



AB-1264 Special education pupils: individualized education program: meetings: school records. (2017-2018)

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CALIFORNIA LEGISLATURE— 2017–2018 REGULAR SESSION

ASSEMBLY BILL

NO. 1264

**Introduced by Assembly Member Eduardo Garcia
(Coauthor: Assembly Member Weber)
(Coauthor: Senator Wilk)**

February 17, 2017

An act to amend Sections 56043 and 56504 of the Education Code, relating to special education pupils.

LEGISLATIVE COUNSEL'S DIGEST

AB 1264, Eduardo Garcia. Special education pupils: individualized education program: meetings: school records.

(1) Existing law requires local educational agencies to identify, locate, and assess individuals with exceptional needs and to provide those pupils with a free appropriate public education in the least restrictive environment, with special education and related services as reflected in an individualized education program. Existing law requires a local educational agency to initiate and conduct meetings for the purposes of developing, reviewing, and revising the individualized education program of each individual with exceptional needs in accordance with federal law.

Existing law requires a parent, as defined, of an individual with exceptional needs to have the right and opportunity to examine all school records of his or her child and to receive copies of those records within 5 business days after a request is made by the parent, either orally or in writing. Existing law requires a public agency to comply with a request for school records without unnecessary delay before any meeting regarding an individualized education program.

This bill would require a public agency, before any meeting regarding an individualized education program, to offer to provide to the parent copies of any available, completed school records related to the pupil's current levels of performance, and any available, completed assessment reports, if these records and reports are related to that meeting. The bill would require the public agency, if the parent requests those copies, to make them available to the parent at least 5 business days before the meeting. The bill would authorize a public agency to charge a parent no more than the actual cost of reproducing these copies, but if the cost effectively prevents the parent from exercising the right to receive the copies, the public agency would be required to reproduce the copies at no cost. The bill would require notice to a parent of an individualized education program meeting to include notice of the right to obtain copies of school records pursuant to these provisions. By imposing additional duties on local educational agencies, the bill would impose a state-mandated local program.

The bill would also make conforming changes.

(2) 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 the statutory provisions noted above.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 56043 of the Education Code is amended to read:

56043. The primary timelines affecting special education programs are as follows:

(a) A proposed assessment plan shall be developed within 15 calendar days of referral for assessment, not counting calendar days between the pupil's regular school sessions or terms or calendar days of school vacation in excess of five schooldays, from the date of receipt of the referral, unless the parent agrees in writing to an extension, pursuant to subdivision (a) of Section 56321.

(b) A parent shall have at least 15 calendar days from the receipt of the proposed assessment plan to arrive at a decision, pursuant to subdivision (c) of Section 56321.

(c) Once a child has been referred for an initial assessment to determine whether the child is an individual with exceptional needs and to determine the educational needs of the child, these determinations shall be made, and an individualized education program team meeting shall occur within 60 days of receiving parental consent for the assessment, pursuant to subdivision (a) of Section 56302.1, except as specified in subdivision (b) of that section, and pursuant to Section 56344.

(d) The individualized education program team shall review the pupil's individualized education program periodically, but not less frequently than annually, pursuant to subdivision (d) of Section 56341.1.

(e) A parent shall be notified of the individualized education program team meeting early enough to ensure an opportunity to attend, pursuant to subdivision (b) of Section 56341.5. In the case of an individual with exceptional needs who is 16 years of age or younger, if appropriate, the meeting notice shall indicate that a purpose of the meeting will be the consideration of the postsecondary goals and transition services for the individual with exceptional needs, and the meeting notice described in this subdivision shall indicate that the individual with exceptional needs is invited to attend, pursuant to subdivision (e) of Section 56341.5.

(f) (1) An individualized education program required as a result of an assessment of a pupil shall be developed within a total time not to exceed 60 calendar days, not counting days between the pupil's regular school sessions, terms, or days of school vacation in excess of five schooldays, from the date of receipt of the parent's written consent for assessment, unless the parent agrees in writing to an extension, pursuant to Section 56344.

(2) A meeting to develop an initial individualized education program for the pupil shall be conducted within 30 days of a determination that the child needs special education and related services pursuant to Section 300.323(c)(1) of Title 34 of the Code of Federal Regulations and in accordance with Section 56344.

(g) (1) Beginning not later than the first individualized education program to be in effect when the pupil is 16 years of age, or younger if determined appropriate by the individualized education program team, and updated annually thereafter, the individualized education program shall include appropriate measurable postsecondary goals and transition services needed to assist the pupil in reaching those goals, pursuant to paragraph (8) of subdivision (a) of Section 56345.

