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LEGAL UPDATE

July 15, 2021

To: Superintendents, Member School Districts (K-12)
From: Damara Moore *DM*
Senior Associate General Counsel
Subject: Education Budget Bill AB 130 Enacted
Memo No. 20-2021

This Legal Update summarizes important changes made by Assembly Bill 130 (“AB 130”), signed into law on July 9, 2021.¹ “Including federal funding, the California Department of Finance is estimating per-pupil spending will average about \$21,000 per student in 2020-21. That will likely place California above the national average for the first time in decades[.] For districts with high concentrations of low-income students, who qualify for extra Local Control Funding Formula [“LCFF”] and federal Title I money. . . .funding could approach that of top-spending states like Massachusetts.”² For the most part, this Legal Update does not address specifics regarding fiscal allocation, just substantive changes in the law.

The budget bill makes significant changes to the following areas, set forth in the table of contents below.

¹ https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220AB130

² <https://edsources.org/2021/unprecedented-california-budget-to-usher-in-sweeping-education-changes/657849>



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Apportionment Due to an Emergency³

AB 130 increases apportionments for States of Emergency declared by the Governor in November 2018 and September 2020. It also requires a school district, county office of education, or charter school that submits an affidavit under certain provisions for an emergency event occurring after September 1, 2021, to certify that it has a plan for which independent study will be offered to pupils that complies with certain requirements. (See Independent Study section for additional details.) School districts and charter schools must notify the Superintendent of Public Instruction (“SPI”) of their eligibility pursuant to this subdivision by November 1, 2021.

ASES Programs⁴

AB 130 gives first priority to ASES Programs to those eligible for free or reduced-price meals and prohibits a program from charging fees for homeless youth or children in foster care.

CAASPP⁵

AB 130 requires a local educational agency (“LEA”) to “administer an assessment in English language arts and in mathematics to all pupils in grades 3 to 8, inclusive, and grade 11 in the 2020–21 school year designed to measure academic progress and performance that are aligned to the common core academic content standards,” which may be administered in-lieu of the CAASPP. This must be administered in-person, subject to public health guidelines, and includes a variety of other requirements, such as:

- (1) The [LEA] shall provide the results to the parent or guardian of the pupil and educators employed by the local educational agency within 30 days of a pupil completing the assessment.
- (2) The [LEA] shall provide to the department assessment results by school and district level and disaggregated by pupil subgroup, except in cases where there are 10 or fewer individual pupil results, in the manner and form prescribed by the department.
- (3) The [LEA] shall publish the results in the school accountability report card and the [LEA] accountability report card.

Note that LEAs shall be reimbursed for pupils who are administered standards-aligned assessments in English language arts or mathematics in place of the CAASPP summative assessments at the rate approved by the State Board of Education (“SBE”) for pupils who are exempted from the test. “For all other California Assessment of Student Performance and Progress summative assessments administered in the 2020–21 school year, LEAs will be reimbursed in accord with [pre-existing law].”

³ Cal. Educ. Code § 46392.

⁴ Cal. Educ. Code § 8482.6.

⁵ Section 121 of AB 130, referencing reimbursement “pursuant to subdivision (l) of Section 60640 of the Education Code.”



Certificated Professional Development and Credentialing

In addition to the credential requirements for TK discussed in footnote 54, some other changes to credentialing requirements include:

- The California Commission on Teacher Credentialing (“CTC”) will exempt an applicant from demonstrating basic skills proficiency for a new reason:⁶
 - An applicant who earned at least a letter grade of B in qualifying coursework determined by a credential preparation program, or determined by the Commission for an applicant not enrolled in a California credential preparation program, to sufficiently serve as an indicator of proficiency in basic reading, writing, and mathematics skills in the English language.
 - “[Q]ualifying coursework” means a course or courses taken at a regionally accredited institution of higher education for academic credit that applies toward the requirements for an associate’s degree, baccalaureate degree, or higher degree. Qualifying coursework shall be a semester-length course of at least three units or the equivalent number of quarter units. Qualifying coursework does *not* include professional development or continuing education units, in-service training or workshops, or courses where credits do not apply toward the requirements for an associate’s degree, baccalaureate degree, or higher degree. The following courses are sufficient to serve as indicators of proficiency in basic reading, writing, and mathematics skills:
 - For reading proficiency, a course in the subjects of critical thinking, literature, philosophy, reading, rhetoric, or textual analysis.
 - For writing proficiency, a course in the subjects of composition, English, rhetoric, written communications, or writing.
 - For mathematics proficiency, a course in the subjects of algebra, geometry, mathematics, quantitative reasoning, or statistics.
 - Where a course that does not fall within a subject above, an alternative indicator of proficiency may be proven if the applicant provides documentation in writing from the registrar or relevant department chair of the regionally accredited institution of higher education where the course was taken that the course includes the study of subjects in reading, writing, or mathematics, as those terms are described above. A course that meets these standards may combine the study of reading and writing.
- A credential preparation program may determine that an applicant has demonstrated proficiency in basic reading, writing, and mathematics skills in the English language through a combination of:
 - Qualifying coursework above;
 - Passage of a component or components of the state basic skills proficiency test; and
 - Achieving scores on the writing, reading, and mathematics sections of the College Board SAT Reasoning Test, the enhanced ACT Test, or the California State University Early Assessment Program that are sufficient to waive the English

