

Introduced by Senator LiuFebruary 11, 2016

An act to amend Sections 48205, 48206.3, and 48208 of, and to add Sections 222.5 and 46015 to, the Education Code, relating to pupil rights.

LEGISLATIVE COUNSEL'S DIGEST

SB 1014, as introduced, Liu. Pupil rights: pregnant and parenting pupils.

(1) Existing law requires a pupil to be excused from school for specified types of absences and prohibits those excused absences from generating state apportionment payments by deeming them as absences in computing average daily attendance.

This bill would include as another type of excused absence 4 absences per school year to care for a sick child, for which the school is prohibited from requiring a note from a doctor. The bill would authorize a school to allow a parenting pupil who gives birth up to 6 weeks of parental leave for births without complications or 8 weeks of parental leave for Caesarian section births and to allow a parenting pupil not giving birth up to 4 weeks of parental leave. The bill would specify that parental leave absences shall not be deemed absences in computing average daily attendance if the governing board of the school district of attendance files with the State Department of Education an expectant and parenting pupil policy that includes procedures for ensuring pupils are provided with schoolwork while on parental leave.

(2) Existing state regulations require an educational institution to treat pregnancy, childbirth, false pregnancy, termination of pregnancy and recovery from those conditions in the same manner and under the same policies as any other temporary disability. Existing law requires

a school district that receives notification of a pupil’s temporary disability to determine whether the pupil will be able to receive individualized instruction, and, if the determination is positive, to provide the individualized instruction, as specified.

This bill would require a school district to provide a pupil with a temporary disability as a result of pregnancy with guidelines for makeup work plan development if the option for individualized instruction is not available at the pupil’s school or school district.

(3) Existing law prohibits discrimination on the basis of disability, gender, or other specified characteristics in any program or activity conducted by an educational institution that receives, or benefits from, state financial assistance or enrolls pupils who receive state financial aid.

This bill would require a school district to notify pregnant and parenting pupils of their rights and options, as specified.

(4) To the extent that this bill would impose additional duties on school districts, the bill would impose a state-mandated local program.

(5) 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. The Legislature finds and declares all of the
2 following:
3 (a) In 2012 about 35,000 children were born to 15 to 19 year
4 olds in California. Nationwide, 70 percent of young parents are
5 pushed out of school, and less than four in 10 young mothers
6 graduate from high school by 18 years of age.
7 (b) Title IX of the federal Education Amendments of 1972 (20
8 U.S.C. Sec. 1681 et seq.) and California law protects all pupils’
9 rights to equal educational opportunities regardless of sex. Yet,
10 only some of California’s school districts provide pregnant and
11 parenting pupil programs.

1 (c) Pregnant and parenting pupils face overwhelming,
2 system-enforced obstacles to graduating and receiving an education
3 of equal quality to that of their peers that vary across school
4 districts and include all of the following:

5 (1) Inconsistent access to excused “family leave” absences to
6 care for new infants during the critical period of early child
7 development, with male parents often having no access.

8 (2) Involuntary push-out due to high absence rates related to
9 pregnancy and parenting responsibilities.

10 (3) Rigid requirements to verify excused absences to care for a
11 sick child.

12 (4) Allowed “reasonable” amount of time to make up work is
13 defined by the school districts and not to the individual
14 circumstances or to support a pupil’s goal to graduate.

15 (5) Varying levels of support and engagement from schools
16 while pupils are absent.

17 (6) Encouragement to pursue independent study that may not
18 fulfill the “A-G” admission requirements for the California State
19 University and the University of California or have inconsistent
20 and rigorous attendance policies.

21 (7) Parenting pupils’ lack of awareness of their rights under
22 Title IX of the federal Education Amendments of 1972 (20 U.S.C.
23 Sec. 1681 et seq.) and California law, as well as pupils’ different
24 educational options during pregnancy, postpartum, and as a parent.

25 (d) While California has an 80 percent high school graduation
26 rate, only 38 percent of young moms who have a child before they
27 are 18 years of age graduate from high school, 19 percent get a
28 GED, and only 2 percent go to college before 30 years of age.

29 (e) Educational challenges set the stage for economic hardship:
30 the median income for women over 25 years of age without a high
31 school degree is \$15,021, less than 53 percent of that of their peers’
32 median income of \$31,904.

33 (f) Nearly 60 percent of mothers under 19 years of age live in
34 poverty.

