant to Section 56205 for use  
15 by its constituent local agencies for a continuous child find system  
16 that addresses the relationships among identification, screening,  
17 referral, assessment, planning, implementation, review, and the  
18 triennial assessment. The policies and procedures shall include,  
19 but need not be limited to, written notification of all parents of  
20 their rights under this chapter, and the procedure for initiating a  
21 referral for assessment to identify individuals with exceptional  
22 needs.

23 (2) In accordance with Section 1415(d)(1)(A) of Title 20 of the  
24 United States Code, and Section 300.504(a) of Title 34 of the Code  
25 of Federal Regulations, parents shall be given a copy of their rights  
26 and procedural safeguards only one time a school year, except that  
27 a copy also shall be given to the parents:

28 (A) Upon initial referral or parental request for assessment.

29 (B) Upon receipt of the first state complaint under Section  
30 56500.2 in a school year.

31 (C) Upon receipt of the first due process hearing request under  
32 Section 56502 in a school year.

33 (D) When a decision is made to make a removal that constitutes  
34 a change of placement of an individual with exceptional needs  
35 because of a violation of a code of pupil conduct in accordance  
36 with Section 300.530(h) of Title 34 of the Code of Federal  
37 Regulations.

38 (E) Upon request by a parent.

39 (F) *When a prior written notice is required pursuant to Section*  
40 *56500.4.*

1 (3) A local educational agency may place a current copy of the  
2 procedural safeguards notice on its Internet Web site, if such Web  
3 site exists, pursuant to Section 1415(d)(1)(B) of Title 20 of the  
4 United States Code.

5 (4) The contents of the procedural safeguards notice shall  
6 contain the requirements listed in Section 1415(d)(2) of Title 20  
7 of the United States Code and Section 300.504(c) of Title 34 of  
8 the Code of Federal Regulations.

9 (5) *Each special education local plan area shall establish*  
10 *additional written policies and procedures that require each local*  
11 *educational agency to provide informational materials, including,*  
12 *but not limited to, pupil and parent rights provided under the*  
13 *federal Individuals with Disabilities Education Act (20 U.S.C. Sec.*  
14 *1400 et seq), and information regarding family empowerment*  
15 *centers and parent training and information centers in their*  
16 *community. The materials shall be provided in the three most*  
17 *common languages used by parents served by the local educational*  
18 *agency in the special education local plan area, and shall be made*  
19 *available for local educational agencies to provide to their parents*  
20 *in their annual parent notification information.*

21 (e) Child find data collected pursuant to this chapter, or collected  
22 pursuant to a regulation or an interagency agreement, are subject  
23 to the confidentiality requirements of Sections 300.611 to 300.627,  
24 inclusive, of Title 34 of the Code of Federal Regulations.

25 *SEC. 2. Section 56345 of the Education Code is amended to*  
26 *read:*

27 56345. (a) The individualized education program is a written  
28 statement for each individual with exceptional needs that is  
29 developed, reviewed, and revised in accordance with this section,  
30 as required by Section 1414(d) of Title 20 of the United States  
31 Code, and that includes the following:

32 (1) A statement of the individual's present levels of academic  
33 achievement and functional performance, including the following:

34 (A) The manner in which the disability of the individual affects  
35 his or her involvement and progress in the general education  
36 curriculum.

37 (B) For preschool children, as appropriate, the manner in which  
38 the disability affects his or her participation in appropriate  
39 activities.