⁶ Cal. Educ. Code § 44252.



placement test and the entry level mathematics examination administered by the California State University.⁷

Another way the CTC is addressing teacher shortages is by creating a Teacher Residency Grant Program.⁸ The program creates another route to a clear teaching credential by pairing an applicant with a mentor teacher.⁹ The prospective teacher works with a regionally accredited institution of higher education and teaches at least one-half time alongside a teacher of record, who is designated as the experienced mentor teacher, for at least one full school year while engaging in initial preparation coursework. The CTC will award one-time grants to institutions to establish new teacher residency programs, or expand, strengthen, or improve access to existing teacher residency programs that support either of the following:

- (A) Designated shortage fields, including special education, bilingual education, science, computer science, technology, engineering, mathematics, transitional kindergarten, or kindergarten, and any other fields identified by the commission based on an annual analysis of hiring and vacancy data.
- (B) Local efforts to recruit, develop support systems for, provide outreach and communication strategies to, and retain a diverse teacher workforce that reflects a local educational agency community's diversity.¹⁰

A grant applicant may consist of one or more, or any combination, of the following:

- (A) A school district.
- (B) A county office of education.
- (C) A charter school.
- (D) A regional occupational center or program operated by a joint powers authority or a county office of education.¹¹

Grants shall be up to twenty-five thousand dollars (\$25,000) per teacher candidate in the residency program of the jurisdiction of the grant recipient, matched by that grant recipient at a rate of 80 percent of the grant amount received per participant. Grant program funding shall be used for, but is not limited to, any of the following:

- (1) Teacher preparation costs.
- (2) Stipends for mentor teachers, including, but not limited to, housing stipends.
- (3) Residency program staff costs.

⁷ Id.

⁸ Cal. Educ. Code § 44415.5.

⁹ This is defined as an educator who meets all of the following requirements: (A) Has at least three years of teaching experience and holds a clear credential in the subject in which the mentor teacher will be mentoring. (B) Has a record of successful teaching as demonstrated, at a minimum, by satisfactory annual performance evaluations for the preceding three years. (C) Receives specific training for the mentor teacher role, and engages in ongoing professional learning and networking with other mentors. (D) Receives compensation, appropriate release time, or both, to serve as a mentor in the initial preparation or beginning teacher induction component of the teacher residency program. Id.

¹⁰ Id.

¹¹ Id.



(4) Mentoring and beginning teacher induction costs following initial preparation.¹²

Note that a grant recipient cannot use more than 5 percent of a grant award for program administration costs.

Grant recipients shall do all of the following:

- (1) Ensure that candidates are prepared to earn a preliminary teaching credential that will authorize the candidate to teach either in a designated shortage field or in furtherance of hiring teachers who reflect the diversity of the community served upon completion of the program.
- (2) Ensure that candidates are provided instruction in all of the following:
 - (A) Teaching the content area or areas in which the teacher will become certified to teach.
 - (B) Planning, curriculum development, and assessment.
 - (C) Learning and child development.
 - (D) Management of the classroom environment.
 - (E) Use of culturally responsive practices, supports for language development, and supports for serving pupils with disabilities.
 - (F) Professional responsibilities, including interaction with families and colleagues.
- (3) Provide each candidate mentoring and beginning teacher induction support following the completion of the initial credential program necessary to obtain a clear credential and ongoing professional development and networking opportunities during the candidate's first years of teaching at no cost to the candidate.
- (4) Prepare candidates to teach in a school within the jurisdiction of the grant recipient in which they will work and learn the instructional initiatives and curriculum of the grant recipient.
- (5) Group teacher candidates in cohorts to facilitate professional collaboration among residents, and ensure candidates are enrolled in a teaching school or professional development program that is organized to support a high-quality teacher learning experience in a supportive work environment.¹³

