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AB-1172 Special education: nonpublic, nonsectarian schools or agencies. (2019-2020)

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Assembly Bill No. 1172

CHAPTER 454

An act to amend Sections 51225.2, 56365, 56366.1, 56366.4, and 56366.10 of the Education Code, relating to special education.

[Approved by Governor October 02, 2019. Filed with Secretary of State October 02, 2019.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1172, Frazier. Special education: nonpublic, nonsectarian schools or agencies.

Existing law sets forth a method for providing special education and related services to pupils with exceptional needs. Existing law permits, under certain circumstances, contracts to be entered into for the provision of those services by nonpublic, nonsectarian schools or agencies, as defined, and requires a contracting local educational agency to pay to the nonpublic, nonsectarian school or agency the full amount of the tuition for individuals with exceptional needs who are enrolled in programs provided pursuant to the contract. Existing law authorizes a master contract for special education and related services provided by a nonpublic, nonsectarian school or agency only if the school or agency has been certified as meeting specified standards. Existing law sets forth the certification process and procedures for the nonpublic, nonsectarian schools or agencies that seek certification from the Superintendent of Public Instruction.

This bill would instead require a contracting local educational agency to pay the full amount of the tuition or fees, as applicable, for individuals with exceptional needs who are enrolled in programs or receiving services provided pursuant to such a contract. Commencing with the 2020–21 school year, the bill would require a nonpublic, nonsectarian school or agency to include in its certification application documentation that the nonpublic, nonsectarian school or agency will train staff who will have contact or interaction with pupils during the schoolday, as prescribed, and would impose related training and verification requirements on nonpublic, nonsectarian schools or agencies and contracting local educational agencies. Commencing with the 2021–22 school year, the bill would require a nonpublic, nonsectarian school or agency to include in its certification application documentation that the administrator of the nonpublic, nonsectarian school holds or is in the process of obtaining a specified credential, degree, or license and, in certain cases, 2 years of experience. Commencing with the 2020–21 school year, the bill would require a local educational agency that enters into a master contract with a nonpublic, nonsectarian school to conduct onsite visits to the nonpublic, nonsectarian school, as specified, and would require the State Department of Education, on or before June 30, 2020, to create and publish criteria for reporting the findings of a monitoring visit to the department.

The bill would require a nonpublic, nonsectarian school or agency to notify the department and the local educational agency with which it has a master contract of any pupil-involved incident at the school or agency in which law enforcement was involved, as specified. The bill would authorize the department, if an investigation conducted by the department results in a finding that pupil health or safety has been compromised or is in danger of being compromised at a nonpublic, nonsectarian school or agency, to immediately suspend or revoke the certification of the nonpublic, nonsectarian school or agency. The bill would require a nonpublic, nonsectarian school serving pupils with significant behavioral needs or who are on behavioral intervention plans to

have a qualified individual onsite during school hours, as specified. The bill would also make other changes relating to nonpublic, nonsectarian schools or agencies.

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

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

SECTION 1. Section 51225.2 of the Education Code is amended to read:

51225.2. (a) For purposes of this section, the following definitions apply:

(1) "Pupil in foster care" means a child who has been removed from their home pursuant to Section 309 of the Welfare and Institutions Code, is the subject of a petition filed under Section 300 or 602 of the Welfare and Institutions Code, or has been removed from their home and is the subject of a petition filed under Section 300 or 602 of the Welfare and Institutions Code.

(2) "Pupil who is a homeless child or youth" means a pupil who meets the definition of "homeless children and youths" in Section 11434a(2) of Title 42 of the United States Code.

(3) "Former juvenile court school pupil" means a pupil who, upon completion of the pupil's second year of high school, transfers to a school district or charter school, excluding a school district operated by the Division of Juvenile Justice of the Department of Corrections and Rehabilitation, from a juvenile court school.

(4) "Pupil who is a child of a military family" means a pupil who meets the definition of "children of military families" under Section 49701.

(5) "Pupil who is a migratory child" means a pupil who meets the definition of "currently migratory child" under subdivision (a) of Section 54441.

