

AMENDED IN SENATE JUNE 19, 2017

CALIFORNIA LEGISLATURE—2017—18 REGULAR SESSION

ASSEMBLY BILL

No. 318

Introduced by Assembly Member Caballero

February 6, 2017

An act to amend Section ~~51749.5~~ of 51747 of, and to add Section 51747.1 to, the Education Code, relating to pupil instruction.

LEGISLATIVE COUNSEL'S DIGEST

AB 318, as amended, Caballero. Pupil instruction: independent study: *visual contact with pupil.*

Existing law authorizes the governing board of a school district or a county office of education to offer independent study to meet the educational needs of pupils. Existing law prohibits a school district or county office of education from being eligible to receive apportionments for independent study by pupils unless it has adopted and implemented specified written policies.

This bill would also prohibit a school district or county office of education from being eligible to receive apportionments for independent study by pupils unless it has adopted and implemented written policies, pursuant to rules and regulations adopted by the Superintendent of Public Instruction, that include a statement requiring a teacher to make visual contact with a pupil in person or by a live visual connection, no less than once per week, to assess whether the pupil is making satisfactory educational progress. The bill would authorize the principal of the program, or a designee of the governing board of a participating school district or county office of education, to make exceptions to that requirement on a case-by-case basis, for justifiable reasons and for a specified period of time.

Existing law authorizes a charter school that has an approved charter to receive funding for nonclassroom-based instruction, including independent study, only if a determination for funding is made by the State Board of Education pursuant to specified requirements.

This bill would also prohibit a charter school from being eligible to receive apportionments for independent study by pupils unless it has adopted and implemented a written policy that requires a teacher to make visual contact with a pupil in person or by a live visual connection, no less than once per week, to assess whether the pupil is making satisfactory educational progress. The bill would authorize the principal of the program, or a designee of the governing body of a participating charter school, to make exceptions to that requirement on a case-by-case basis, for justifiable reasons and for a specified period of time.

~~Existing law authorizes a school district, charter school, or county office of education, commencing with the 2015-16 school year, to provide independent study courses for pupils enrolled in kindergarten and grades 1 to 12, inclusive, in accordance with prescribed conditions. Existing law requires certificated employees and each pupil to communicate in person, by telephone, or by any other live visual or audio connection no less than twice per calendar month to assess whether each pupil is making satisfactory educational progress.~~

~~This bill would instead require certificated employees and each pupil to communicate in person or by a live visual connection, no less than once per week, to assess whether each pupil is making satisfactory educational progress. The bill would authorize the principal of the program, or a designee of the governing board or body of a participating school district, charter school, or county office of education, to grant exceptions to that requirement on a case-by-case basis, for justifiable reasons, as provided.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.
State-mandated local program: no.

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

- 1 SECTION 1. Section 51747 of the Education Code is amended
- 2 to read:
- 3 51747. A school district or county office of education shall not
- 4 be eligible to receive apportionments for independent study by
- 5 pupils, regardless of age, unless it has adopted written policies,
- 6 and has implemented those policies, pursuant to rules and

1 regulations adopted by the Superintendent, that include, but are
2 not limited to, all of the following:

3 (a) (1) *A statement that a teacher shall make visual contact*
4 *with a pupil in person or by a live visual connection, no less than*
5 *once per week, to assess whether the pupil is making satisfactory*
6 *educational progress.*

7 (2) *An exception to the requirement in paragraph (1) may be*
8 *made on a case-by-case basis by the principal of the program, or*
9 *by a designee of the governing board of a participating school*
10 *district or county office of education, for justifiable reasons and*
11 *for a specified period of time. The parent or guardian of a pupil*
12 *who seeks an exception shall make a request in writing that*
13 *designates the reason and the specified period of time for the*
14 *exception. The principal or designee shall approve or deny the*
15 *request pursuant to uniform standards established by the governing*
16 *board of the participating school district or county office of*
17 *education.*

18 ~~(a)~~

19 (b) The maximum length of time, by grade level and type of
20 program, that may elapse between the time an independent study
21 assignment is made and the date by which the pupil must complete
22 the assigned work.