Priority consideration to grant applicants will be given to applicants who demonstrate a commitment to increasing diversity in the teaching workforce, have a higher percentage than other applicants of unduplicated pupils, and have one or more schools that exhibit one or both of the following characteristics:

- (A) A school where 50 percent or more of the enrolled pupils are eligible for free or reduced-price meals.
- (B) A school that is located in either a rural location or a densely populated region.

In return, the candidate in a teacher residency program sponsored by a grant must agree in writing to serve in a school within the jurisdiction of the grant recipient that sponsored the

¹² Id.

¹³ Id.



candidate for a period of at least four school years beginning with the school year that begins after the candidate successfully completes the initial year of preparation and obtains a preliminary teaching credential. A candidate who fails to earn a preliminary credential or complete the period of the placement must reimburse the sponsoring grant recipient the amount of grant funding invested in the candidate's residency training. The amount to be reimbursed shall be adjusted proportionately to reflect the service provided if the candidate taught at least one year, but less than four years, at a school within the jurisdiction of the sponsoring grant recipient. A candidate shall have five school years to complete the four-school-year teaching commitment. This program has many requirements and this is only a partial summary. Please refer to the full statute for more details.

Additional Grant Money for Teachers

The terms and amount of grants to teachers who have attained certification from the National Board for Professional Teaching Standards have changed.¹⁴ Formerly, under the program, a teacher attaining a national board certification was eligible for an award of up to \$20,000 if the teacher agreed to teach at a "high-priority school," which is a school ranked at the bottom 1/2 of all schools based on the Academic Performance Index rankings, for at least 4 years.

Commencing July 1, 2021, this award increases to up to \$25,000 and instead requires the teacher to agree to teach for 5 years at a "high-priority school," defined now as a school with 55% or more of its pupils classified as an English learner or foster youth, or eligible for a free or reduced-price meal. Additionally, commencing July 1, 2021, a grant of \$2,500 will be given to any teacher who initiates the process of pursuing a certification from the National Board for Professional Teaching Standards when teaching at a high-priority school.

Charter Schools

Many of the changes enacted by AB 130 affect charter schools, but several laws in particular should be highlighted:

- The prohibition on granting and establishing new nonclassroom based charter schools is extended through January 1, 2025.¹⁵
- Despite changes in the law that went into effect in 2020 related to criteria to renew charter schools, AB 130 mandates that all charter schools whose term expires on or between January 1, 2022, and June 30, 2025, inclusive, shall have their term extended by two years.¹⁶
- If a charter school ceased operation during the 2020–21 school year, its funding will be reduced proportionately if school was actually taught in the charter school on fewer than 175 calendar days during that school year.¹⁷
- Charter schools are subject to the Education Code's independent study requirements, which have changed significantly this year.¹⁸

¹⁴ Cal. Educ. Code § 44395.

¹⁵ Cal. Educ. Code § 47612.7.

¹⁶ Cal. Educ. Code § 47607.4.

¹⁷ Cal. Educ. Code § 43504.

¹⁸ Cal. Educ. Code § 51745.5, charter school is now included in the definition of "LEA."



Classified Employees

Eligible classified employees can extend their pay over a 12 month period of time when they work fewer than 11 months per year.¹⁹ “For the 2020–21, 2021–22, and 2022–23 school years, for purposes of determining a classified employee’s total months employed by [an LEA], the employing [LEA] shall exclude any hours worked by the classified employee as a result of an extension of the academic school year directly related to the COVID-19 pandemic, if the hours are in addition to the employee’s regular assignment and would prevent the employee from being eligible for this program.”²⁰

In addition, AB 130 appropriates funds for the CTC’s California Classified School Employee Teacher Credentialing Program.

Community Schools²¹

AB 130 appropriates significant funds to create competitive grants to support the establishment of new, and for the expansion or continuation of existing, community schools at LEAs, with many requirements to access the funds.

