

## Assembly Bill No. 2321

### CHAPTER 591

An act to add and repeal Chapter 4.9 (commencing with Section 56490) of Part 30 of, the Education Code, relating to special education.

[Approved by Governor September 22, 2000. Filed  
with Secretary of State September 23, 2000.]

#### LEGISLATIVE COUNSEL'S DIGEST

AB 2321, Mazzoni. Special education.

Existing law sets forth a process for the resolution of disputes relating to identification, assessment, or placement of a pupil relative to special education.

This bill would require, subject to an appropriation for those purposes in the annual Budget Act or any other measures, the State Department of Education to select and allocate funds to 3 special education local plan areas to implement a 3-year pilot project for alternative due process hearing procedures. The bill would require the participating special education local plan areas to submit a report on the pilot project to the State Department of Education, the Legislature, the Legislative Analyst, and the Governor on or before January 1, 2003. The bill would require the Legislative Analyst to coordinate those reports, analyze the data, compile a comprehensive evaluation, and submit the evaluation to the State Department of Education, the Legislature, and the Governor on or before March 1, 2003.

This bill would repeal its provisions on January 1, 2004.

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

SECTION 1. Chapter 4.9 (commencing with Section 56490) is added to Part 30 of the Education Code, to read:

#### CHAPTER 4.9. ALTERNATIVE HEARING PROCESS PILOT PROJECT

56490. (a) Subject to an appropriation in the annual Budget Act or any other measures for these purposes, the State Department of Education shall select and allocate funds to three special education local plan areas to implement a three-year pilot project for alternative due process hearing procedures.

(b) To be eligible for selection for participation, a special education local plan area shall submit an application to the department based on criteria developed by the department.

(c) The department shall select special education local plan areas that reflect the diversity of special education local plan areas in the state and ensure representation of urban, suburban, and small or rural special education local plan areas and northern, southern, and central regions of the state.

(d) If funds are appropriated for the purposes of this chapter, the total sum of expenditures shall not exceed seven hundred thousand dollars (\$700,000), pursuant to the following schedule:

(1) Five hundred thousand dollars (\$500,000) for the purposes of implementing Section 56493.

(2) One hundred thousand dollars (\$100,000) for the purposes of implementing Section 56492.

(3) One hundred thousand dollars (\$100,000) for the purposes of implementing Section 56494.

56491. A special education local plan area selected pursuant to Section 56490 shall be subject to Chapter 5 (commencing with Section 56500).

56492. A hearing officer employed pursuant to Section 56504.5 shall implement, in a special education local plan area selected pursuant to Section 56490, a voluntary, simplified nonattorney alternative process based on settlement and alternative dispute resolution models that would include, but not be limited to, all of the following:

(a) No rules of evidence, except for rules regarding privileged communications and hearsay.

(b) Presentation of evidence could be sharply curtailed.

(c) Parents shall represent themselves.

(d) Schoolsite staff, not central office staff, shall represent the district.

(e) The hearing should last no more than one day.

(f) Participation in the process established by this section does not waive a person's ability to exercise his or her rights to the due process procedure available pursuant to Chapter 5 (commencing with Section 56500). The decision issued pursuant to the process established by this section is not binding in any subsequent exercise of the person's right to due process proceedings pursuant to Chapter 5 (commencing with Section 56500). If a person elects to exercise his or her right to due process proceedings pursuant to Chapter 5 (commencing with Section 56500) after participating in the process established by this section, the subsequent proceeding shall be conducted by a different hearing officer who shall not communicate, and shall not have communicated, directly or indirectly, with the hearing officer who conducted the proceeding prescribed by this section regarding the nature or facts of the parties' dispute or the legal conclusions drawn or to be drawn thereon.

56493. (a) A special education local plan area selected pursuant to Section 56490 shall establish public advocacy services using an



independent contractor to provide free advocacy and legal services to parents of pupils with disabilities. Services shall include all of the following:

(1) Information about special education services, how to obtain services, including the individualized education program process, and the right to services under federal and state law.

(2) Representation in mediation and due process hearings at no charge.

(b) To be eligible for selection as an independent contractor to provide services pursuant to this chapter, the contractor shall demonstrate all of the following:

(1) Knowledge of the special education system and rights of pupils with disabilities.

(2) The ability to work effectively with pupils with disabilities, families of pupils with disabilities, school personnel, community groups, and other advocacy organizations.

(3) Skills in interviewing pupils with disabilities and their families, counseling individuals about their rights, and representation of pupils with disabilities in mediation and due process hearings.

(c) Compliance by the contractor with the terms of the contract shall be evaluated by the participating special education local plan area using objective performance measures that shall be specified in the contract.

(d) In order to be eligible under this section, the contractor shall not have represented a school district within the special education local plan area or any other education agency in any legal matter at any time prior to entering into the contract to provide advocacy services pursuant to this section.

56494. (a) On or before January 1, 2003, each special local plan area participating in the pilot project established pursuant to this chapter, shall submit a report to the Legislative Analyst, including, but not limited to, all of the following:

(1) The amount of funds used and the proportion used for small claims and legal services.

(2) The participation rate of pupils with special needs and their families in the programs offered pursuant to this chapter.

(3) The outcomes of participation in the small claims program, including how many cases were successfully dispensed with and how many cases continued through the existing due process hearing procedure available pursuant to Chapter 5 (commencing with Section 56500) of Part 30.

(4) The outcomes of the use of free legal services.

(5) Input from participating pupils and parents.

(b) On or before March 1, 2003, the Legislative Analyst shall coordinate the reports submitted pursuant to subdivision (a), analyze the data, compile one comprehensive evaluation, and submit



the evaluation to the State Department of Education, the Legislature, and the Governor.

(c) Any funds appropriated for the evaluation shall be provided to the Legislative Analyst. No funds appropriated for the evaluation shall be provided to any participating special education local plan area.

56495. This chapter shall remain in effect only until January 1, 2004, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2004, deletes or extends that date.