(6) "Pupil participating in a newcomer program" means a pupil who is participating in a program designed to meet the academic and transitional needs of newly arrived immigrant pupils that has as a primary objective the development of English language proficiency.

(7) "Local educational agency" means a school district, county office of education, or charter school.

(b) (1) Notwithstanding any other law, a local educational agency shall accept coursework satisfactorily completed by a pupil in foster care, a pupil who is a homeless child or youth, a former juvenile court school pupil, a pupil who is a child of a military family, a pupil who is a migratory child, or a pupil participating in a newcomer program while attending another public school, a juvenile court school, a charter school, a school in a country other than the United States, or a nonpublic, nonsectarian school even if the pupil did not complete the entire course and shall issue that pupil full or partial credit for the coursework completed.

(2) For purposes of coursework completed by a pupil who is a child of a military family, "public school" includes schools operated by the United States Department of Defense.

(c) The credits accepted pursuant to subdivision (b) shall be applied to the same or equivalent course, if applicable, as the coursework completed in the prior public school, juvenile court school, charter school, school in a country other than the United States, or nonpublic, nonsectarian school.

(d) A local educational agency shall not require a pupil in foster care, a pupil who is a homeless child or youth, a former juvenile court school pupil, a pupil who is a child of a military family, a pupil who is a migratory child, or a pupil participating in a newcomer program to retake a course if the pupil has satisfactorily completed the entire course in a public school, a juvenile court school, a charter school, a school in a country other than the United States, or a nonpublic, nonsectarian school. If the pupil did not complete the entire course, the local educational agency shall not require the pupil to retake the portion of the course the pupil completed unless the local educational agency, in consultation with the holder of educational rights for the pupil, finds that the pupil is reasonably able to complete the requirements in time to graduate from high school. When partial credit is awarded in a particular course, the pupil in foster care, the pupil who is a homeless child or youth, the former juvenile court school pupil, the pupil who is a child of a military family, the pupil who is a migratory child, or the pupil participating in a newcomer program shall be enrolled in the same or equivalent course, if applicable, so that the pupil may continue and complete the entire course.

(e) A pupil in foster care, a pupil who is a homeless child or youth, a former juvenile court school pupil, a pupil who is a child of a military family, a pupil who is a migratory child, or a pupil participating in a newcomer program shall not be prevented from retaking or taking a course to meet the eligibility requirements for admission to the California State University or the University of California.

(f) (1) A complaint of noncompliance with the requirements of this section may be filed with the local educational agency under the Uniform Complaint Procedures set forth in Chapter 5.1 (commencing with Section 4600) of Division 1 of Title 5 of the California Code of Regulations.

(2) A complainant not satisfied with the decision of a local educational agency may appeal the decision to the department pursuant to Chapter 5.1 (commencing with Section 4600) of Division 1 of Title 5 of the California Code of Regulations and shall receive a written decision regarding the appeal within 60 days of the department's receipt of the appeal.

(3) If a local educational agency finds merit in a complaint, or the Superintendent finds merit in an appeal, the local educational agency shall provide a remedy to the affected pupil.

(4) Information regarding the requirements of this section shall be included in the annual notification distributed to, among others, pupils, parents or guardians of pupils, employees, and other interested parties pursuant to Section 4622 of Title 5 of the California Code of Regulations.

SEC. 2. Section 56365 of the Education Code is amended to read:

56365. (a) Services provided by nonpublic, nonsectarian schools, as defined pursuant to Section 56034, and nonpublic, nonsectarian agencies, as defined pursuant to Section 56035, shall be made available. These services shall be provided pursuant to Section 56366, and in accordance with Section 300.146 of Title 34 of the Code of Federal Regulations, under contract with the local educational agency to provide the appropriate special educational facilities, special education, or designated instruction and services required by the individual with exceptional needs if no appropriate public education program is available.

(b) Pupils enrolled in nonpublic, nonsectarian schools and agencies under this section shall be deemed to be enrolled in public schools for all purposes of Chapter 4 (commencing with Section 41600) of Part 24 of Division 3 and Section 42238.02. The local educational agency shall be eligible to receive allowances under Articles 3 (commencing with Section 56836.165) and 4 (commencing with Section 56836.20) of Chapter 7.2 for services that are provided to individuals with exceptional needs pursuant to the contract.