Contractor Fingerprinting Requirements

Commencing January 1, 2022, any entity that has a contract with a school district, county office of education, or charter school must ensure that any employee who interacts with pupils, outside of the immediate supervision and control of the pupil’s parent or guardian or a school employee, has a certain valid criminal records summary. When the contracting entity performs the criminal background check, the contractor is required to immediately provide any subsequent arrest and conviction information it receives to any LEA that it is contracting with pursuant to the subsequent arrest service.²²

An LEA, on a case-by-case basis, may require an entity with whom it has a contract to comply with the requirements of these provisions for employees in addition to those described above. The Department of Justice may forward a copy of the fingerprints to the Federal Bureau of Investigation to verify the record of previous arrests or convictions of the applicant.²³

County Offices of Education

While many of the changes enacted by AB 130 affect county offices of education (“COEs”), some apply specifically and solely to COEs.

- For the 2021-22 school year only, the annually mandated visits by the superintendent of schools to the districts within their jurisdiction are discretionary and must comply with

¹⁹ Cal. Educ. Code § 45500.

²⁰ Id.

²¹ Cal. Educ. Code § 8902.

²² Cal. Educ. Code § 451295.1.

²³ Id.

state and local health official orders; and the requirement that 25% of these visits be unannounced is waived.²⁴

- The bill revises some requirements on county superintendents of schools and the SPI regarding determinations of fiscal distress for COEs. It would require the SPI to provide a written notice of going concern determination to the county board of education and the county superintendent of schools if based on existing criteria,²⁵ or a finding by an external reviewer, that the COE is at moderate or high risk of intervention based on the most common indicators of school agencies needing intervention, as determined by the County Office Fiscal Crisis and Management Assistance Team.²⁶
- AB 130 creates funding for COEs to operate education based foster youth services coordinating programs to provide educational support, and requiring some direct services to improve postsecondary education enrollment and outcomes.²⁷
- Where a COE that did not meet documentation requirements for distance learning in the 2020-21 school year, the SPI “shall withhold from the county office of education’s local control funding formula grant apportionment an amount equal to the total days out of compliance divided by 175 multiplied by the derived value of average daily attendance.”²⁸

Ethnic and Race Studies

AB 130 provides significant additional funding specifically for professional development and resources to support LEAs offering new and expanded ethnic studies courses. It requires that professional learning provided to be “content focused, incorporate active learning, support collaboration, use models of effective practice, provide coaching and expert support, offer feedback and reflection, and be of sustained duration.”²⁹ The funds may be used:

- (1) To provide professional development and regional training for teachers, administrators, and paraprofessionals to support creation or expansion of ethnic studies course offerings, including, but not limited to, courses that use the ethnic studies model curriculum.
- (2) To provide access to an online repository of resources to support ethnic studies courses.

Additional funds are allocated on a per-pupil basis to support “curriculum and instructional resources, professional development, or other activities that support the creation or expansion of ethnic studies course offerings, including, but not limited to, courses that use the ethnic studies model curriculum.”³⁰ However, these additional funds are *contingent* upon the enactment of Assembly Bill 101 of the 2021–22 Regular Session.

²⁴ Cal. Educ. Code §§ 1240, 1241.

²⁵ Cal. Educ. Code § 33127.

²⁶ Cal. Educ. Code § 1630.

²⁷ Section 141 of AB 130.

²⁸ Cal. Educ. Code § 43504.

²⁹ Section 132 of AB 130.

³⁰ Id.



Additional funding, contingent upon the Legislature agreeing on a process for developing model curricula, is set aside to develop model curricula for the study of Native Americans, the Vietnamese American refugee experience, the Cambodian genocide, and Hmong history and cultural studies.³¹

AB 130 also creates a minimum of 50 anti-bias education grants to prevent, address, and eliminate racism and bias in public schools.

Independent Study

Some of the biggest changes to the Education Code wrought by AB 130 are to independent study. For the 2021-22 school year, all LEAs must offer independent study; rather than the prior status quo of independent study being discretionary and established by Board Policy.³² Nonetheless, a Board Policy is still required to receive apportionment for independent study students. A comparison of the old language and the new language of Education Code Section 51747, related to “apportionments for independent study by pupils and policy requirements” is vital reading and is attached as Attachment A. The comparison reflects some of these major changes, including determinations of “satisfactory educational progress,” how that is defined and addressed if it is lacking; pupil engagement requirements; confirming or providing access to all pupils to both connectivity and devices adequate to participate in the educational program and complete assigned work; and notification requirements to parents of the independent study option.

