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**AB-723 Pupil placement: special education: foster children: nonpublic, nonsectarian schools or agencies: school of origin.** (2023-2024)

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**Assembly Bill No. 723**

**CHAPTER 812**

An act to amend Sections 48853.5, 56366.1, and 56366.10 of the Education Code, relating to pupil placement.

[ Approved by Governor October 13, 2023. Filed with Secretary of State October 13, 2023. ]

**LEGISLATIVE COUNSEL'S DIGEST**

AB 723, Quirk-Silva. Pupil placement: special education: foster children: nonpublic, nonsectarian schools or agencies: school of origin.

Existing law requires a local educational agency serving a foster child to allow the foster child to remain at the child's school of origin upon the initial detention or placement, any subsequent change in placement, the termination of the court's jurisdiction, or pending resolution of a dispute regarding school of origin placement, as provided. Existing law defines "school of origin" as the school that the foster child attended when permanently housed or the school in which the foster child was last enrolled, except as specified.

Existing law sets forth a method for providing special education and related services to pupils who are individuals with exceptional needs, as defined. 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. 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, for a foster child who is an individual with exceptional needs, define "school of origin" as also including a placement in a certified nonpublic, nonsectarian school, as provided. The bill would require, commencing with the 2024–25 school year, a nonpublic, nonsectarian school or agency seeking certification or already certified to agree in writing, for any foster child it serves, to be designated as the school of origin of the foster child and to allow the foster child to continue their education in the school, as specified.

This bill would incorporate additional changes to Section 48853.5 of the Education Code proposed by AB 373 to be operative only if this bill and AB 373 are enacted and this bill is enacted last.

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

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

**SECTION 1.** Section 48853.5 of the Education Code is amended to read:

**48853.5.** (a) This section applies to a foster child. "Foster child" means any of the following:

- (1) A child who has been removed from their home pursuant to Section 309 of the Welfare and Institutions Code.
- (2) A child who is the subject of a petition filed under Section 300 or 602 of the Welfare and Institutions Code, whether or not the child has been removed from their home.
- (3) A dependent child of the court of an Indian tribe, consortium of tribes, or tribal organization who is the subject of a petition filed in the tribal court pursuant to the tribal court's jurisdiction in accordance with the tribe's law.
- (4) A child who is the subject of a voluntary placement agreement, as defined in subdivision (p) of Section 11400 of the Welfare and Institutions Code.

(b) The department, in consultation with the California Foster Youth Education Task Force, shall develop a standardized notice of the educational rights of foster children, as specified in Sections 48850 to this section, inclusive, and Sections 48911, 48915.5, 49069.5, 49076, 51225.1, and 51225.2. The notice shall include complaint process information, as applicable. The department shall make the notice available to educational liaisons for foster children for dissemination by posting the notice on its internet website. Any version of this notice prepared for use by foster children shall also include, to the greatest extent practicable, the rights established pursuant to Section 16001.9 of the Welfare and Institutions Code. In developing the notice that includes the rights in Section 16001.9 of the Welfare and Institutions Code, the department shall consult with the Office of the State Foster Care Ombudsperson.

(c) Each local educational agency shall designate a staff person as the educational liaison for foster children. In a school district that operates a foster children services program pursuant to Chapter 11.3 (commencing with Section 42920) of Part 24 of Division 3, the educational liaison shall be affiliated with the local foster children services program. The educational liaison shall do both of the following:

- (1) Ensure and facilitate the proper educational placement, enrollment in school, and checkout from school of foster children.
- (2) Assist foster children when transferring from one school to another school or from one school district to another school district in ensuring proper transfer of credits, records, and grades.

(d) A foster child's educational rights holder, attorney, and county social worker and an Indian child's, as defined in Section 224.1 of the Welfare and Institutions Code, tribal social worker and, if applicable, county social worker shall have the same rights a parent or guardian of a child has to receive a suspension notice, expulsion notice, manifestation determination notice, involuntary transfer notice, and other documents and related information.

(e) This section does not grant authority to the educational liaison that supersedes the authority granted under state and federal law to a parent or legal guardian retaining educational rights, a responsible adult appointed by the court to represent the child pursuant to Section 361 or 726 of the Welfare and Institutions Code, a surrogate parent, or a foster parent exercising the authority granted under Section 56055. The role of the educational liaison is advisory with respect to placement decisions and determination of the school of origin.

(f) (1) At the initial detention or placement, or any subsequent change in placement of a foster child, the local educational agency serving the foster child shall allow the foster child to continue the foster child's education in the school of origin for the duration of the jurisdiction of the court.

(2) If the jurisdiction of the court is terminated before the end of an academic year, the local educational agency shall allow a former foster child who is in kindergarten or any of grades 1 to 8, inclusive, to continue the former foster child's education in the school of origin through the duration of the academic school year.