(2) The individualized education program for pupils in grades 7 to 12, inclusive, shall include any alternative means and modes necessary for the pupil to complete the district's prescribed course of study and to meet or exceed proficiency standards for graduation, pursuant to paragraph (1) of subdivision (b) of Section 56345.

(3) Beginning not later than one year before the pupil reaches 18 years of age, the individualized education program shall contain a statement that the pupil has been informed of the pupil's rights under this part, if any, that will transfer to the pupil upon reaching 18 years of age, pursuant to Section 56041.5, subdivision (g) of Section 56345, and Section 300.520 of Title 34 of the Code of Federal Regulations.

(h) Beginning at the age of 16 years or younger, and annually thereafter, a statement of needed transition services shall be included in the pupil's individualized education program, pursuant to Section 56345.1 and Section 1414(d)(1)(A)(i)(VIII) of Title 20 of the United States Code.

(i) A pupil's individualized education program shall be implemented as soon as possible following the individualized education program team meeting, pursuant to Section 300.323(c)(2) of Title 34 of the Code of Federal Regulations and in accordance with Section 56344.

(j) An individualized education program team shall meet at least annually to review a pupil's progress, the individualized education program, including whether the annual goals for the pupil are being achieved, the appropriateness of the placement, and to make any necessary revisions, pursuant to subdivision (d) of Section 56343. The local educational agency shall maintain procedures to ensure that the individualized education program team reviews the pupil's individualized education program periodically, but not less frequently than annually, to determine whether the annual goals for the pupil are being achieved, and revises the individualized education program as appropriate to address, among other matters, the provisions specified in subdivision (d) of Section 56341.1, pursuant to subdivision (a) of Section 56380.

(k) A reassessment of a pupil shall occur not more frequently than once a year, unless the parent and the local educational agency agree otherwise in writing, and shall occur at least once every three years, unless the parent and the local educational agency agree, in writing, that a reassessment is unnecessary, pursuant to Section 56381, and in accordance with Section 1414(a)(2) of Title 20 of the United States Code.

(l) A meeting of an individualized education program team requested by a parent to review an individualized education program pursuant to subdivision (c) of Section 56343 shall be held within 30 calendar days, not counting days between the pupil's regular school sessions, terms, or days of school vacation in excess of five schooldays, from the date of receipt of the parent's written request, pursuant to Section 56343.5.

(m) If an individual with exceptional needs transfers from district to district within the state, the following are applicable pursuant to Section 56325:

(1) If the child has an individualized education program and transfers into a district from a district not operating programs under the same local plan in which he or she was last enrolled in a special education program within the same academic year, the local educational agency shall provide the pupil with a free appropriate public education, including services comparable to those described in the previously approved individualized education program, in consultation with the parents, for a period not to exceed 30 days, by which time the local educational agency shall adopt the previously approved individualized education program or shall develop, adopt, and implement a new individualized education program that is consistent with federal and state law, pursuant to paragraph (1) of subdivision (a) of Section 56325.

(2) If the child has an individualized education program and transfers into a district from a district operating programs under the same special education local plan area of the district in which he or she was last enrolled in a special education program within the same academic year, the new district shall continue, without delay, to provide services comparable to those described in the existing approved individualized education program, unless the parent and the local educational agency agree to develop, adopt, and implement a new individualized education program that is consistent with state and federal law, pursuant to paragraph (2) of subdivision (a) of Section 56325.

(3) If the child has an individualized education program and transfers from an educational agency located outside the state to a district within the state within the same academic year, the local educational agency shall provide the pupil with a free appropriate public education, including services comparable to those described in the previously approved individualized education program, in consultation with the parents, until the local educational agency conducts an assessment as specified in paragraph (3) of subdivision (a) of Section 56325.

(4) In order to facilitate the transition for an individual with exceptional needs described in paragraphs (1) to (3), inclusive, the new school in which the pupil enrolls shall take reasonable steps to promptly obtain the pupil's records, as specified, pursuant to subdivision (b) of Section 56325.

(n) (1) The parent shall have the right and opportunity to examine all school records of the child and to receive complete copies within five business days after a request is made by the parent, either orally or in writing, and before any meeting regarding an individualized education program of his or her child or any hearing or resolution session pursuant to Chapter 5 (commencing with Section 56500), in accordance with subdivision (a) of Section 56504 and Chapter 6.5 (commencing with Section 49060) of Part 27.

(2) Before any meeting regarding an individualized education program, a public agency shall offer to provide to the parent copies of any available, completed school records related to the pupil's current levels of performance, and any available, completed assessment reports, if those records and reports are related to that meeting. If the parent requests those copies, the public agency shall make them available to the pupil's parent at least five business days before the meeting, in accordance with subdivision (b) of Section 56504.