(c) If the state participates in the federal program of assistance for state-operated or state-supported programs for individuals with exceptional needs (Public Law 89-313, Sec. 6), pupils enrolled in nonpublic, nonsectarian schools shall be deemed to be enrolled in state-supported institutions for all purposes of that program and shall be eligible to receive allowances under Chapter 7.2 (commencing with Section 56836) for supplemental services provided to individuals with exceptional needs pursuant to a contract with a local educational agency. In order to participate in the federal program, the state shall find that participation will not result in any additional expenditures from the General Fund.

(d) The local educational agency shall pay to the nonpublic, nonsectarian school the full amount of the tuition or to the nonpublic, nonsectarian agency fees, as applicable, for individuals with exceptional needs that are enrolled in programs or receiving services provided by the nonpublic, nonsectarian school or agency pursuant to the contract.

(e) Before contracting with a nonpublic, nonsectarian school or agency outside of this state, the local educational agency shall document its efforts to use public schools or to locate an appropriate nonpublic, nonsectarian school or agency program, or both, within the state.

(f) If a local educational agency places a pupil with a nonpublic, nonsectarian school or agency outside of this state, the pupil's individualized education program team shall submit a report to the Superintendent within 15 days of the placement decision. The report shall include information about the special education and related services provided by the out-of-state program placement and the costs of the special education and related services provided, and shall indicate the efforts of the local educational agency to locate an appropriate public school or nonpublic, nonsectarian school or agency, or a combination thereof, within the state. The Superintendent shall submit a report to the board on all placements made outside of this state.

(g) If a local educational agency decides to place a pupil with a nonpublic, nonsectarian school or agency outside of this state, that local educational agency shall indicate the anticipated date for the return of the pupil to a public or nonpublic, nonsectarian school or agency placement, or a combination thereof, located in the state and shall document efforts during the previous placement year to return the pupil.

(h) In addition to meeting the requirements of Section 56366.1, a nonpublic, nonsectarian school or agency that operates a program outside of this state shall be certified or licensed by that state to provide, respectively, special education and related services and designated instruction and related services to pupils under the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.).

(i) A nonpublic, nonsectarian school or agency that is located outside of this state is eligible for certification pursuant to Section 56366.1 only if a pupil is enrolled in a program operated by that school or agency pursuant to the recommendation of an individualized education program team in California, and if that pupil's parents or guardians reside in California.

(j) In accordance with Section 300.147(b) and (c) of Title 34 of the Code of Federal Regulations, the department shall disseminate copies of applicable standards to each nonpublic, nonsectarian school and nonpublic, nonsectarian agency to which a local educational agency has referred or placed an individual with exceptional needs and shall provide an opportunity for those nonpublic, nonsectarian schools and nonpublic, nonsectarian agencies to participate in the development and revision of state standards that apply to those entities.

SEC. 3. Section 56366.1 of the Education Code is amended to read:

56366.1. (a) A nonpublic, nonsectarian school or agency that seeks certification shall file an application with the Superintendent on forms provided by the department, and shall include all of the following information on the application:

(1) A description of the special education and designated instruction and services provided to individuals with exceptional needs if the application is for nonpublic, nonsectarian school certification.

(2) A description of the designated instruction and services provided to individuals with exceptional needs if the application is for nonpublic, nonsectarian agency certification.

(3) A list of appropriately qualified staff, a description of the credential, license, or registration that qualifies each staff member rendering special education or designated instruction and services to do so, and copies of their credentials, licenses, or certificates of registration with the appropriate state or national organization that has established standards for the service rendered.

(4) (A) (i) Commencing with the 2020–21 school year, documentation that the nonpublic, nonsectarian school or agency will train staff who will have contact or interaction with pupils during the schoolday in the use of evidence-based practices and interventions specific to the unique behavioral needs of the nonpublic, nonsectarian school or agency's pupil population. The training shall be provided within 30 days of employment to new staff who have any contact or interaction with pupils during the schoolday, and annually to all staff who have any contact or interaction with pupils during the schoolday.