- 1 (C) For individuals with exceptional needs who take alternate  
2 assessments aligned to alternate achievement standards, a  
3 description of benchmarks or short-term objectives.
- 4 (2) A statement of measurable annual goals, including academic  
5 and functional goals, designed to do the following:
  - 6 (A) Meet the needs of the individual that result from the  
7 disability of the individual to enable the pupil to be involved in  
8 and make progress in the general education curriculum.
  - 9 (B) Meet each of the other educational needs of the pupil that  
10 result from the disability of the individual.
  - 11 (3) A description of the manner in which the progress of the  
12 pupil toward meeting the annual goals described in paragraph (2)  
13 will be measured and when periodic reports on the progress the  
14 pupil is making toward meeting the annual goals, such as through  
15 the use of quarterly or other periodic reports, concurrent with the  
16 issuance of report cards, will be provided.
  - 17 (4) A statement of the special education and related services  
18 and supplementary aids and services, based on peer-reviewed  
19 research to the extent practicable, to be provided to the pupil, or  
20 on behalf of the pupil, and a statement of the program modifications  
21 or supports for school personnel that will be provided to enable  
22 the pupil to do the following:
    - 23 (A) To advance appropriately toward attaining the annual goals.
    - 24 (B) To be involved in and make progress in the general  
25 education curriculum in accordance with paragraph (1) and to  
26 participate in extracurricular and other nonacademic activities.
    - 27 (C) To be educated and participate with other individuals with  
28 exceptional needs and nondisabled pupils in the activities described  
29 in this subdivision.
    - 30 (5) An explanation of the extent, if any, to which the pupil will  
31 not participate with nondisabled pupils in the regular class and in  
32 the activities described in subparagraph (C) of paragraph (4).
    - 33 (6) (A) A statement of individual appropriate accommodations  
34 that are necessary to measure the academic achievement and  
35 functional performance of the pupil on state and districtwide  
36 assessments consistent with Section 1412(a)(16)(A) of Title 20 of  
37 the United States Code.
    - 38 (B) If the individualized education program team determines  
39 that the pupil shall take an alternate assessment instead of a

1 particular state or districtwide assessment of pupil achievement,  
2 a statement of the following:

3 (i) The reason why the pupil cannot participate in the regular  
4 assessment.

5 (ii) The reason why the particular alternate assessment selected  
6 is appropriate for the pupil.

7 (7) The projected date for the beginning of the services and  
8 modifications described in paragraph (4), and the anticipated  
9 frequency, location, and duration of those services and  
10 modifications. *For each related service listed in the individualized*  
11 *education program, the individualized education program shall*  
12 *document the type of provider delivering the service pursuant to*  
13 *paragraph (3) of subdivision (a) of Section 3051 of Title 5 of the*  
14 *California Code of Regulations.*

15 (8) Beginning not later than the first individualized education  
16 program to be in effect when the pupil is 16 years of age, or  
17 younger if determined appropriate by the individualized education  
18 program team, and updated annually thereafter, the following shall  
19 be included:

20 (A) Appropriate measurable postsecondary goals based upon  
21 age-appropriate transition assessments related to training,  
22 education, employment, and where appropriate, independent living  
23 skills.

24 (B) The transition services, as defined in Section 56345.1,  
25 including courses of study, needed to assist the pupil in reaching  
26 those goals.

27 (b) If appropriate, the individualized education program shall  
28 also include, but not be limited to, all of the following:

29 (1) For pupils in grades 7 to 12, inclusive, any alternative means  
30 and modes necessary for the pupil to complete the prescribed  
31 course of study of the district and to meet or exceed proficiency  
32 standards for graduation.

33 (2) For individuals whose native language is other than English,  
34 linguistically appropriate goals, objectives, programs, and services.

35 (3) Pursuant to Section 300.106 of Title 34 of the Code of  
36 Federal Regulations, extended school year services shall be  
37 included in the individualized education program and provided to  
38 the pupil if the individualized education program team of the pupil  
39 determines, on an individual basis, that the services are necessary  
40 for the provision of a free appropriate public education to the pupil.

1 (4) Provision for the transition into the regular class program if  
2 the pupil is to be transferred from a special class or nonpublic,  
3 nonsectarian school into a regular class in a public school for any  
4 part of the schoolday, including the following:

5 (A) A description of activities provided to integrate the pupil  
6 into the regular education program. The description shall indicate  
7 the nature of each activity, and the time spent on the activity each  
8 day or week.

9 (B) A description of the activities provided to support the  
10 transition of pupils from the special education program into the  
11 regular education program.

12 (5) For pupils with low-incidence disabilities, specialized  
13 services, materials, and equipment, consistent with guidelines  
14 established pursuant to Section 56136.

15 (c) It is the intent of the Legislature in requiring individualized  
16 education programs, that the local educational agency is responsible  
17 for providing the services delineated in the individualized education  
18 program. However, the Legislature recognizes that some pupils  
19 may not meet or exceed the growth projected in the annual goals  
20 and objectives of the individualized education program of the  
21 pupil.