23 ~~(b)~~

24 (c) The number of missed assignments that will be allowed
25 before an evaluation is conducted to determine whether it is in the
26 best interests of the pupil to remain in independent study, or
27 whether he or she should return to the regular school program. A
28 written record of the findings of any evaluation made pursuant to
29 this subdivision shall be treated as a mandatory interim pupil
30 record. The record shall be maintained for a period of three years
31 from the date of the evaluation and, if the pupil transfers to another
32 California public school, the record shall be forwarded to that
33 school.

34 ~~(c)~~

35 (d) A requirement that a current written agreement for each
36 independent study pupil shall be maintained on file, including, but
37 not limited to, all of the following:

38 (1) The manner, time, frequency, and place for submitting a
39 pupil's assignments and for reporting his or her progress.

- 1 (2) The objectives and methods of study for the pupil's work,
2 and the methods utilized to evaluate that work.
- 3 (3) The specific resources, including materials and personnel,
4 that will be made available to the pupil.
- 5 (4) A statement of the policies adopted pursuant to subdivisions
6 ~~(a) and~~ (b) and (c) regarding the maximum length of time allowed
7 between the assignment and the completion of a pupil's assigned
8 work, and the number of missed assignments allowed before an
9 evaluation of whether or not the pupil should be allowed to
10 continue in independent study.
- 11 (5) The duration of the independent study agreement, including
12 the beginning and ending dates for the pupil's participation in
13 independent study under the agreement. No independent study
14 agreement shall be valid for any period longer than one school
15 year.
- 16 (6) A statement of the number of course credits or, for the
17 elementary grades, other measures of academic accomplishment
18 appropriate to the agreement, to be earned by the pupil upon
19 completion.
- 20 (7) The inclusion of a statement in each independent study
21 agreement that independent study is an optional educational
22 alternative in which no pupil may be required to participate. In the
23 case of a pupil who is referred or assigned to any school, class, or
24 program pursuant to Section 48915 or 48917, the agreement also
25 shall include the statement that instruction may be provided to the
26 pupil through independent study only if the pupil is offered the
27 alternative of classroom instruction.
- 28 (8) (A) Each written agreement shall be signed, before the
29 commencement of independent study, by the pupil, the pupil's
30 parent, legal guardian, or caregiver, if the pupil is less than 18
31 years of age, the certificated employee who has been designated
32 as having responsibility for the general supervision of independent
33 study, and all persons who have direct responsibility for providing
34 assistance to the pupil. For purposes of this ~~paragraph~~ *paragraph*,
35 "caregiver" means a person who has met the requirements of Part
36 1.5 (commencing with Section 6550) of Division 11 of the Family
37 Code.
- 38 (B) Signed written agreements, supplemental agreements,
39 assignment records, work samples, and attendance records

1 assessing time value of work or evidence that an instructional
2 activity occurred may be maintained as an electronic file.

3 (C) For purposes of this section, an electronic file includes a
4 computer or electronic stored image of an original document,
5 including, but not limited to, portable document format (PDF),
6 JPEG, or other digital image file type, that may be sent via fax
7 machine, email, or other electronic means.

8 (D) Either an original document or an electronic file of the
9 original document is allowable documentation for auditing
10 purposes.