(ii) For a nonpublic, nonsectarian school or agency that was in existence as of the January 1 immediately preceding a school year, documentation that the nonpublic, nonsectarian school or agency's staff members who will have contact or interaction with pupils during the schoolday have received training that complies with the requirements of subparagraphs (B) and (C).

(B) The training described in this paragraph shall be selected and conducted by the nonpublic, nonsectarian school or agency and shall satisfy all of the following conditions:

(i) Be conducted by persons licensed or certified in fields related to the evidence-based practices and interventions being taught.

(ii) Be taught in a manner consistent with the development and implementation of individualized education programs.

(iii) Be consistent with the requirements of Article 5.2 (commencing with Section 49005) of Chapter 6 of Part 27, relating to pupil discipline.

(C) The content of the training described in this paragraph shall include, but is not limited to, all of the following:

(i) Positive behavioral intervention and supports, including collection, analysis, and use of data to inform, plan, and implement behavioral supports.

(ii) How to understand and address challenging behaviors, including evidence-based strategies for preventing those behaviors.

(iii) Evidence-based interventions for reducing and replacing challenging behaviors, including deescalation techniques.

(D) (i) The contracting local educational agency shall verify the nonpublic, nonsectarian school or agency's compliance with the requirements of this paragraph, and the nonpublic, nonsectarian school or agency shall report the contracting local educational agency's verification to the Superintendent annually with the annual certification documents described in subdivision (h).

(ii) For a nonpublic, nonsectarian school or agency seeking initial certification, the contracting local educational agency shall verify that the plan and timeline for training provided pursuant to this paragraph are included in the master contract.

(iii) For a nonpublic, nonsectarian school or agency not in existence as of the January 1 immediately preceding a school year, the contracting local educational agency shall, 30 days following the commencement of the school year, verify that

the nonpublic, nonsectarian school or agency provided the training required by this paragraph, and shall submit the verification to the Superintendent at that time.

(iv) The nonpublic, nonsectarian school or agency shall maintain written records of the training provided pursuant to this paragraph, and shall provide written verification of the training upon request.

(5) Commencing with the 2021–22 school year, documentation that the administrator of the nonpublic, nonsectarian school holds or is in the process of obtaining one of the following:

(A) An administrative credential granted by an accredited postsecondary educational institution and two years of experience with pupils with disabilities.

(B) A pupil personnel services credential that authorizes school counseling or psychology.

(C) A license as a clinical social worker issued by the Board of Behavioral Sciences.

(D) A license in psychology regulated by the Board of Psychology.

(E) A master's degree issued by an accredited postsecondary institution in education, special education, psychology, counseling, behavioral analysis, social work, behavioral science, or rehabilitation.

(F) A credential authorizing special education instruction and at least two years of experience teaching in special education before becoming an administrator.

(G) A license as a marriage and family therapist certified by the Board of Behavioral Sciences.

(H) A license as an educational psychologist issued by the Board of Behavioral Sciences.

(I) A license as a professional clinical counselor issued by the Board of Behavioral Sciences.

(6) An annual operating budget.

(7) Affidavits and assurances necessary to comply with all applicable federal, state, and local laws and regulations that include criminal record summaries required of all nonpublic, nonsectarian school or agency personnel having contact with minor children under Section 44237.

(b) (1) The applicant shall provide the special education local plan area in which the applicant is located with the written notification of its intent to seek certification or renewal of its certification. The local educational agency representatives shall acknowledge that they have been notified of the intent to certify or renew certification. The acknowledgment shall include a statement that representatives of the local educational agency for the area in which the applicant is located have had the opportunity to review the application at least 60 calendar days before submission of an initial application to the Superintendent, or at least 30 calendar days before submission of a renewal application to the Superintendent. The acknowledgment shall provide assurances that local educational agency representatives have had the opportunity to provide input on all required components of the application.

(2) If the local educational agency has not acknowledged an applicant's intent to be certified 60 calendar days from the date of submission for initial applications or 30 calendar days from the date of the return receipt for renewal applications, the applicant may file the application with the Superintendent.