35 (g) Children of teen mothers tend to struggle more in school,
36 are less likely to complete high school, have lower performance
37 on standardized tests, and are more likely to enter the foster care
38 system and become teen parents themselves.

39 (h) Studies show that pregnancy can motivate pupils to complete
40 school and pursue postsecondary education.

1 (i) Further, bonding time is critical for an infant’s long-term
2 development and the well-being of parents. California has
3 acknowledged the importance of bonding time and paved the way
4 in supporting bonding within working families.

5 (j) Since 2004, workers have been entitled to up to six weeks
6 of family leave to bond with their children. Working families
7 benefit significantly from bonding time. Parenting pupils and their
8 infants, some of our most vulnerable citizens, should not have to
9 choose between their family and education.

10 SEC. 2. Section 222.5 is added to the Education Code, to read:

11 222.5. A school district shall notify pregnant and parenting
12 pupils of their rights and options through annual school year
13 welcome packets, through independent study packets, online, in
14 lactation rooms, in locker rooms, and in libraries.

15 SEC. 3. Section 46015 is added to the Education Code, to read:

16 46015. (a) A school may allow a parenting pupil who gives
17 birth up to six weeks of parental leave for births without
18 complications or eight weeks of parental leave for Caesarian section
19 births and may allow a parenting pupil not giving birth up to four
20 weeks of parental leave after the birth.

21 (b) (1) Absences allowed pursuant to this section shall not be
22 deemed absences in computing average daily attendance pursuant
23 to Section 42238.5 if the governing board of the school district of
24 attendance files an expectant and parenting pupil policy, including
25 procedures for ensuring pupils are provided with schoolwork while
26 on parental leave, with the department.

27 (2) An expectant and parenting pupil policy shall require a pupil
28 to submit a parental leave request form, similar or the same as
29 request forms used to request temporary disability time off, to the
30 pupil’s school before the end of the pregnant pupil’s second
31 trimester. A school shall process a request within five business
32 days and provide makeup work plan development process
33 guidelines to a pupil in conjunction with the positive determination
34 of parental leave.

35 SEC. 4. Section 48205 of the Education Code is amended to
36 read:

37 48205. (a) Notwithstanding Section 48200, a pupil shall be
38 excused from school when the absence is:

39 (1) Due to his or her illness.

1 (2) Due to quarantine under the direction of a county or city
2 health officer.

3 (3) For the purpose of having medical, dental, optometrical, or
4 chiropractic services rendered.

5 (4) For the purpose of attending the funeral services of a member
6 of his or her immediate family, so long as the absence is not more
7 than one day if the service is conducted in California and not more
8 than three days if the service is conducted outside California.

9 (5) For the purpose of jury duty in the manner provided for by
10 law.

11 (6) Due to the illness or medical appointment during school
12 hours of a child of whom the pupil is the custodial ~~parent~~ *parent*,
13 *including up to four absences per school year to care for a sick*
14 *child, for which the school shall not require a note from a doctor.*

15 (7) For justifiable personal reasons, including, but not limited
16 to, an appearance in court, attendance at a funeral service,
17 observance of a holiday or ceremony of his or her religion,
18 attendance at religious retreats, attendance at an employment
19 conference, or attendance at an educational conference on the
20 legislative or judicial process offered by a nonprofit organization
21 when the pupil's absence is requested in writing by the parent or
22 guardian and approved by the principal or a designated
23 representative pursuant to uniform standards established by the
24 governing board.

25 (8) For the purpose of serving as a member of a precinct board
26 for an election pursuant to Section 12302 of the Elections Code.

27 (9) For the purpose of spending time with a member of the
28 pupil's immediate family, who is an active duty member of the
29 uniformed services, as defined in Section 49701, and has been
30 called to duty for, is on leave from, or has immediately returned
31 from, deployment to a combat zone or combat support position.
32 Absences granted pursuant to this paragraph shall be granted for
33 a period of time to be determined at the discretion of the
34 superintendent of the school district.

35 (b) A pupil absent from school under this section shall be
36 allowed to complete all assignments and tests missed during the
37 absence that can be reasonably provided and, upon satisfactory
38 completion within a reasonable period of time, shall be given full
39 credit therefor. The teacher of the class from which a pupil is absent
40 shall determine which tests and assignments shall be reasonably

1 equivalent to, but not necessarily identical to, the tests and
 2 assignments that the pupil missed during the absence.