11 *SEC. 2. Section 51747.1 is added to the Education Code, to*
12 *read:*

13 *51747.1. (a) A charter school shall not be eligible to receive*
14 *apportionments for independent study by pupils, regardless of age,*
15 *unless it has adopted and implemented a written policy that*
16 *requires a teacher to make visual contact with a pupil in person*
17 *or by a live visual connection, no less than once per week, to assess*
18 *whether the pupil is making satisfactory educational progress.*

19 *(b) An exception to the requirement in subdivision (a) may be*
20 *made on a case-by-case basis by the principal of the program, or*
21 *by a designee of the governing body of a participating charter*
22 *school, for justifiable reasons and for a specified period of time.*
23 *The parent or guardian of a pupil who seeks an exception shall*
24 *make a request in writing that designates the reason and the*
25 *specified period of time for the exception. The principal or designee*
26 *shall approve or deny the request pursuant to uniform standards*
27 *established by the governing body of the participating charter*
28 *school.*

29 ~~SECTION 1. Section 51749.5 of the Education Code is~~
30 ~~amended to read:~~

31 ~~51749.5. (a) Notwithstanding any other law, and commencing~~
32 ~~with the 2015-16 school year, a school district, charter school, or~~
33 ~~county office of education may, for pupils enrolled in kindergarten~~
34 ~~and grades 1 to 12, inclusive, provide independent study courses~~
35 ~~pursuant to the following conditions:~~

36 ~~(1) The governing board or body of a participating school~~
37 ~~district, charter school, or county office of education adopts~~
38 ~~policies, at a public meeting, that comply with the requirements~~
39 ~~of this section and any applicable regulations adopted by the state~~
40 ~~board.~~

1 ~~(2) A signed learning agreement is completed and on file~~
2 ~~pursuant to Section 51749.6.~~

3 ~~(3) Courses are taught under the general supervision of~~
4 ~~certificated employees who hold the appropriate subject matter~~
5 ~~credential pursuant to Section 44300 or 44865, or subdivision (l)~~
6 ~~of Section 47605, meet the requirements for highly qualified~~
7 ~~teachers pursuant to the federal No Child Left Behind Act of 2001~~
8 ~~(20 U.S.C. Sec. 6301 et seq.), and are employed by the school~~
9 ~~district, charter school, or county office of education at which the~~
10 ~~pupil is enrolled, or by a school district, charter school, or county~~
11 ~~office of education that has a memorandum of understanding to~~
12 ~~provide the instruction in coordination with the school district,~~
13 ~~charter school, or county office of education at which the pupil is~~
14 ~~enrolled.~~

15 ~~(4) (A) Courses are annually certified, by school district, charter~~
16 ~~school, or county office of education governing board or body~~
17 ~~resolution, to be of the same rigor and educational quality as~~
18 ~~equivalent classroom-based courses, and shall be aligned to all~~
19 ~~relevant local and state content standards.~~

20 ~~(B) This certification shall, at a minimum, include the duration,~~
21 ~~number of equivalent daily instructional minutes for each schoolday~~
22 ~~that a pupil is enrolled, number of equivalent total instructional~~
23 ~~minutes, and number of course credits for each course. This~~
24 ~~information shall be consistent with that of equivalent~~
25 ~~classroom-based courses.~~

26 ~~(5) Pupils enrolled in courses authorized by this section shall~~
27 ~~meet the applicable age requirements established pursuant to~~
28 ~~Sections 46300.1, 46300.4, 47612, and 47612.1.~~

29 ~~(6) Pupils enrolled in courses authorized by this section shall~~
30 ~~meet the applicable residency and enrollment requirements~~
31 ~~established pursuant to Sections 46300.2, 47612, 48204, and~~
32 ~~51747.3.~~

33 ~~(7) (A) (i) Certificated employees and each pupil shall~~
34 ~~communicate in person or by a live visual connection, no less than~~
35 ~~once per week, to assess whether each pupil is making satisfactory~~
36 ~~educational progress.~~

37 ~~(ii) An exception to the requirement in clause (i) may be granted~~
38 ~~on a case-by-case basis by the principal of the program, or by a~~
39 ~~designee of the governing board or body of a participating school~~
40 ~~district, charter school, or county office of education, for justifiable~~

1 reasons, including for missing a weekly instructional session. The
2 parent or guardian of a pupil who seeks an exception shall make
3 a request in writing and the principal or designee shall review the
4 request pursuant to uniform standards established by the governing
5 board or body of a participating school district, charter school, or
6 county office of education. If a pupil does not communicate with
7 a certificated employee for more than two weeks and the principal
8 or designee determines that communication is necessary, the
9 principal or designee may require the pupil to communicate by
10 live visual connection.