(3) The department shall provide electronic notification of the availability of renewal application materials to certified nonpublic, nonsectarian schools and agencies at least 120 days before the date their current certification expires.

(c) If the applicant operates a facility or program on more than one site, each site shall be certified.

(d) If the applicant is part of a larger program or facility on the same site, the Superintendent shall consider the effect of the total program on the applicant. A copy of the policies and standards for the nonpublic, nonsectarian school or agency and the larger program shall be available to the Superintendent.

(e) (1) Before certification, the Superintendent shall conduct an onsite review of the facility and program for which the applicant seeks certification. The Superintendent may be assisted by representatives of the special education local plan area in which the applicant is located and a nonpublic, nonsectarian school or agency representative who does not have a conflict of interest with the applicant. The Superintendent shall conduct an additional onsite review of the facility and program within three years of the effective date of the certification, unless the Superintendent conditionally certifies the nonpublic, nonsectarian school or agency, or unless the Superintendent receives a formal complaint against the nonpublic, nonsectarian school or agency. In the latter two cases, the Superintendent shall conduct an onsite review at least annually.

(2) In carrying out this subdivision, the Superintendent may verify that the nonpublic, nonsectarian school or agency has received a successful criminal background check clearance and has enrolled in subsequent arrest notice service, pursuant to Section 44237, for each owner, operator, and employee of the nonpublic, nonsectarian school or agency.

(3) Commencing with the 2020–21 school year, a local educational agency that enters into a master contract with a nonpublic, nonsectarian school shall conduct, at minimum, both of the following:

(A) An onsite visit to the nonpublic, nonsectarian school before placement of a pupil if the local educational agency does not have any pupils enrolled at the school at the time of placement.

(B) At least one onsite monitoring visit during each school year to the nonpublic, nonsectarian school at which the local educational agency has a pupil attending and with which it maintains a master contract. The monitoring visit shall include, but is not limited to, a review of services provided to the pupil through the individual service agreement between the local educational agency and the nonpublic, nonsectarian school, a review of progress the pupil is making toward the goals set forth in the pupil's individualized education program, a review of progress the pupil is making toward the goals set forth in the pupil's behavioral intervention plan, if applicable, an observation of the pupil during instruction, and a walkthrough of the facility. The local educational agency shall report the findings resulting from the monitoring visit to the department within 60 calendar days of the onsite visit. On or before June 30, 2020, the department shall, with input from special education local plan area administrators, create and publish criteria for reporting this information to the department.

(f) The Superintendent shall make a determination on an application within 120 days of receipt of the application and shall certify, conditionally certify, or deny certification to the applicant. If the Superintendent fails to take one of these actions within 120 days, the applicant is automatically granted conditional certification for a period terminating on August 31 of the current school year. If certification is denied, the Superintendent shall provide reasons for the denial. The Superintendent shall not certify the nonpublic, nonsectarian school or agency for a period longer than one year.

(g) Certification becomes effective on the date the nonpublic, nonsectarian school or agency meets all the application requirements and is approved by the Superintendent. Certification may be retroactive if the nonpublic, nonsectarian school or agency met all the requirements of this section on the date the retroactive certification is effective. Certification expires on December 31 of the terminating year.

(h) The Superintendent annually shall review the certification of each nonpublic, nonsectarian school or agency. For this purpose, a certified nonpublic, nonsectarian school or agency annually shall update its application between August 1 and October 31, unless the state board grants a waiver pursuant to Section 56101. The Superintendent may conduct an onsite review as part of the annual review.

(i) (1) The Superintendent shall conduct an investigation of a nonpublic, nonsectarian school or agency onsite at any time without prior notice if there is substantial reason to believe that there is an immediate danger to the health, safety, or welfare of a child. The Superintendent shall document the concern and submit it to the nonpublic, nonsectarian school or agency at the time of the onsite investigation. The Superintendent shall require a written response to any noncompliance or deficiency found.

