

Summary of Recent Changes to Independent Study

Barrett Snider

Partner

Capitol Advisors Group

Caitlin Jung

Legislative Counsel

Capitol Advisors Group

Iván Carrillo

Legislative Advocate

Capitol Advisors Group

Machele Kilgore

*Executive Director, California Consortium for Independent Study
(CCIS)*

Principal, Pacific Coast High School

What Happened?

- Governor and Legislature didn't like how Distance Learning went
- Newsom recall focused attention on school closures and restart
- Effort to build in more “accountability” for remote learning
- Outcome: complete rewrite of Independent Study law
- Budget Trailer Bills and timing (AB 130 vs. SB 167)



INDEPENDENT STUDY IN 2021-22

Changes applicable only to
Independent Study
programs in the 2021-22
school year

Requirement to Offer Independent Study

- Normally, LEAs have the option of offering Independent Study but are not required to do so
- For the 2021-22 school year only, school districts and county offices of education (COEs) are required to offer Independent Study
 - Requirement may be met by contracting with another school district (through an inter-district transfer) or with a COE, but not a charter school
 - For school districts, requirement may be waived by the county superintendent if they determine that offering IS would create an unreasonable fiscal burden on the district due to low participation or other extenuating circumstances, and the district does not have the option to enter into an inter-district transfer agreement.
 - For COEs and single-district counties, requirement may be waived by the State Superintendent for the same reasons.

Requirement to Notify Parents

- School districts and COEs must notify the parents and guardians of all enrolled pupils of their options to enroll their child in in-person instruction or Independent Study during the 2021–22 school year.
- Notice must include written information on the LEA’s website, including, but not limited to:
 - The right to request a pupil-parent-educator conference meeting before enrollment;
 - Pupil rights regarding procedures for enrolling, disenrolling, and reenrolling in Independent Study; and
 - The synchronous and asynchronous instructional time that a pupil will have access to as part of Independent Study
- If 15 percent or more of the pupils enrolled in an LEA speak a single primary language other than English, the written information must, in addition to being written in English, be written in that primary language.

Written Agreements

- IS Law traditionally requires there to be a signed written independent study agreement in place before Independent Study instruction can commence
- For the 2021-22 school year, an LEA is allowed to collect fully executed written agreements within 30 days of the beginning of independent study instruction
- Additionally, written agreements for an independent study program in 2021-22 can be executed for “any length of time.”
- Upon the request of a pupil’s parent or guardian, an LEA must hold a phone, video, video conference, or in-person pupil-parent-educator conference before signing an Independent Study written agreement,
 - During the conference, the pupil, parent or guardian, and, if requested, an education advocate, may ask questions about the educational options, including, before making the decision about enrollment or disenrollment in the various options for learning.
 - **“Pupil-parent-educator conference”** means a meeting involving, at a minimum, all parties who signed the pupil’s written independent study agreement

Independent Study during Quarantines

- For the 2021-22 school year, a local education agency (LEA) will be eligible for apportionments for independent study for pupils who are subject to quarantine due to exposure to, or infection with, COVID-19.
- LEAs shall receive apportionments for these pupils for all days they meet all other apportionment requirements of independent study while in quarantine.
- However, an LEA will receive attendance credit for independent study for a quarantined student only for the period of quarantine mandated pursuant to state and local health guidance or order.



New Independent Study Requirements

Changes applicable to Independent Study programs now and moving forward

Live Interaction & Synchronous Instruction

- Independent Study programs must now include live interaction and/or synchronous instruction, depending on the grade level:
 - For pupils in transitional kindergarten and grades 1 to 3, inclusive, a plan to provide opportunities for daily synchronous instruction for all pupils throughout the school year.
 - For pupils in grades 4 to 8, inclusive, a plan to provide opportunities for both daily live interaction and at least weekly synchronous instruction for all pupils throughout the school year.
 - For pupils in grades 9 to 12, inclusive, a plan to provide opportunities for at least weekly synchronous instruction for all pupils throughout the school year.

Live Interaction & Synchronous Instruction, cont.

