

AMENDED IN SENATE JUNE 17, 1998

CALIFORNIA LEGISLATURE—1997–98 REGULAR SESSION

ASSEMBLY BILL

No. 1216

**Introduced by Assembly Member Granlund and Members
Kaloogian and Sweeney
(Principal coauthor: Assembly Member Baldwin)
(Principal coauthor: Senator Haynes)**

February 28, 1997

An act to add ~~Sections 1008.5 and 5090.5 to Chapter 6.6~~
(commencing with Section 49091.10) to Part 27 of the
Education Code, relating to schools.

LEGISLATIVE COUNSEL'S DIGEST

AB 1216, as amended, ~~Granlund Kaloogian. School boards:~~
~~vacancies— School districts: Education Empowerment Act of~~
~~1998.~~

~~Existing law specifies that vacancies on governing boards of~~
~~school districts or community college districts are caused by~~
~~specified events. Existing law provides a procedure for filling~~
~~a vacancy on the governing board of a school district or~~
~~community college district, or on a county board of education.~~

~~This bill would provide that in the event a person who holds~~
~~office as a member of the governing board of a school district~~
~~or community college district, or as a member of a county~~
~~board of education, is elected or appointed to the governing~~
~~board of a different school district or community college~~
~~district, or to a different county board of education, the~~
~~person's term on the first board is terminated upon taking the~~

~~oath of office for the second board and the position would be deemed vacated. The bill would provide that the vacated position shall be filled, as specified.~~

Existing law requires the Legislature to provide for a system of common schools by which a free school shall be kept up and supported in each district, and establishes the public school system to provide free educational services. Existing law requires establishment of certain local educational agencies and authorizes the formation of school districts for provision of free educational services.

This bill would enact the Education Empowerment Act of 1998 to strengthen local education decisionmaking, teacher rights, academic freedom, and parental responsibility. The bill would declare that control over education provided in a public school is vested in the community in which the public school is located, and is best exercised by the governing board of the school district.

Existing law, the George Miller Jr. Education Act of 1968, with certain exceptions, establishes certain minimum statewide curriculum standards for public schools.

This bill would provide that the Legislature shall have the exclusive authority to prescribe minimum requirements for elementary and secondary school graduation. The bill would require all other curricular requirements to be under the sole discretion of the governing board of the school district.

Existing law grants pupils, parents, and guardians certain rights regarding the delivery of educational services. Existing law requires the governing board of each school district at the beginning of each school year to notify the parent or guardian of its minor pupils regarding the rights or the responsibilities of the parent or guardian under certain provisions of law, including the right to be excused from health, family life, and sex education instruction due to religious beliefs and the right to refuse a physical examination of pupils.

This bill would provide that parents and guardians shall possess authority and control over the instruction and education of their minor children, and would impose a state-mandated local program by requiring that all primary and supplemental instruction materials and assessments be made available promptly for inspection by a parent or



guardian of a pupil, and by granting the parent or guardian the right to observe the instruction and other school related activities that involve his or her child, in a reasonable timeframe in accordance with procedures determined by the governing board of the school district.

This bill would prohibit a pupil from being compelled to reveal, affirm, or disavow any particular world view, religious doctrine, personally and privately held belief, or political opinion. The bill would prohibit a pupil from being screened or observed for a behavioral, mental, or emotional evaluation without the consent of his or her parent or guardian. The bill would prohibit a school from requiring a pupil to participate in any survey.

The bill would require the curriculum, including titles, descriptions, and time allocations of every course offered by a school district, to be published at least once annually by the school district in a prospectus, thereby imposing a state-mandated local program.

Existing law authorizes the governing board of a school district to provide a comprehensive educational counseling program for all pupils and requires confidentiality of information received while counseling a pupil 12 years of age or older, except as specified.

This bill would prohibit a school from requiring a pupil or a pupil's family to participate in any assessment, analysis, evaluation or monitoring of the quality or character of a pupil's home life, any form of parental screening or testing, any counseling, or home-based program, parent training, or any prescribed family education service plan.

Existing law sets forth certain authorized and certain prohibited courses or areas of instruction.

This bill would prohibit a teacher from being penalized for refusing to use experimental or unproven methods of instruction, or for using methods other than those prescribed if the methods used are consistent with the age and sophistication of the student and result in a satisfactory progress toward established standards of pupil performance.

Existing law sets forth the rights and responsibilities of teachers.



The bill would provide that notwithstanding the provisions of locally negotiated employment contracts, teachers shall have the greatest possible flexibility in determining the manner in which they achieve the substantive objectives of teacher training or in-service programs. The bill would provide that a teacher has the right to refuse to submit to any evaluation or survey that addresses certain matters.