(2) A nonpublic, nonsectarian school or agency shall notify the department and the local educational agency with which it has a master contract of any pupil-involved incident at the school or agency in which law enforcement was contacted. This notification shall be provided in writing, no later than one business day after the incident occurred.

(3) With respect to a nonpublic, nonsectarian school or agency, the Superintendent shall conduct an investigation, which may include an unannounced onsite visit, if the Superintendent receives evidence of a significant deficiency in the quality of educational services provided, a violation of Section 56366.9, or noncompliance with the policies expressed by subdivision (b) of Section 1501 of the Health and Safety Code by the nonpublic, nonsectarian school or agency. The Superintendent shall document the complaint and the results of the investigation and shall provide copies of the documentation to the complainant, the nonpublic, nonsectarian school or agency, and the contracting local educational agency.

(4) Violations or noncompliance documented pursuant to paragraph (1) or (3) shall be reflected in the status of the certification of the nonpublic, nonsectarian school or agency, at the discretion of the Superintendent, pending an approved plan of correction by the nonpublic, nonsectarian school or agency. The department shall retain for a period of 10 years all violations pertaining to certification of the nonpublic, nonsectarian school or agency.

(5) In carrying out this subdivision, the Superintendent may verify that the nonpublic, nonsectarian school or agency received a successful criminal background check clearance and has enrolled in subsequent arrest notice service, pursuant to Section 44237, for each owner, operator, and employee of the nonpublic, nonsectarian school or agency.

(j) The Superintendent shall monitor the facilities, the educational environment, and the quality of the educational program, including the teaching staff, the credentials authorizing service, the standards-based core curriculum being employed, and the

standards-focused instructional materials used, of an existing certified nonpublic, nonsectarian school or agency on a three-year cycle, as follows:

- (1) The nonpublic, nonsectarian school or agency shall complete a self-review in year one.
- (2) The Superintendent shall conduct an onsite review of the nonpublic, nonsectarian school or agency in year two.
- (3) The Superintendent shall conduct a followup visit to the nonpublic, nonsectarian school or agency in year three.

(k) (1) Notwithstanding any other law, the Superintendent shall not certify a nonpublic, nonsectarian school or agency that proposes to initiate or expand services to pupils currently educated in the immediate prior fiscal year in a juvenile court program, community school pursuant to Section 56150, or other nonspecial education program, including independent study or adult school, or both, unless the nonpublic, nonsectarian school or agency notifies the county superintendent of schools and the special education local plan area in which the proposed new or expanded nonpublic, nonsectarian school or agency is located of its intent to seek certification.

(2) The notification shall occur no later than the December 1 before the new fiscal year in which the proposed or expanding school or agency intends to initiate services. The notice shall include the following:

- (A) The specific date upon which the proposed nonpublic, nonsectarian school or agency is to be established.
- (B) The location of the proposed program or facility.
- (C) The number of pupils proposed for services, the number of pupils currently served in the juvenile court, community school, or other nonspecial education program, the current school services including special education and related services provided for these pupils, and the specific program of special education and related services to be provided under the proposed program.
- (D) The reason for the proposed change in services.
- (E) The number of staff who will provide special education and designated instruction and services and hold a current valid California credential or license in the service rendered.

(3) In addition to the requirements in subdivisions (a) to (f), inclusive, the Superintendent shall require and consider the following in determining whether to certify a nonpublic, nonsectarian school or agency as described in this subdivision:

- (A) A complete statement of the information required as part of the notice under paragraph (1).
- (B) Documentation of the steps taken in preparation for the conversion to a nonpublic, nonsectarian school or agency, including information related to changes in the population to be served and the services to be provided pursuant to each pupil's individualized education program.

(4) Notwithstanding any other law, the certification becomes effective no earlier than July 1 if the nonpublic, nonsectarian school or agency provided the notification required pursuant to paragraph (1).