22 (d) Consistent with Section 56000.5 and Section  
23 1414(d)(3)(B)(iv) of Title 20 of the United States Code, it is the  
24 intent of the Legislature that, in making a determination of the  
25 services that constitute an appropriate education to meet the unique  
26 needs of a deaf or hard-of-hearing pupil in the least restrictive  
27 environment, the individualized education program team shall  
28 consider the related services and program options that provide the  
29 pupil with an equal opportunity for communication access. The  
30 individualized education program team shall specifically discuss  
31 the communication needs of the pupil, consistent with “Deaf  
32 Students Education Services Policy Guidance” (57 Fed. Reg. 49274  
33 (October 1992)), including all of the following:

34 (1) The pupil’s primary language mode and language, which  
35 may include the use of spoken language with or without visual  
36 cues, or the use of sign language, or a combination of both.

37 (2) The availability of a sufficient number of age, cognitive,  
38 and language peers of similar abilities, which may be met by  
39 consolidating services into a local plan areawide program or  
40 providing placement pursuant to Section 56361.

1 (3) Appropriate, direct, and ongoing language access to special  
2 education teachers and other specialists who are proficient in the  
3 pupil’s primary language mode and language consistent with  
4 existing law regarding teacher training requirements.

5 (4) Services necessary to ensure communication-accessible  
6 academic instructions, school services, and extracurricular activities  
7 consistent with the federal Vocational Rehabilitation Act of 1973  
8 (29 U.S.C. Sec. 794 et seq.) and the federal Americans with  
9 Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq.).

10 (5) In accordance with Section 300.113 of Title 34 of the Code  
11 of Federal Regulations, each public agency shall ensure that hearing  
12 aids worn in school by children with hearing impairments,  
13 including deafness, are functioning properly.

14 (6) Subject to paragraph (7), each public agency, pursuant to  
15 Section 300.113(b) of Title 34 of the Code of Federal Regulations,  
16 shall ensure that external components of surgically implanted  
17 medical devices are functioning properly.

18 (7) For a child with a surgically implanted medical device who  
19 is receiving special education and a service under Section 56363,  
20 a public agency is not responsible for the postsurgical maintenance,  
21 programming, or replacement of the medical device that has been  
22 surgically implanted, or of an external component of the surgically  
23 implanted medical device.

24 (e) State moneys appropriated to districts or local educational  
25 agencies may not be used for any additional responsibilities and  
26 services associated with paragraphs (1) and (2) of subdivision (d),  
27 including the training of special education teachers and other  
28 specialists, even if those additional responsibilities or services are  
29 required pursuant to a judicial or state agency determination. Those  
30 responsibilities and services shall only be funded by a local  
31 educational agency as follows:

32 (1) The costs of those activities shall be funded from existing  
33 programs and funding sources.

34 (2) Those activities shall be supported by the resources otherwise  
35 made available to those programs.

36 (3) Those activities shall be consistent with Sections 56240 to  
37 56243, inclusive.

38 (f) It is the intent of the Legislature that the communication  
39 skills of teachers who work with hard-of-hearing and deaf children  
40 be improved. This section does not remove the discretionary

1 authority of the local educational agency in regard to in-service  
2 activities.

3 (g) Beginning not later than one year before the pupil reaches  
4 the age of 18 years, a statement that the pupil has been informed  
5 of the pupil's rights under this part, if any, that will transfer to the  
6 pupil upon reaching the age of 18 years pursuant to Section  
7 56041.5.

8 (h) The individualized education program team is not required  
9 to include information under one component of a pupil's  
10 individualized education program that is already contained under  
11 another component of the individualized education program.

12 (i) This section does not require that additional information,  
13 beyond that explicitly required by Section 1414 of Title 20 of the  
14 United States Code and this part, be included in the individualized  
15 education program of a pupil.

16 *SEC. 3. Section 56500.4 of the Education Code is amended to*  
17 *read:*

18 56500.4. (a) Pursuant to Section 1415(b)(3) and (4) and (c)(1)  
19 of Title 20 of the United States Code, and in accordance with  
20 Section 300.503 of Title 34 of the Code of Federal Regulations,  
21 prior written notice shall be given by the public agency to the  
22 parents or guardians of an individual with exceptional needs, or  
23 to the parents or guardians of a child upon initial referral for  
24 assessment, and a reasonable time before the public agency  
25 proposes to initiate or change, or refuses to initiate or change, the  
26 identification, assessment, or educational placement of the child,  
27 *including any changes to the planned type or level of individualized*  
28 *education program services*, or the provision of a free appropriate  
29 public education to the child. In accordance with Sections 300.304  
30 and 300.503 of Title 34 of the Code of Federal Regulations, the  
31 public agency shall provide a description of any assessment  
32 procedures the agency proposes to conduct.

