

AMENDED IN SENATE JUNE 1, 2016
AMENDED IN SENATE MARCH 29, 2016

SENATE BILL

No. 1014

Introduced by Senator Liu

February 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 amended, 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 the governing board of a school district to allow a parenting pupil who gives or expects to give 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~~ 3 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 specified rights and options available to those pupils, 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
- 4 19-year-olds in California. Nationwide, 70 percent of young parents
- 5 are pushed out of school, and fewer than 4 in 10 young mothers
- 6 graduate from high school by 18 years of age.

1 (b) Title IX of the federal Education Amendments of 1972 (20
2 U.S.C. Sec. 1681 et seq.) and California law protect all pupils’
3 rights to equal educational opportunities regardless of sex. Yet,
4 only some of California’s school districts provide pregnant and
5 parenting pupil programs.

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

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

13 (2) Involuntary pushout due to high absence rates related to
14 pregnancy and parenting responsibilities.

15 (3) Rigid requirements to verify excused absences to care for a
16 sick child.

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

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

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

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

30 (d) While California has an 80 percent high school graduation
31 rate, only 38 percent of young moms who have a child before they
32 are 18 years of age graduate from high school, 19 percent get a
33 General Education Development—~~credential~~—(GED), (*GED*)
34 *credential*, and only 2 percent go to college before 30 years of age.

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

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

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

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

7 (i) Further, bonding time is critical for an infant's long-term
8 development and the well-being of parents. California has
9 acknowledged the importance of bonding time and paved the way
10 in supporting bonding within working families.

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

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

17 222.5. A school district shall notify pregnant and parenting
18 pupils of their rights and options available pursuant to Title IX of
19 the federal Education Amendments of 1972 (20 U.S.C. Sec. 1681
20 et seq.) and Sections 222, 46015, and 48206.3 through annual
21 school year welcome packets pursuant to Section 48980, through
22 independent study packets, on the school district's Internet Web
23 site, in lactation rooms, *and* in locker rooms, ~~and in school libraries-~~
24 *rooms.*

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

26 46015. (a) The governing board of a school district may allow
27 a parenting pupil who gives or expects to give birth up to six weeks
28 of parental leave ~~for births without complications or eight weeks~~
29 ~~of parental leave for Caesarian section births~~ and may allow a
30 parenting pupil not giving birth up to ~~four~~ *three* weeks of parental
31 leave after the birth. The length of leave shall be determined by
32 the pupil and shall not exceed the length of time allowed by this
33 subdivision.

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

1 (2) *For purposes of calculating average daily attendance for a*
2 *pupil on parental leave, one day of attendance shall be credited*
3 *for each day on which at least one hour is spent on activities*
4 *related to the instruction of that pupil. A pupil on parental leave*
5 *shall not be credited with more than one day of attendance per*
6 *calendar day.*

7 ~~(2)~~

8 (3) An expectant and parenting pupil policy shall require a pupil
9 to submit a parental leave request form, similar or the same as
10 request forms used to request temporary disability time off, to the
11 pupil's school before the end of the pregnant pupil's second
12 trimester. A school shall process a request within five business
13 days and provide makeup work plan development process
14 guidelines to a pupil in conjunction with the positive determination
15 of parental leave.

16 SEC. 4. Section 48205 of the Education Code is amended to
17 read:

18 48205. (a) Notwithstanding Section 48200, a pupil shall be
19 excused from school when the absence is:

20 (1) Due to his or her illness.

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

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

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

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

31 (6) Due to the illness or medical appointment during school
32 hours of a child of whom the pupil is the custodial parent, including
33 up to four absences per school year to care for a sick child, for
34 which the school shall not require a note from a doctor.

35 (7) For justifiable personal reasons, including, but not limited
36 to, an appearance in court, attendance at a funeral service,
37 observance of a holiday or ceremony of his or her religion,
38 attendance at religious retreats, attendance at an employment
39 conference, or attendance at an educational conference on the
40 legislative or judicial process offered by a nonprofit organization

1 when the pupil’s absence is requested in writing by the parent or
2 guardian and approved by the principal or a designated
3 representative pursuant to uniform standards established by the
4 governing board.