3 (c) For purposes of this section, attendance at religious retreats
 4 shall not exceed four hours per semester.

5 (d) Absences pursuant to this section are deemed to be absences
 6 in computing average daily attendance and shall not generate state
 7 apportionment payments.

8 (e) “Immediate family,” as used in this section, has the same
 9 meaning as set forth in Section 45194, except that references
 10 therein to “employee” shall be deemed to be references to “pupil.”

11 SEC. 5. Section 48206.3 of the Education Code is amended to
 12 read:

13 48206.3. (a) Except for those pupils receiving individual
 14 instruction provided pursuant to Section 48206.5, a pupil with a
 15 temporary disability—~~which~~ *that* makes attendance in the regular
 16 day classes or alternative education program in which the pupil is
 17 enrolled impossible or inadvisable shall receive individual
 18 instruction provided by the district in which the pupil is deemed
 19 to reside.

20 (b) For purposes of this section and Sections 48206.5, 48207,
 21 and 48208, the following terms have the following meanings:

22 (1) “Individual instruction” means instruction provided to an
 23 individual pupil in the pupil’s home, in a hospital or other
 24 residential health facility, excluding state hospitals, or under other
 25 circumstances prescribed by regulations adopted for that purpose
 26 by the ~~State Board of Education~~. *state board*.

27 (2) “Temporary disability” means a physical, mental, or
 28 emotional disability incurred while a pupil is enrolled in regular
 29 day classes or an alternative education program, and after which
 30 the pupil can reasonably be expected to return to regular day classes
 31 or the alternative education program without special intervention.
 32 *Temporary disability also includes pregnancy, childbirth, false*
 33 *pregnancy, termination of pregnancy, and recovery therefrom. A*
 34 temporary disability shall not include a disability for which a pupil
 35 is identified as an individual with exceptional needs pursuant to
 36 Section 56026.

37 (c) (1) For purposes of computing average daily attendance
 38 pursuant to Section 42238.5, each clock hour of teaching time
 39 devoted to individual instruction shall count as one day of
 40 attendance.

1 (2) ~~No~~A pupil shall *not* be credited with more than five days
2 of attendance per calendar week, or more than the total number of
3 calendar days that regular classes are maintained by the district in
4 any fiscal year.

5 (d) Notice of the availability of individualized instruction shall
6 be given pursuant to Section 48980.

7 SEC. 6. Section 48208 of the Education Code is amended to
8 read:

9 48208. (a) It shall be the primary responsibility of the parent
10 or guardian of a pupil with a temporary disability to notify the
11 school district in which the pupil is deemed to reside pursuant to
12 Section 48207 of the pupil's presence in a qualifying ~~hospital~~
13 *hospital, with notification before the end of the pupil's second*
14 *trimester by a parent or guardian of a pupil with a temporary*
15 *disability as a result of pregnancy.*

16 (b) Upon receipt of notification pursuant to subdivision (a), a
17 school district shall do all of the following:

18 (1) (A) Within five working days of receipt of the notification,
19 determine whether the pupil will be able to receive individualized
20 instruction, and, if the determination is positive, when the
21 individualized instruction may commence. Individualized
22 instruction shall commence no later than five working days after
23 the positive determination has been rendered.

24 (B) *A school district shall provide a pupil with a temporary*
25 *disability as a result of pregnancy with guidelines for makeup*
26 *work plan development if the option for individualized instruction*
27 *is not available at the pupil's school or school district.*

28 (2) Provide the pupil with individualized instruction pursuant
29 to Section 48206.3. The school district may enter into an agreement
30 with the school district in which the pupil previously attended
31 regular day classes or an alternative education program, to have
32 the school district the pupil previously attended provide the pupil
33 with individualized instruction pursuant to Section 48206.3.

34 (3) Within five working days of the commencement of
35 individualized instruction, provide the school district in which the
36 pupil previously attended regular day classes or an alternative
37 education program with written notice that the pupil shall not be
38 counted by that *school* district for purposes of computing average
39 daily attendance pursuant to Section 42238.5, effective the date
40 on which individualized instruction commenced.

1 SEC. 7. If the Commission on State Mandates determines that
2 this act contains costs mandated by the state, reimbursement to
3 local agencies and school districts for those costs shall be made
4 pursuant to Part 7 (commencing with Section 17500) of Division
5 4 of Title 2 of the Government Code.

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