(l) (1) Notwithstanding any other law, the Superintendent shall not certify or renew the certification of a nonpublic, nonsectarian school that also operates a licensed children's institution, unless all of the following conditions are met:

- (A) The entity operating the nonpublic, nonsectarian school maintains separate financial records for each entity that it operates, with each nonpublic, nonsectarian school identified separately from any licensed children's institution that it operates.
- (B) The entity submits an annual budget that identifies the projected costs and revenues for each entity and demonstrates that the rates to be charged are reasonable to support the operation of the entity.
- (C) The entity submits an entitywide annual audit that identifies its costs and revenues, by entity, in accordance with generally accepted accounting and auditing principles. The audit shall clearly document the amount of moneys received and expended on the educational program provided by the nonpublic, nonsectarian school.
- (D) The relationship between various entities operated by the same entity are documented, defining the responsibilities of the entities. The documentation shall clearly identify the services to be provided as part of each program, for example, the residential or medical program, the mental health program, or the educational program. The entity shall not seek funding from a public agency for a service, either separately or as part of a package of services, if the service is funded by another public agency, either separately or as part of a package of services.

(2) For purposes of this section, "licensed children's institution" has the same meaning as it is defined by Section 56155.5.

(m) (1) The nonpublic, nonsectarian school or agency shall be charged a reasonable fee for certification. The Superintendent may adjust the fee annually commensurate with the statewide average percentage inflation adjustment computed for local control funding formula allocations pursuant to Section 42238.02, as implemented by Section 42238.03, of unified school districts with greater than 1,500 units of average daily attendance if the percentage increase is reflected in the school district local control funding formula allocation pursuant to Section 42238.02, as implemented by Section 42238.03, for inflation purposes. For purposes of this section, the base fee shall be the following:

(1) 1–5 pupils	\$ 300
(2) 6–10 pupils	500
(3) 11–24 pupils	1,000
(4) 25–75 pupils	1,500
(5) 76 pupils and over	2,000

(2) The nonpublic, nonsectarian school or agency shall pay this fee when it applies for certification and when it updates its application for annual renewal by the Superintendent. The Superintendent shall use these fees to conduct onsite reviews, which may include field experts. A fee shall not be refunded if the application is withdrawn or is denied by the Superintendent.

(n) (1) Notwithstanding any other law, only those nonpublic, nonsectarian schools or agencies that provide special education and designated instruction and services using administrators and staff who hold a certificate, permit, or other document equivalent to that which staff in a public school are required to hold in the service rendered are eligible to receive certification. Only those nonpublic, nonsectarian schools or agencies located outside of California that employ staff who hold a current valid credential or license to render special education and related services as required by that state shall be eligible to be certified. Commencing with the 2021–22 school year, this paragraph shall not apply to administrators.

(2) Commencing with the 2021–22 school year, notwithstanding any other law, only those nonpublic, nonsectarian schools or agencies that provide special education and related services using administrators who hold or are in the process of obtaining a credential, degree, or license in accordance with paragraph (5) of subdivision (a) are eligible to be certified.

(3) The state board shall develop regulations to implement this subdivision.

(o) In addition to meeting the standards adopted by the state board, a nonpublic, nonsectarian school or agency shall provide written assurances that it meets all applicable standards relating to fire, health, sanitation, and building safety.

(p) (1) Notwithstanding subdivision (n) of Section 44237, and for purposes of enabling the Superintendent to carry out the duties pursuant to this section, a nonpublic, nonsectarian school or agency shall, upon demand, make available to the Superintendent evidence of a successful criminal background check clearance and enrollment in subsequent arrest notice service, conducted pursuant to Section 44237, for each owner, operator, and employee of the nonpublic, nonsectarian school or agency.

(2) The nonpublic, nonsectarian school or agency shall retain the evidence and store it in a locked file separate from other files.

SEC. 4. Section 56366.4 of the Education Code is amended to read:

56366.4. (a) The Superintendent may revoke or suspend the certification of a nonpublic, nonsectarian school or agency for any of the following reasons:

(1) Violation of an applicable state or federal rule or regulation, or aiding, abetting, or permitting the violation of an applicable state or federal rule or regulation.

(2) Falsification or intentional misrepresentation of an element of the application, pupil records, or program presented for certification purposes.

(3) Conduct in the operation or maintenance of the nonpublic, nonsectarian school or agency that is harmful to the health, welfare, or safety of an individual with exceptional needs.