(3) (A) If the jurisdiction of the court is terminated while a foster child is in high school, the local educational agency shall allow the former foster child to continue the former foster child's education in the school of origin through graduation.

(B) For purposes of this paragraph, a school district is not required to provide transportation to a former foster child who has an individualized education program that does not require transportation as a related service and who changes residence but remains in the former foster child's school of origin pursuant to this paragraph, unless the individualized education program team determines that transportation is a necessary related service.

(4) To ensure that the foster child has the benefit of matriculating with the foster child's peers in accordance with the established feeder patterns of school districts, if the foster child is transitioning between school grade levels, the local educational agency shall allow the foster child to continue in the school district of origin in the same attendance area, or, if the foster child is transitioning to a middle school or high school, and the school designated for matriculation is in another school district, to the school designated for matriculation in that school district.

(5) (A) Paragraphs (2), (3), and (4) do not require a school district to provide transportation services to allow a foster child to attend a school or school district, unless there is an agreement with a local child welfare agency that the school district assumes part or all of the transportation costs in accordance with Section 6312(c)(5) of Title 20 of the United States Code, or unless otherwise required under federal law. This paragraph does not prohibit a school district from, at its discretion, providing transportation services to allow a foster child to attend a school or school district.

(B) In accordance with Section 6312(c)(5) of Title 20 of the United States Code, local educational agencies shall collaborate with local child welfare agencies to develop and implement clear written procedures to address the transportation needs of foster youth to maintain them in their school of origin, when it is in the best interest of the foster youth.

(6) The educational liaison, in consultation with, and with the agreement of, the foster child and the person holding the right to make educational decisions for the foster child, may recommend, in accordance with the foster child's best interests, that the foster child's right to attend the school of origin be waived and the foster child be enrolled in a public school that pupils living in the attendance area in which the foster child resides are eligible to attend.

(7) Before making a recommendation to move a foster child from the foster child's school of origin, the educational liaison shall provide the foster child and the person holding the right to make educational decisions for the foster child with a written explanation stating the basis for the recommendation and how the recommendation serves the foster child's best interests.

(8) (A) If the educational liaison, in consultation with the foster child and the person holding the right to make educational decisions for the foster child, agrees that the best interests of the foster child would best be served by the foster child's transfer to a school other than the school of origin, the foster child shall immediately be enrolled in the new school.

(B) The new school shall immediately enroll the foster child even if the foster child has outstanding fees, fines, textbooks, or other items or moneys due to the school last attended or is unable to produce clothing or records normally required for enrollment, such as previous academic records, medical records, including, but not limited to, records or other proof of immunization history pursuant to Chapter 1 (commencing with Section 120325) of Part 2 of Division 105 of the Health and Safety Code, proof of residency, other documentation, or school uniforms.

(C) Within two business days of the foster child's request for enrollment, the educational liaison for the new school shall contact the school last attended by the foster child to obtain all academic and other records. The last school attended by the foster child shall provide all required records to the new school regardless of any outstanding fees, fines, textbooks, or other items or moneys owed to the school last attended. The educational liaison for the school last attended shall provide all records to the new school within two business days of receiving the request.

(9) If a dispute arises regarding the request of a foster child to remain in the school of origin, the foster child has the right to remain in the school of origin pending resolution of the dispute. The dispute shall be resolved in accordance with the existing dispute resolution process available to a pupil served by the local educational agency.

(10) The local educational agency and the county placing agency are encouraged to collaborate to ensure maximum use of available federal moneys, explore public-private partnerships, and access any other funding sources to promote the well-being of foster children through educational stability.

(11) It is the intent of the Legislature that this subdivision shall not supersede or exceed other laws governing special education services for eligible foster children.

(g) (1) For purposes of this section, "school of origin" means the school that the foster child attended when permanently housed or the school in which the foster child was last enrolled. If the school the foster child attended when permanently housed is different from the school in which the foster child was last enrolled, or if there is some other school that the foster child attended with which the foster child is connected and that the foster child attended within the immediately preceding 15 months, the educational liaison, in consultation with, and with the agreement of, the foster child and the person holding the right to make educational decisions for the foster child, shall determine, in the best interests of the foster child, the school that shall be deemed the school of origin.

(2) For a foster child who is an individual with exceptional needs as defined in Section 56026, "school" as used in the definition of "school of origin" in paragraph (1) includes a placement in a nonpublic, nonsectarian school as defined in Section 56034, subject to the requirements of Section 56325.

(h) This section does not supersede other law governing the educational placements in juvenile court schools, as described in Section 48645.1, by the juvenile court under Section 602 of the Welfare and Institutions Code.

(i) (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 if 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. 1.5.** Section 48853.5 of the Education Code is amended to read:

**48853.5.** (a) This section applies to a foster child. "Foster child" means any of the following:

(1) A child who has been removed from their home pursuant to Section 309 of the Welfare and Institutions Code.