The following definitions now apply to independent study:

- “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.
- LEAs include school districts, county offices of education, and charter schools.
- “Pupil-parent-educator conference” means a meeting involving, at a minimum, all parties who signed the pupil’s written independent study agreement³³ or the written learning agreement.³⁴
- “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. Synchronous instruction shall be provided by the teacher of record for that pupil.³⁵

Additional changes include:

³¹ Section 156 of AB 130.

³² Cal. Educ. Code § 51747.

³³ As required by Cal. Educ. Code § 51747(g).

³⁴ As required by Cal. Educ. Code § 51749.6(b).

³⁵ Cal. Educ. Code § 51745.5; See Cal. Educ. Code § 51747.5 for more information about the “teacher of record.”

- Reporting on the second and fourth Monday of each month to California Collaborative for Educational Excellence:
 - (i) The number of pupils who have opted into independent study provided by the local educational agency.
 - (ii) How the local educational agency is meeting the daily or weekly synchronous requirement for pupils described in clause (i).
 - (iii) Actions the local educational agency is taking to encourage the transition of the pupils described in clause (i) to in-person instruction.³⁶
- In computing the average daily attendance (“ADA”) of a school district, school districts shall include pupils attending independent study for three or more consecutive schooldays.³⁷ This is a change from “five or more consecutive schooldays.”
- For affidavits of emergency conditions affecting ADA occurring after September 1, 2021, a school district, COE, or charter school must certify that it has a plan for which independent study will be offered to pupils. The plan shall comply with all of the following:
 - Apply to any pupil impacted by fire, flood, impassable roads, epidemic, earthquake, the imminence of a major safety hazard as determined by the local law enforcement agency, a strike involving transportation services to pupils provided by a nonschool entity, an order of emergency within 10 days of a school closure.
 - Require reopening in person as soon as possible once allowable under the direction of the city or county health officer.
 - Include information regarding establishing independent study master agreements in a reasonable amount of time.

This affidavit and plan must be provided to the SPI. This plan is not required to comply with subdivision (d), (e), or (f) of Section 51747. (See Attachment A)³⁸

- In addition to the former requirements of independent study, such instruction must now provide for “[i]ndividualized study for a pupil whose health would be put at risk by in-person instruction, as determined by the parent or guardian of the pupil.”³⁹ This obligation may also be met by agreeing to interdistrict transfers or entering into a memorandum of understanding (“MOU”) with a school district or county office of education to provide independent study.⁴⁰ This requirement may only be waived for school districts by the county superintendent of schools in the county in which the school district is located, and waived for COE and school districts in single-district counties by the SPI, if the school district or COE, as applicable, demonstrates *both* of the following:

³⁶ Cal. Educ. Code § 32091.

³⁷ Cal. Educ. Code § 46300(e).

³⁸ Cal. Educ. Code § 46393, citing to § 41422 and 46392.

³⁹ *Id.*

⁴⁰ Notably, charter schools are not listed as a means to fulfill this requirement. However, “If a school district, charter school, or county office of education has a memorandum of understanding to provide instruction in coordination with the school district, charter school, or county office of education at which a pupil is enrolled, the [pupil:teacher] ratios that shall apply are the ratios for the local educational agency providing the independent study program to the pupil pursuant to Section 51749.5.” Cal. Educ. Code 51745.6(b). This indicates that the Legislature may have authorized such agreements. It is safest for a dependent charter school to enter into agreements to provide independent study to other LEAs through their district, not through their charter school, and assign volunteer charter school teachers to provide such independent study through the District. Seek legal advice if your charter school is contemplating such an arrangement.

1. Offering independent study would create an unreasonable fiscal burden on the school district or county office of education due to low numbers of pupils participating or other extenuating circumstances.
 2. The governing board of the school district or county office of education does not have the option to enter into an interdistrict transfer agreement with another school district or to contract with a county office of education to provide an independent study option.⁴¹
- The Guide for Annual Audits of K–12 Local Education Agencies and State Compliance Reporting, will now incorporate verification of the required pupil:teacher ratios set forth in Education Code Section 51745.6, and include fiscal penalties for noncompliance.
 - Record keeping⁴²: The Legislature expressed its “intent” that teachers be given access to software or other digital tracking systems to reduce workload associated with evaluating and accounting for pupil work. LEAs need to:
 1. Track “[e]ach pupil’s participation in live interaction and synchronous instruction . . . in whole or in part, for which independent study is provided. A pupil who does not participate in independent study on a schoolday shall be documented as nonparticipatory for that schoolday.”
 2. 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.
 3. However, an LEA “shall not be required to sign and date pupil work products when assessing the time value of pupil work products for apportionment purposes.”
 4. Commencing with the 2021–22 school year, the CDE will require reporting in the California Longitudinal Pupil Achievement Data System of the number of pupils participating in independent study pursuant to this article for 15 or more schooldays.⁴³