(4) Failure to comply with a provision in the master contract with the local educational agency.

(5) Failure to notify the department in writing of any of the following within 45 days of the occurrence:

(A) Changes in credentialed, licensed, or registered staff who render special education and related services, ownership, management, or control of the nonpublic, nonsectarian school or agency.

(B) Major modification or relocation of facilities.

(C) Significant modification of the nonpublic, nonsectarian school or agency program.

(6) Failure to implement recommendations and compliance requirements following an onsite review of the school or agency.

(7) Failure to provide appropriate services, supplies, equipment, or facilities for a pupil as required in the pupil's individualized education program.

(8) Failure to notify the Superintendent in writing within 10 days of the revocation or suspension of a license or permit, including, but not limited to, a residential care license, business license, or other required license or permit.

(9) Failure to implement a pupil's individualized education program.

(10) Failure to notify the Superintendent in writing within 10 days of the death of a pupil or any other individual of unnatural causes within the school or agency, including the circumstances surrounding the death and appropriate preventative measures being taken or recommended.

(b) If an investigation conducted by the department results in a finding that pupil health or safety has been compromised or is in danger of being compromised at a nonpublic, nonsectarian school or agency, the department may immediately suspend or revoke the certification of the nonpublic, nonsectarian school or agency.

(c) The Superintendent shall notify contracting local educational agencies and the special education local plan area in which the nonpublic, nonsectarian school or agency is located of the determination to suspend or revoke state certification.

(d) If the Superintendent determines that a nonpublic, nonsectarian school or agency has violated the certification requirements pursuant to this section and revokes the certification, the nonpublic, nonsectarian school or agency; the site administrator, business, organization, or entity involved in the administration of the nonpublic, nonsectarian school or agency whose certification was revoked; and the site administrator, business, organization, or entity whose nonpublic, nonsectarian school or agency certification was revoked at any time previously, shall not be eligible to apply for recertification of the school or agency for two full years from the date of revocation.

SEC. 5. Section 56366.10 of the Education Code is amended to read:

56366.10. In addition to the certification requirements set forth in Sections 56366 and 56366.1, a nonpublic, nonsectarian school that provides special education and related services to an individual with exceptional needs shall certify in writing to the Superintendent that it meets all of the following requirements:

(a) It will not accept a pupil with exceptional needs if it cannot provide or ensure the provision of the services outlined in the pupil's individualized education program.

(b) Pupils have access to the following educational materials, services, and programs that are consistent with each pupil's individualized education program:

(1) (A) For kindergarten and grades 1 to 8, inclusive, state-adopted, standards-based, core curriculum and instructional materials, including technology-based materials as defined in Section 60010.

(B) For grades 9 to 12, inclusive, standards-based, core curriculum and instructional materials, including technology-based materials as defined in Section 60010, used by any local educational agency that contracts with the nonpublic, nonsectarian school.

(2) College preparatory courses.

(3) Extracurricular activities, such as art, sports, music, and academic clubs.

(4) Career preparation and vocational training, consistent with transition plans pursuant to state and federal law.

(5) Supplemental assistance, including individual academic tutoring, psychological counseling, and career and college counseling.

(c) The teachers and staff provide academic instruction and support services to pupils with the goal of integrating pupils into the least restrictive environment pursuant to federal law.

(d) The school has and abides by a written policy for pupil discipline that is consistent with state and federal law and regulations.

(e) For a school serving pupils with significant behavioral needs or who are on behavioral intervention plans, the school has an individual onsite during school hours who is qualified, and responsible for the design, planning, and implementation of behavioral interventions, as authorized under Section 3051.23 of Title 5 of the California Code of Regulations.

(f) Commencing with the 2020–21 school year, the nonpublic, nonsectarian school provides annual training to all staff who have any contact or interaction with pupils during the schoolday. The training is also provided within 30 days of employment to new staff who have any contact or interaction with pupils during the schoolday. The nonpublic, nonsectarian school maintains written records of the training, and will provide written verification of the training upon request. The training shall comply with the requirements of subparagraphs (B) and (C) of paragraph (4) of subdivision (a) of Section 56366.1.