Existing law, with certain exceptions relating to mistake, fraud, bad faith, or incompetence, requires the grade given to each pupil to be the grade determined by the teacher of the course, requires the determination of the pupil's grade by the teacher, and prohibits the governing board of the school district or the superintendent of the district from ordering a pupil's grade to be changed, unless the teacher who determined the grade is given an opportunity to state orally, in writing, or both, the reasons for which the grade was given and is included in all discussions relating to the changing of the grade.

This bill would grant teachers the right to determine the standard for assigning grades to the pupils in their classrooms.

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, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

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 1008.5 is added to the Education~~
- 2 ~~SECTION 1. Chapter 6.6 (commencing with Section~~
- 3 ~~49091.10) is added to Part 27 of the Education Code, to~~
- 4 ~~read:~~
- 5



1 CHAPTER 6.6. EDUCATION EMPOWERMENT ACT OF 1998

2
3 Article 1. Purpose

4
5 49091.10. This chapter shall be known, and may be
6 cited as, the Education Empowerment Act of 1998. The
7 purpose of this chapter is to strengthen local education
8 decisionmaking, teacher rights and responsibilities,
9 academic freedom, and parental and pupil rights, as
10 expressed in Section 49091.43, and responsibilities.

11 49091.15. Control over the education provided in a
12 public school is vested in the community in which the
13 public school is located, and is best exercised by the
14 governing board of the school district because it is elected
15 by and is answerable to the community that it serves; is
16 more directly accessible to the parents of the pupils of the
17 school; is embedded in the community and imbued with
18 its values and concerns; and is devoted solely to the
19 provision of schooling within the community.

20
21 Article 2. Local Decisionmaking

22
23 49091.20. (a) Notwithstanding any other provision of
24 law, the Legislature shall have exclusive authority to
25 prescribe minimum requirements for elementary and
26 secondary school graduation.

27 (b) Notwithstanding any other provision of law, all
28 other curricular requirements shall be under the sole
29 discretion of the governing board of the school district.

30 (c) The governing board of a school district shall have
31 the greatest possible flexibility in curriculum adoption
32 that is consistent with state law.

33
34 Article 3. Evaluation

35
36 49091.30. Statewide performance-based assessments
37 may not be used as the sole basis for grading, promotion,
38 or graduation in the public schools.



1 Article 4. Pupil and Parental Rights and Responsibility

2
3 49091.40. Parents and guardians shall possess
4 authority and control over the instruction and education
5 of a minor child until the child has reached 18 years of age.
6 The parents and guardians of individuals with exceptional
7 needs shall retain the right to negotiate an educational
8 program to satisfy special needs.

9 49091.41. (a) All primary and supplemental
10 instructional materials and assessments, including
11 textbooks, teacher’s manuals, films, tapes, software,
12 electronic media shall be available promptly for
13 inspection by a parent or guardian in a reasonable
14 timeframe and in accordance with procedures
15 determined by the governing board of the school district.

16 (b) A parent or guardian has the right to observe
17 instruction and other school activities that involve his or
18 her child.

19 (c) Upon written request by the parent or guardian,
20 school officials shall arrange for the parental observation
21 of the requested class or classes or activities by that parent
22 or guardian in a reasonable timeframe and in accordance
23 with procedures determined by the governing board of
24 the school district.

25 49091.43. (a) A pupil may not be compelled to reveal,
26 affirm, or disavow any particular world view, religious
27 doctrine, personally and privately held belief, or political
28 opinion.

29 (b) A pupil may not be screened or observed for a
30 behavioral, mental, or emotional evaluation without the
31 informed written consent of his or her parent or guardian.
32 Nothing in this chapter shall be construed to restrict the
33 authority of school officials to investigate and intervene
34 in cases of suspected child abuse.

35 (c) A school may not require pupils to participate in
36 any survey.

37 (d) A general consent, including medical consent used
38 to approve admission to or involvement in, a special
39 education or remedial program or regular school activity,
40 does not constitute written consent under this section.



1 49091.45. The curriculum, including titles,
2 descriptions, and time allocations of every course offered
3 by a school district, shall be published at least once
4 annually by the school district in a prospectus. The
5 prospectus shall state the instructional aims and methods
6 of every course. Each pupil shall receive a copy of the
7 prospectus for courses for which the pupil is eligible to
8 enroll. Each prospectus shall be made available to the
9 public free of charge. A copy of each prospectus shall be
10 filed with the State Department of Education.