(2) A child who is the subject of a petition filed under Section 300 or 602 of the Welfare and Institutions Code, whether or not the child has been removed from their home.

(3) A dependent child of the court of an Indian tribe, consortium of tribes, or tribal organization who is the subject of a petition filed in the tribal court pursuant to the tribal court's jurisdiction in accordance with the tribe's law.

(4) A child who is the subject of a voluntary placement agreement, as defined in subdivision (p) of Section 11400 of the Welfare and Institutions Code.

(b) The department, in consultation with the California Foster Youth Education Task Force, shall develop a standardized notice of the educational rights of foster children, as specified in Sections 48850 to this section, inclusive, and Sections 48911, 48915.5, 49069.5, 49076, 51225.1, and 51225.2. The notice shall include complaint process information, as applicable. The department shall make the notice available to educational liaisons for foster children for dissemination by posting the notice on its internet website. Any version of this notice prepared for use by foster children shall also include, to the greatest extent practicable, the rights established pursuant to Section 16001.9 of the Welfare and Institutions Code. In developing the notice that includes the rights in Section 16001.9 of the Welfare and Institutions Code, the department shall consult with the Office of the State Foster Care Ombudsperson.

(c) Each local educational agency shall designate a staff person as the educational liaison for foster children. In a school district that operates a foster children services program pursuant to Chapter 11.3 (commencing with Section 42920) of Part 24 of Division 3, the educational liaison shall be affiliated with the local foster children services program. The educational liaison shall do both of the following:

(1) Ensure and facilitate the proper educational placement, enrollment in school, and checkout from school of foster children.

(2) Assist foster children when transferring from one school to another school or from one school district to another school district in ensuring proper transfer of credits, records, and grades.

(d) A foster child's educational rights holder, attorney, and county social worker and an Indian child's, as defined in Section 224.1 of the Welfare and Institutions Code, tribal social worker and, if applicable, county social worker shall have the same rights a parent or guardian of a child has to receive a suspension notice, expulsion notice, manifestation determination notice, involuntary transfer notice, and other documents and related information.

(e) This section does not grant authority to the educational liaison that supersedes the authority granted under state and federal law to a parent or legal guardian retaining educational rights, a responsible adult appointed by the court to represent the child pursuant to Section 361 or 726 of the Welfare and Institutions Code, a surrogate parent, or a foster parent exercising the authority granted under Section 56055. The role of the educational liaison is advisory with respect to placement decisions and determination of the school of origin.

(f) (1) At the initial detention or placement, or any subsequent change in placement of a foster child, the local educational agency serving the foster child shall allow the foster child to continue the foster child's education in the school of origin for the duration of the jurisdiction of the court.

(2) If the jurisdiction of the court is terminated before the end of an academic year, the local educational agency shall allow a former foster child who is in kindergarten or any of grades 1 to 8, inclusive, to continue the former foster child's education in the school of origin through the duration of the academic school year.

(3) (A) If the jurisdiction of the court is terminated while a foster child is in high school, the local educational agency shall allow the former foster child to continue the former foster child's education in the school of origin through graduation.

(B) For purposes of this paragraph, a school district is not required to provide transportation to a former foster child who has an individualized education program that does not require transportation as a related service and who changes residence but remains in the former foster child's school of origin pursuant to this paragraph, unless the individualized education program team determines that transportation is a necessary related service.

(4) To ensure that the foster child has the benefit of matriculating with the foster child's peers in accordance with the established feeder patterns of school districts, if the foster child is transitioning between school grade levels, the local educational agency shall allow the foster child to continue in the school district of origin in the same attendance area, or, if the foster child is transitioning to a middle school or high school, and the school designated for matriculation is in another school district, to the school designated for matriculation in that school district.

(5) (A) Paragraphs (2), (3), and (4) do not require a school district to provide transportation services to allow a foster child to attend a school or school district, unless there is an agreement with a local child welfare agency that the school district assumes part or all of the transportation costs in accordance with Section 6312(c)(5) of Title 20 of the United States Code, or unless otherwise required under federal law. This paragraph does not prohibit a school district from, at its discretion, providing transportation services to allow a foster child to attend a school or school district.

(B) In accordance with Section 6312(c)(5) of Title 20 of the United States Code, local educational agencies shall collaborate with local child welfare agencies to develop and implement clear written procedures to address the transportation needs of foster youth to maintain them in their school of origin, when it is in the best interest of the foster youth.

(6) The educational liaison, in consultation with, and with the agreement of, the foster child and the person holding the right to make educational decisions for the foster child, may recommend, in accordance with the foster child's best interests, that the foster child's right to attend the school of origin be waived and the foster child be enrolled in a public school that pupils living in the attendance area in which the foster child resides are eligible to attend.