11 ~~(B) For purposes of this section, satisfactory educational~~
12 ~~progress includes, but is not limited to, applicable statewide~~
13 ~~accountability measures and the completion of assignments,~~
14 ~~examinations, or other indicators that evidence that the pupil is~~
15 ~~working on assignments, learning required concepts, and~~
16 ~~progressing toward successful completion of the course, as~~
17 ~~determined by certificated employees providing instruction.~~

18 ~~(C) If satisfactory educational progress is not being made,~~
19 ~~certificated employees providing instruction shall notify the pupil~~
20 ~~and, if the pupil is less than 18 years of age, the pupil's parent or~~
21 ~~legal guardian, and conduct an evaluation to determine whether it~~
22 ~~is in the best interest of the pupil to remain in the course or whether~~
23 ~~he or she should be referred to an alternative program, which may~~
24 ~~include, but is not limited to, a regular school program. A written~~
25 ~~record of the findings of an evaluation made pursuant to this~~
26 ~~subdivision shall be treated as a mandatory interim pupil record.~~
27 ~~The record shall be maintained for a period of three years from~~
28 ~~the date of the evaluation and, if the pupil transfers to another~~
29 ~~California public school, the record shall be forwarded to that~~
30 ~~school.~~

31 ~~(D) Written or computer-based evidence of satisfactory~~
32 ~~educational progress, as defined in subparagraph (B), shall be~~
33 ~~retained for each course and pupil. At a minimum, this evidence~~
34 ~~shall include a grade book or summary document that, for each~~
35 ~~course, lists all assignments, examinations, and associated grades.~~

36 ~~(8) A proctor shall administer examinations.~~

37 ~~(9) (A) Statewide testing results for pupils enrolled in any~~
38 ~~course authorized pursuant to this section shall be reported and~~
39 ~~assigned to the school or charter school at which the pupil is~~
40 ~~enrolled, and to any school district, charter school, or county office~~

1 of education within which that school's or charter school's testing
2 results are aggregated.

3 ~~(B) Statewide testing results for pupils enrolled in a course or~~
4 ~~courses pursuant to this section shall be disaggregated for purposes~~
5 ~~of comparing the testing results of those pupils to the testing results~~
6 ~~of pupils enrolled in classroom-based courses.~~

7 ~~(10) A pupil shall not be required to enroll in courses authorized~~
8 ~~by this section.~~

9 ~~(11) The pupil-to-certificated-employee ratio limitations~~
10 ~~established pursuant to Section 51745.6 are applicable to courses~~
11 ~~authorized by this section.~~

12 ~~(12) For each pupil, the combined equivalent daily instructional~~
13 ~~minutes for enrolled courses authorized by this section and enrolled~~
14 ~~courses authorized by all other laws and regulations shall meet the~~
15 ~~minimum instructional day requirements applicable to the local~~
16 ~~educational agency. Pupils enrolled in courses authorized by this~~
17 ~~section shall be offered the minimum annual total equivalent~~
18 ~~instructional minutes pursuant to Sections 46200 to 46208,~~
19 ~~inclusive, and Section 47612.5.~~

20 ~~(13) Courses required for high school graduation or for~~
21 ~~admission to the University of California or California State~~
22 ~~University shall not be offered exclusively through independent~~
23 ~~study.~~

24 ~~(14) A pupil participating in independent study shall not be~~
25 ~~assessed a fee prohibited by Section 49011.~~

26 ~~(15) A pupil shall not be prohibited from participating in~~
27 ~~independent study solely on the basis that he or she does not have~~
28 ~~the materials, equipment, or Internet access that are necessary to~~
29 ~~participate in the independent study course.~~