(o) Upon receipt of a request from a local educational agency where an individual with exceptional needs has enrolled, a former educational agency shall send the pupil's special education records, or a copy of those records, to the new local educational agency within five working days, pursuant to subdivision (a) of Section 3024 of Title 5 of the California Code of Regulations.

(p) The department shall do all of the following:

(1) Have a time limit of 60 calendar days after a complaint is filed with the state educational agency to investigate the complaint.

(2) Give the complainant the opportunity to submit additional information about the allegations in the complaint.

(3) Review all relevant information and make an independent determination as to whether there is a violation of a requirement of this part or Part B of the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.).

(4) Issue a written decision pursuant to Section 300.152(a)(5) of Title 34 of the Code of Federal Regulations.

(q) A prehearing mediation conference shall be scheduled within 15 calendar days of receipt by the Superintendent of the request for mediation, and shall be completed within 30 calendar days after the request for mediation, unless both parties to the prehearing mediation conference agree to extend the time for completing the mediation, pursuant to Section 56500.3.

(r) Any request for a due process hearing arising from subdivision (a) of Section 56501 shall be filed within two years from the date the party initiating the request knew or had reason to know of facts underlying the basis for the request, except that this timeline shall not apply to a parent if the parent was prevented from requesting the due process hearing, pursuant to subdivision (l) of Section 56505.

(s) The Superintendent shall ensure that, within 45 calendar days after receipt of a written due process hearing request, the hearing is immediately commenced and completed, including any mediation requested at any point during the hearing process, and a final administrative decision is rendered, pursuant to subdivision (f) of Section 56502.

(t) If either party to a due process hearing intends to be represented by an attorney in the due process hearing, notice of that intent shall be given to the other party at least 10 calendar days before the hearing, pursuant to subdivision (a) of Section 56507.

(u) Any party to a due process hearing shall have the right to be informed by the other parties to the hearing, at least 10 calendar days before the hearing, as to what those parties believe are the issues to be decided at the hearing and their proposed resolution of those issues, pursuant to paragraph (6) of subdivision (e) of Section 56505.

(v) Any party to a due process hearing shall have the right to receive from other parties to the hearing, at least five business days before the hearing, a copy of all documents, including all assessments completed and not completed by that date, and a list of all witnesses and their general area of testimony that the parties intend to present at the hearing, pursuant to paragraph (7) of subdivision (e) of Section 56505.

(w) An appeal of a due process hearing decision shall be made within 90 calendar days of receipt of the hearing decision, pursuant to subdivision (k) of Section 56505.

(x) A complaint filed with the department shall allege a violation of the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.) or a provision of this part that occurred not more than one year before the date that the complaint is received by the department, pursuant to Section 56500.2 and Section 300.153(c) of Title 34 of the Code of Federal Regulations.

SEC. 2. Section 56504 of the Education Code is amended to read:

56504. (a) (1) The parent shall have the right and opportunity to examine all school records of his or her child and to receive copies pursuant to this section and to Section 49065 within five business days after the request is made by the parent, either orally or in writing. The public agency shall comply with a request for school records without unnecessary delay before any

meeting regarding an individualized education program or any hearing pursuant to Section 300.121, 300.301, 300.304, or 300.507 of Title 34 of the Code of Federal Regulations or resolution session pursuant to Section 300.510 of Title 34 of the Code of Federal Regulations and in no case more than five business days after the request is made orally or in writing.

(2) (A) The parent shall have the right to a response from the public agency to reasonable requests for explanations and interpretations of the records.

(B) If a school record includes information on more than one pupil, the parents of those pupils have the right to inspect and review only the information relating to their child or to be informed of that specific information.

(C) A public agency shall provide a parent, on request of the parent, a list of the types and locations of school records collected, maintained, or used by the agency.

(b) Before any meeting regarding an individualized education program, a public agency shall offer to provide to the parent copies of any available, completed school records related to the pupil's current levels of performance, and any available, completed assessment reports, if these records and reports are related to that meeting. If the parent requests any of those copies, the public agency shall provide them to the parent at least five business days before the meeting.

(c) A public agency may charge a parent no more than the actual cost of reproducing the records requested pursuant to this section, but if this cost effectively prevents the parent from exercising the right to receive the copy or copies, the copy or copies shall be reproduced at no cost.

(d) Notice to a parent of an individualized education program meeting pursuant to subdivision (b) of Section 56341.5 shall include notice of the right to obtain copies of school records pursuant to this section within five business days after the request is made.

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