33 (b) The notice required under subdivision (a) shall, in accordance  
34 with Section 300.503(b) of Title 34 of the Code of Federal  
35 Regulations, include all of the following:

36 (1) A description of the action proposed or refused by the public  
37 agency.

38 (2) An explanation of why the public agency proposes or refuses  
39 to take the action.

1 (3) A description of each assessment procedure, assessment,  
2 record, or report the public agency used as a basis for the proposed  
3 or refused action.

4 (4) A statement that the parents of an individual with exceptional  
5 needs have protection under the procedural safeguards of this ~~part~~  
6 ~~and, if this notice is not an initial referral for assessment, the means~~  
7 ~~by which a copy of a description part and a copy of the procedural~~  
8 ~~safeguards can be obtained.~~ *safeguards.*

9 (5) Sources for parents to obtain assistance in  
10 understanding the provisions of this ~~part.~~ *part, including, but not*  
11 *limited to, contact information for all family empowerment centers*  
12 *and parent training and information centers in the special*  
13 *education local plan area of which the local educational agency*  
14 *is a member.*

15 (6) A description of other options that the individualized  
16 education program team considered and the reasons why those  
17 options were rejected.

18 (7) A description of other factors that are relevant to the proposal  
19 or refusal of the agency.

20 (c) *The local educational agency responsible for implementation*  
21 *of a pupil's individualized education program shall ensure that a*  
22 *copy of each prior written notice given pursuant to this section is*  
23 *included in the pupil's records.*

24 *SEC. 4. Section 56600.7 is added to the Education Code, to*  
25 *read:*

26 *56600.7. The local educational agency responsible for*  
27 *implementation of a pupil's individualized education program*  
28 *shall annually report to the department the actual frequency and*  
29 *duration of each related service provided to the pupil pursuant to*  
30 *the pupil's individualized education program.*

31 *SEC. 5. Section 56607 is added to the Education Code, to read:*

32 *56607. (a) A school district or special education local plan*  
33 *area shall document and report to the department all mental health*  
34 *and special education services funding allocations and*  
35 *expenditures and specify the dollar amount for each service.*

36 *(b) The department shall post the information on the*  
37 *department's Internet Web site.*

38 *(c) The department shall align accounting code systems to allow*  
39 *the department and school districts or special education local plan*  
40 *areas to accurately document the amount of funds expended for*

1 *the provision of mental health and special education services from*  
2 *each funding source.*

3 *SEC. 6. Section 56608 is added to the Education Code, to read:*  
4 *56608. For each pupil receiving individualized education*  
5 *program related services, each local educational agency shall*  
6 *annually provide the data needed to document the pupil’s outcomes*  
7 *on all of the following outcome indicators that are applicable to*  
8 *the pupil:*

- 9 (a) *Graduation rate.*
- 10 (b) *Dropout rate.*
- 11 (c) *Statewide assessment results.*
- 12 (d) *Suspension and expulsion rates.*
- 13 (e) *Participation in general education classes.*
- 14 (f) *Post school outcomes.*

15 *SEC. 7. Section 56609 is added to the Education Code, to read:*  
16 *56609. (a) The department shall monitor the number and*  
17 *frequency of related services reported annually by local*  
18 *educational agencies and shall compare year-to-year changes for*  
19 *each local educational agency. If year-to-year services decline*  
20 *significantly, then the department shall investigate the cause for*  
21 *the decline in service provision.*

22 (b) *As part of its monitoring activities, the department shall*  
23 *review each local educational agency’s procedures and documents*  
24 *used to meet the prior written notice requirement in Section*  
25 *56500.4, and shall require corrections to those procedures and*  
26 *documents if the department finds that the procedures or documents*  
27 *do not fulfil statutory requirements.*

28 *SEC. 8. If the Commission on State Mandates determines that*  
29 *this act contains costs mandated by the state, reimbursement to*  
30 *local agencies and school districts for those costs shall be made*  
31 *pursuant to Part 7 (commencing with Section 17500) of Division*  
32 *4 of Title 2 of the Government Code.*

33 **SECTION 1.**

34 *SEC. 9. It is the intent of the Legislature to enact legislation*  
35 *relating to the provision of mental health services to pupils with*  
36 *exceptional needs.*

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