- “**Live interaction**” means interaction between the pupil and LEA classified or certificated staff, and may include peers, provided for the purpose of maintaining school connectedness, including, but not limited to, wellness checks, progress monitoring, provision of services, and instruction. This interaction may take place in person, or in the form of internet or telephonic communication.
- “**Synchronous instruction**” means classroom-style instruction or designated small group or one-on-one instruction delivered in person, or in the form of internet or telephonic communications, and involving live two-way communication between the teacher and pupil.
 - Must be provided by the teacher of record for that pupil pursuant to Section 51747.5 or the certificated employee of the LEA providing instruction for course-based independent study.
 - CDE defines “teacher of record” to include both the supervising teacher who coordinates, evaluates, and generally supervises the student and any certificated teacher that evaluates student work product for time value.

New Requirements for IS Written Policies

- Tiered re-engagement strategies
- Description of the level of satisfactory education progress and the number of missed assignments that will be allowed before an evaluation is conducted to determine whether independent study is in the best interests of the pupil
 - “**Satisfactory educational progress**” shall be determined based on the following indicators:
 - The pupil’s achievement and engagement in the independent study program, as indicated by the pupil’s performance on applicable pupil-level measures of pupil achievement and pupil engagement (assessments, attendance, grad rates, etc.).
 - The completion of assignments, assessments, or other indicators that evidence that the pupil is working on assignments.
 - Learning required concepts, as determined by the supervising teacher.
 - Progressing toward successful completion of the course of study or individual course, as determined by the supervising teacher.
- Plan to transition pupils whose families wish to return to in-person instruction no later than five instructional days after the request

Tiered Re-Engagement Strategies

- Written policies must contain procedures for tiered re-engagement strategies for the following students:
 - Pupils who are not generating attendance for more than three schooldays or 60 percent of the instructional days in a school week;
 - Pupils who are in violation of their written agreement;
 - Pupils who are not attending 10 percent of required minimum instructional time over four continuous weeks of an LEA's approved instructional calendar; and
 - Pupils found not participatory pursuant to Section 51747.5 for more than the greater of three schooldays or 60 percent of the scheduled days of synchronous instruction in a school month, as applicable by grade span.

Tiered Re-Engagement Strategies, cont.

- Re-engagement procedures must include, but are not necessarily limited to, all of the following:
 - Verification of current contact information for each enrolled pupil.
 - Notification to parents or guardians of lack of participation within one school day of the recording of a non-attendance day or lack of participation.
 - A plan for outreach from the school to determine pupil needs, including connection with health and social services as necessary.
 - A clear standard for requiring a pupil-parent-educator conference to review a pupil's written agreement, and reconsider the Independent Study program's impact on the pupil's achievement and well-being, consistent with satisfactory educational progress.
 - This does not apply to a pupil enrolled in Independent Study for fewer than 15 days (cumulative for the school year).

“Short-Term” Independent Study

- Budget trailer bill (TBL) provides exemptions from certain independent study requirements for pupils enrolled in independent study for fewer than 15 cumulative days in a given school year
- Independent study programs “short-term” pupils are exempt from the following requirements:
 - Tiered reengagement
 - Synchronous instruction/daily live interaction
 - Five-day transfer to in-person instruction.
- Once a pupil enters their 15th day of independent study instruction in a given school year, an LEA must ensure that the student’s independent study program meets these requirements moving forward.

Documenting Pupil Interaction & Engagement

- An LEA must document each pupil's participation in live interaction and synchronous instruction each school day, in whole or in part, for which Independent Study is provided.
- A pupil who does not participate in scheduled live interaction or synchronous instruction shall be documented as non-participatory for that school day for the purposes of pupil participation reporting and tiered reengagement.
- An LEA must maintain written or computer-based evidence of pupil engagement that includes, but is not limited to, a grade book or summary document that, for each class, lists all assignments, assessments, and associated grades.

Additional Changes to Independent Study

- **New Requirements Not Waivable.** None of the new provisions are subject to waiver by the state board, State Superintendent, or under any provision of Part 26.8 (commencing with Section 47600).
- **Teachers Employed by the LEA.** TBL clarified that the teacher judging the time value of a pupil's work product must be a "teacher employed by the local educational agency."
- **Course-Based Independent Study.** The budget also makes amendments to course-based Independent Study statutes to align the new requirements described above. It also requires that the 2021-22 Audit Guide be updated to incorporate the recent changes in law.