30 ~~(b) For purposes of computing average daily attendance for~~
31 ~~each pupil enrolled in one or more courses authorized by this~~
32 ~~section, the following computations shall apply:~~

33 ~~(1) (A) For each schoolday, add the combined equivalent daily~~
34 ~~instructional minutes, as certified in paragraph (4) of subdivision~~
35 ~~(a), for courses authorized by this section in which the pupil is~~
36 ~~enrolled.~~

37 ~~(B) For each schoolday, add the combined daily instructional~~
38 ~~minutes of courses authorized by all other laws and regulations in~~
39 ~~which the pupil is enrolled and for which the pupil meets applicable~~
40 ~~attendance requirements.~~

1 ~~(C) For each schoolday, add the sum of subparagraphs (A) and~~
2 ~~(B):~~

3 ~~(2) If subparagraph (C) of paragraph (1) meets applicable~~
4 ~~minimum schoolday requirements for each schoolday, and all other~~
5 ~~requirements in this section have been met, credit each schoolday~~
6 ~~that the pupil is demonstrating satisfactory educational progress~~
7 ~~pursuant to the requirements of this section, with up to one school~~
8 ~~day of attendance.~~

9 ~~(3) (A) Using credited schoolday attendance pursuant to~~
10 ~~paragraph (2), calculate average daily attendance pursuant to~~
11 ~~Section 41601 or 47612, whichever is applicable, for each pupil.~~

12 ~~(B) The average daily attendance computed pursuant to this~~
13 ~~subdivision shall not result in more than one unit of average daily~~
14 ~~attendance per pupil.~~

15 ~~(4) Notwithstanding any other law, average daily attendance~~
16 ~~computed for pupils enrolled in courses authorized by this section~~
17 ~~shall not be credited with average daily attendance other than what~~
18 ~~is specified in this section.~~

19 ~~(5) If more than 10 percent of the total average daily attendance~~
20 ~~of a school district, charter school, or county office of education~~
21 ~~is claimed pursuant to this section, then the amount of average~~
22 ~~daily attendance for all pupils enrolled by that school district,~~
23 ~~charter school, or county office of education in courses authorized~~
24 ~~pursuant to this section that is in excess of 10 percent of the total~~
25 ~~average daily attendance for the school district, charter school, or~~
26 ~~county office of education shall be reduced by either (A) the~~
27 ~~statewide average rate of absence for elementary school districts~~
28 ~~for kindergarten and grades 1 to 8, inclusive, or (B) the statewide~~
29 ~~average rate of absence for high school districts for grades 9 to~~
30 ~~12, inclusive, as applicable, as calculated by the department for~~
31 ~~the prior fiscal year, with the resultant figures and ranges rounded~~
32 ~~to the nearest 10th.~~

33 ~~(e) For purposes of this section, “equivalent total instructional~~
34 ~~minutes” means the same number of minutes as required for an~~
35 ~~equivalent classroom-based course.~~

36 ~~(d) Nothing in this section shall be deemed to prohibit the right~~
37 ~~to collectively bargain any subject within the scope of~~
38 ~~representation pursuant to Section 3543.2 of the Government Code.~~

39 ~~(e) (1) The Superintendent shall conduct an evaluation of~~
40 ~~independent study courses offered pursuant to this section and~~

1 report the findings to the Legislature and the Director of Finance
2 no later than September 1, 2019. The report shall, at a minimum,
3 compare the academic performance of pupils in independent study
4 with demographically similar pupils enrolled in equivalent
5 classroom-based courses.
6 (2) The requirement for submitting a report imposed under
7 paragraph (1) is inoperative on September 1, 2023, pursuant to
8 Section 10231.5 of the Government Code.
9 (3) A report to be submitted pursuant to paragraph (1) shall be
10 submitted in compliance with Section 9795 of the Government
11 Code.