(7) Before making a recommendation to move a foster child from the foster child's school of origin, the educational liaison shall provide the foster child and the person holding the right to make educational decisions for the foster child with a written explanation stating the basis for the recommendation and how the recommendation serves the foster child's best interests.

(8) (A) If the educational liaison, in consultation with the foster child and the person holding the right to make educational decisions for the foster child, agrees that the best interests of the foster child would best be served by the foster child's transfer to a school other than the school of origin, the foster child shall immediately be enrolled in the new school.

(B) The new school shall immediately enroll the foster child even if the foster child has outstanding fees, fines, textbooks, or other items or moneys due to the school last attended or is unable to produce clothing or records normally required for enrollment, such as previous academic records, medical records, including, but not limited to, records or other proof of immunization history pursuant to Chapter 1 (commencing with Section 120325) of Part 2 of Division 105 of the Health and Safety Code, proof of residency, other documentation, or school uniforms.

(C) Within two business days of the foster child's request for enrollment, the educational liaison for the new school shall contact the school last attended by the foster child to obtain all academic and other records. The last school attended by the foster child shall provide all required records to the new school regardless of any outstanding fees, fines, textbooks, or other items or moneys owed to the school last attended. The educational liaison for the school last attended shall provide all records to the new school within two business days of receiving the request.

(9) If a dispute arises regarding the request of a foster child to remain in the school of origin, the foster child has the right to remain in the school of origin pending resolution of the dispute. The dispute shall be resolved in accordance with the existing dispute resolution process available to a pupil served by the local educational agency.

(10) The local educational agency and the county placing agency are encouraged to collaborate to ensure maximum use of available federal moneys, explore public-private partnerships, and access any other funding sources to promote the well-being of foster children through educational stability.

(11) (A) If a local educational agency operates an intersession program, the local educational agency shall grant priority access to a foster child.

(B) Notwithstanding any other law, if the foster child will be moving during an intersession period, the pupil's educational rights holder, or Indian custodian in the case of an Indian child, shall determine which school the pupil attends for the intersession period, if applicable.

(12) It is the intent of the Legislature that this subdivision shall not supersede or exceed other laws governing special education services for eligible foster children.

(g) For purposes of this section, the following definitions shall apply:

(1) "Indian custodian" as it is defined in Section 1903 of Title 25 of the United States Code.

(2) (A) "Intercession program" means an expanded learning program offered by a local educational agency on nonschooldays, including, but not limited to, summer school.

(B) An intercession program does not include an extended school year program for individuals with exceptional needs established pursuant to Section 3043 of Title 5 of the California Code of Regulations and Section 300.106 of Title 34 of the Code of Federal Regulations.

(3) (A) "School of origin" means the school that the foster child attended when permanently housed or the school in which the foster child was last enrolled. If the school the foster child attended when permanently housed is different from the school in which the foster child was last enrolled, or if there is some other school that the foster child attended with which the foster child is connected and that the foster child attended within the immediately preceding 15 months, the educational liaison, in consultation with, and with the agreement of, the foster child and the person holding the right to make educational decisions for the foster child, shall determine, in the best interests of the foster child, the school that shall be deemed the school of origin.

(B) For a foster child who is an individual with exceptional needs as defined in Section 56026, "school" as used in the definition of "school of origin" in subparagraph (A) includes a placement in a nonpublic, nonsectarian school as defined in Section 56034, subject to the requirements of Section 56325.

(h) This section does not supersede other law governing the educational placements in juvenile court schools, as described in Section 48645.1, by the juvenile court under Section 602 of the Welfare and Institutions Code.

(i) (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 if 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 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.

(8) Commencing with the 2024–25 school year, a nonpublic nonsectarian school shall include assurances that for any pupil served by the school who is a foster child as defined in subdivision (a) of Section 48853.5, the school agrees to do both of the following:

(A) Serve as the school of origin of the foster child, as applicable pursuant to subdivision (g) of Section 48853.5.

(B) Allow the foster child to continue their education in the school, as applicable pursuant to subdivisions (f) and (g) of Section 48853.5.

(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. 3.** 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.

(g) Commencing with the 2024–25 school year, for any pupil served by the school who is a foster child as defined in subdivision (a) of Section 48853.5, the school agrees to do both of the following:

(1) Serve as the school of origin of the foster child, as applicable pursuant to subdivision (g) of Section 48853.5.

(2) Allow the foster child to continue their education in the school, as applicable pursuant to subdivisions (f) and (g) of Section 48853.5.

**SEC. 4.** Section 1.5 of this bill incorporates amendments to Section 48853.5 of the Education Code proposed by both this bill and Assembly Bill 373. That section of this bill shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2024, (2) each bill amends Section 48853.5 of the Education Code, and (3) this bill is enacted after Assembly Bill 373, in which case Section 1 of this bill shall not become operative.