Additional Changes to Independent Study

- **Electronic Signatures.** Written agreements may now be signed using an electronic signature that complies with state and federal standards that may be a marking that is either computer generated or produced by electronic means and is intended by the signatory to have the same effect as a handwritten signature.
- **Course Offerings.** Independent Study programs must provide content aligned to grade level standards at a level of quality and intellectual challenge substantially equivalent to in-person instruction. For high schools, this includes access to all courses offered by the LEA for graduation and approved by the University of California or the California State University as creditable under the A–G admissions criteria.
- **Student Supports.** An LEA’s written Independent Study policies must include statement detailing the academic and other supports that will be provided to address the needs of pupils who are not performing at grade level, or need support in other areas.

Additional Changes to Independent Study, cont.

- **New Audit of Pupil-Teacher Ratios.** Commencing with the 2021–22 fiscal year Guide for Annual Audits of K–12 LEAs and State Compliance Reporting, the Controller shall incorporate verification of the pupil/teacher ratios, including fiscal penalties for noncompliance.
- **CALPADS Data Reporting.** Commencing with the 2021–22 school year, CDE shall include a required field in the California Longitudinal Pupil Achievement Data System for the collection of the number of pupils participating in Independent Study pursuant to this article for 15 or more schooldays.
- **Seat-Based Charter Schools & IS for Quarantines.** Seat-based charter schools that use IS for quarantined students during the 2021-22 school year shall not attribute that attendance towards the law for non-classroom based charter schools and shall not be required to submit a request for a funding determination.

J-13A Waiver for ADA-Loss Due to COVID-19 Quarantines

- TBL generally provides that LEAs cannot utilize the J-13A process to generate ADA for students who are unable to attend in-person instruction due to exposure to, or infection with, COVID-19
- However, TBL allows an LEA to seek a J-13A waiver for material decreases in attendance to mitigate attendance losses tied to the following students, who cannot generate ADA through IS during quarantine:
 - Students in community day schools
 - Students with exceptional needs whose individualized education programs (IEPs) do not provide for participation in IS
- During the Governor's Declared State of Emergency, any loss of ADA for quarantined community day students or students with exceptional needs whose IEP does not provide for participation in IS will be considered material

J-13A Waiver for COVID-19 Related Staffing Shortage

- LEAs may also receive ADA credit for school closures related to the impacts from COVID-19 or material loss of attendance due to COVID-19 related staffing shortages if the following conditions apply:
 - LEA is unable to provide in-person instruction to pupils due to staffing shortages as a result of staff quarantine due to exposure to, or infection with, COVID-19 pursuant to local or state public health guidance.
 - For certificated staff shortages, LEA has exhausted all options for obtaining staff coverage, including using all certificated staff and substitute teacher options, and has consulted with their COE and the State Superintendent of Public Instruction (SPI) in determining that staffing needs cannot be met through any option.
 - For classified staff shortages, LEA has exhausted all options for obtaining staff coverage, including using all staff options, and has consulted with their COE and the SPI in determining that staffing needs cannot be met through any option.
- Conditions must be established to satisfaction of the SPI by affidavits of the members of the governing board and the county superintendent of schools

J-13A Waiver for COVID-19 Related Staffing Shortage, cont.

- LEAs may also pursue a waiver to avoid loss of apportionment if they are prevented from maintaining at least 180 full length days (175 days for charter schools) of in-person instruction in the fiscal year due to COVID-19 related staffing shortages
- The three conditions needed to demonstrate COVID-19-related staffing shortages for this waiver are the same as the waiver for attendance losses due to COVID-19-related staffing shortages
- However, unlike with the J-13A waiver for attendance losses due to COVID-19-related staffing shortages, in order to be eligible for this type of waiver, an LEA must also offer independent study to all impacted students.

What's Next?

- These new requirements will be enforced through each LEA's annual audit
- The state started the process of developing audit guidance for these new requirements at the end of October
- The Legislature returns in January and there may be some opportunity to further address/clarify the new statutes
- In the meantime, LEAs should do their best to comply with the law and consult with their legal counsel and auditor to best ensure compliance
- The [California Consortium for Independent Study \(CCIS\)](#) has compiled some excellent resources and is providing trainings on the new law. We encourage folks to use them as a resource



QUESTION AND ANSWER

Resources

- A downloadable version of this summary can be found [here](#).
- Additional Questions? Please contact:
 - Barrett Snider – barrett@capitoladvisors.org
 - Caitlin Jung – caitlin@capitoladvisors.org
 - Iván Carrillo – ivan@capitoladvisors.org
 - Machele Kilgore – mkilgore@ocde.us