11

12 Article 5. Parental Privacy

13

14 49091.50. Because the Legislature does not recognize
15 the validity of coerced contracts, a school may not require
16 or compel any parent or guardian to enter into any
17 compact or any other partnership that will share
18 responsibility for a pupil's educational performance
19 between the school or any outside agency and the parent
20 or guardian. These agreements are valid only when all
21 parties enter into the agreements voluntarily. A pupil
22 may not be penalized because a parent or guardian
23 refuses to enter into any compact or other partnership
24 agreement with the school or any outside agency.

25 49091.55. A school may not require a pupil or a pupil's
26 family to submit to or participate in any of the following:

27 (a) Any assessment, analysis, evaluation, or
28 monitoring of the quality or character of the pupil's home
29 life.

30 (b) Any form of parental screening or testing.

31 (c) Any counseling or home-based program.

32 (d) Parent training.

33 (e) Any prescribed family education service plan.

34 49091.56. No provision of this chapter shall be
35 construed as restricting teachers in the assignment of
36 homework.

37



1 Article 6. *Teacher Rights and Academic Freedom*

2
3 49091.60. *A teacher may not be penalized for refusing*
4 *to use experimental or unproven methods of instruction,*
5 *or for using methods other than those prescribed if the*
6 *methods used are consistent with the age and*
7 *sophistication of the students and result in satisfactory*
8 *progress toward established standards of pupil*
9 *performance.*

10 49091.62. (a) *Notwithstanding the provisions of*
11 *locally negotiated employment contracts, teachers shall*
12 *have the greatest possible flexibility in determining the*
13 *manner in which they achieve the substantive objectives*
14 *of in-service training.*

15 (b) *Teachers shall determine the standard for*
16 *assigning grades that he or she assigns to the pupils in*
17 *their classrooms.*

18 49091.64. *A teacher shall have the right to refuse to*
19 *submit to any evaluation or survey concerning the*
20 *following:*

21 (a) *Personal values, attitudes, and beliefs.*

22 (b) *Sexual behavior, attitudes, and orientation.*

23 (c) *Political affiliations or opinions.*

24 (d) *Critical appraisals of other individuals with whom*
25 *the teacher has a family or professional relationship.*

26 (e) *Religious affiliations or beliefs.*

27 49091.66. (a) *A teacher shall have the right to access,*
28 *inspect, or review his or her personnel records and*
29 *teacher evaluations, including all written or*
30 *electronically recorded material that is incorporated into*
31 *his or her personnel record in a reasonable timeframe as*
32 *determined by the governing board of the school district.*

33 (b) *The teacher has the right and professional duty to*
34 *adhere to his or her job description and may not be forced*
35 *to provide psychological or social services.*

36 (c) *Each teacher shall be given effective notice of his*
37 *or her rights under this chapter.*

38 SEC. 2. *Notwithstanding Section 17610 of the*
39 *Government Code, if the Commission on State Mandates*
40 *determines that this act contains costs mandated by the*



1 *state, reimbursement to local agencies and school*
2 *districts for those costs shall be made pursuant to Part 7*
3 *(commencing with Section 17500) of Division 4 of Title*
4 *2 of the Government Code. If the statewide cost of the*
5 *claim for reimbursement does not exceed one million*
6 *dollars (\$1,000,000), reimbursement shall be made from*
7 *the State Mandates Claims Fund.*

8 *Notwithstanding Section 17580 of the Government*
9 *Code, unless otherwise specified, the provisions of this act*
10 *shall become operative on the same date that the act*
11 *takes effect pursuant to the California Constitution.*

12 *Code, to read:*

13 ~~1008.5. In the event a person who holds an office as a~~
14 ~~member of a county board of education is elected or~~
15 ~~appointed to the governing board of a school district or~~
16 ~~community college, or to a different county board of~~
17 ~~education, that person's term on the county board of~~
18 ~~education is terminated by operation of law upon taking~~
19 ~~the oath of office for the second board and the position~~
20 ~~shall be deemed vacated. The vacated position shall be~~
21 ~~filled pursuant to Section 5091.~~

22 ~~SEC. 2. Section 5090.5 is added to the Education~~
23 ~~Code, to read:~~

24 ~~5090.5. In the event a person who holds an office as a~~
25 ~~member of the governing board of a school district or~~
26 ~~community college district is elected or appointed to the~~
27 ~~governing board of a different school district or~~
28 ~~community college district, or to a county board of~~
29 ~~education, that person's term on the first board is~~
30 ~~terminated by operation of law upon taking the oath of~~
31 ~~office for the second board and the position shall be~~
32 ~~deemed vacated. The vacated position shall be filled~~
33 ~~pursuant to Section 5091.~~