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

7 (9) For the purpose of spending time with a member of the
8 pupil’s immediate family, who is an active duty member of the
9 uniformed services, as defined in Section 49701, and has been
10 called to duty for, is on leave from, or has immediately returned
11 from, deployment to a combat zone or combat support position.
12 Absences granted pursuant to this paragraph shall be granted for
13 a period of time to be determined at the discretion of the
14 superintendent of the school district.

15 (b) A pupil absent from school under this section shall be
16 allowed to complete all assignments and tests missed during the
17 absence that can be reasonably provided and, upon satisfactory
18 completion within a reasonable period of time, shall be given full
19 credit therefor. The teacher of the class from which a pupil is absent
20 shall determine which tests and assignments shall be reasonably
21 equivalent to, but not necessarily identical to, the tests and
22 assignments that the pupil missed during the absence.

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

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

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

31 SEC. 5. Section 48206.3 of the Education Code is amended to
32 read:

33 48206.3. (a) Except for those pupils receiving individual
34 instruction provided pursuant to Section 48206.5, a pupil with a
35 temporary disability that makes attendance in the regular day
36 classes or alternative education program in which the pupil is
37 enrolled impossible or inadvisable shall receive individual
38 instruction provided by the district in which the pupil is deemed
39 to reside.

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

3 (1) “Individual instruction” means instruction provided to an
4 individual pupil in the pupil’s home, in a hospital or other
5 residential health facility, excluding state hospitals, or under other
6 circumstances prescribed by regulations adopted for that purpose
7 by the state board.

8 (2) “Temporary disability” means a physical, mental, or
9 emotional disability incurred while a pupil is enrolled in regular
10 day classes or an alternative education program, and after which
11 the pupil can reasonably be expected to return to regular day classes
12 or the alternative education program without special intervention.
13 Temporary disability also includes pregnancy, childbirth, false
14 pregnancy, termination of pregnancy, and recovery therefrom. A
15 temporary disability shall not include a disability for which a pupil
16 is identified as an individual with exceptional needs pursuant to
17 Section 56026.

18 (c) (1) For purposes of computing average daily attendance
19 pursuant to Section 42238.5, each clock hour of teaching time
20 devoted to individual instruction shall count as one day of
21 attendance.

22 (2) A pupil shall not be credited with more than five days of
23 attendance per calendar week, or more than the total number of
24 calendar days that regular classes are maintained by the district in
25 any fiscal year.

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

28 SEC. 6. Section 48208 of the Education Code is amended to
29 read:

30 48208. (a) It shall be the primary responsibility of the parent
31 or guardian of a pupil with a temporary disability to notify the
32 school district in which the pupil is deemed to reside pursuant to
33 Section 48207 of the pupil’s presence in a qualifying hospital.

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

36 (1) (A) Within five working days of receipt of the notification,
37 determine whether the pupil will be able to receive individualized
38 instruction, and, if the determination is positive, when the
39 individualized instruction may commence. Individualized

1 instruction shall commence no later than five working days after
2 the positive determination has been rendered.

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

7 (2) Provide the pupil with individualized instruction pursuant
8 to Section 48206.3. The school district may enter into an agreement
9 with the school district in which the pupil previously attended
10 regular day classes or an alternative education program, to have
11 the school district the pupil previously attended provide the pupil
12 with individualized instruction pursuant to Section 48206.3.

13 (3) Within five working days of the commencement of
14 individualized instruction, provide the school district in which the
15 pupil previously attended regular day classes or an alternative
16 education program with written notice that the pupil shall not be
17 counted by that school district for purposes of computing average
18 daily attendance pursuant to Section 42238.5, effective the date
19 on which individualized instruction commenced.

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