Course-based Independent Study

AB 130 does not make providing course-based independent study mandatory in 2021-22. However, the requirements for providing course-based independent study have been revised as follows:

- Certification of Quality of Course⁴⁴: LEA Boards or other governing bodies must certify independent study courses, “to be of the same rigor and, educational quality, and intellectual challenge substantially equivalent to in-person instruction and equivalent classroom-based courses, and shall be aligned to all relevant local and state content standards. For high schools, this shall include access to all courses offered by the local educational agency for graduation and approved by the University of California or the California State University as creditable under the A-G admissions criteria.” In addition to already required certification information, the LEA must also certify:

⁴¹ Id.

⁴² Cal. Educ. Code § 54747.5.

⁴³ Cal. Educ. Code § 54749.

⁴⁴ Cal. Educ. Code § 54749.5.

- (i) 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.
 - (ii) 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.
 - (iii) 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.
- For course-based independent study, satisfactory progress is determined based on all of the following measures of pupil achievement and pupil engagement:
 - (i) The pupil’s achievement and engagement in the independent study program, as indicated by the pupil’s performance on applicable.
 - (ii) The completion of assignments, assessments, or other indicators that evidence that the pupil is working on assignments.
 - (iii) Learning required concepts, and as determined by the supervising teacher.
 - (iv) Progressing toward successful completion of the course of study or individual course, as determined by the supervising teacher.⁴⁵
 - For course based independent study, the re-engagement strategies for all pupils who are not making satisfactory educational progress in one or more courses, or who are in violation of the written learning agreement, must include, but are not necessarily limited to, all of the following:
 - (i) Verification of current contact information for each enrolled pupil.
 - (ii) A plan for outreach from the school to determine pupil needs, including connection with health and social services as necessary.
 - (iii) A clear standard for requiring a pupil-parent-educator conference to review a pupil’s written learning agreement, and reconsider the independent study course’s impact on the pupil’s achievement and well-being.⁴⁶
 - Such plans must include how to transition pupils whose families who wish to return to in-person instruction from course-based independent study expeditiously, within five instructional days.⁴⁷
 - “Commencing with the 2021–22 fiscal year Guide for Annual Audits of K–12 Local Education Agencies and State Compliance Reporting, the Controller shall incorporate verification of the ratios included in this section, including fiscal penalties for noncompliance [with these requirements.]⁴⁸
 - These provisions may not be waived by the SBE.⁴⁹
 - The written learning agreement, signed by the parent/guardian (or student if they are 18 years or older) before commencing with the course based independent study, must include^{50,51}:

⁴⁵ Cal. Educ. Code § 51749.5.

⁴⁶ Id.

⁴⁷ Id.

⁴⁸ Id.

⁴⁹ Id.

⁵⁰ However, “for the 2021–22 school year only, a [LEA] shall obtain a signed written agreement for independent study from the pupil, or the pupil’s parent or legal guardian if the pupil is less than 18 years of age, the certificated

- The specific resources, including materials and personnel that will be made available to the pupil. These resources shall include confirming or providing access to all pupils to the connectivity and devices adequate to participate in the educational program and complete assigned work.
- A 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, such as English learners, individuals with exceptional needs in order to be consistent with the pupil's individualized education program or plan pursuant to Section 504 of the federal Rehabilitation Act of 1973, pupils in foster care or experiencing homelessness, and pupils requiring mental health supports.
- A statement that enrollment in an independent study course is an optional educational alternative in which no pupil may be required to participate. In the case of a pupil who is referred or assigned to any school, class, or program pursuant to student discipline laws, the agreement also shall include the statement that instruction may be provided to the pupil through course-based independent study only if the pupil is offered the alternative of classroom instruction.
- The manner, time, frequency, and place for submitting a pupil's assignments, for reporting the pupil's academic progress, and for communicating with a pupil's parent or guardian regarding a pupil's academic progress.
- The objectives and methods of study for the pupil's work, and the methods used to evaluate that work.
- A statement of the adopted policies regarding the maximum length of time allowed between the assignment and the completion of a pupil's assigned work, the level of satisfactory educational progress, and the number of missed assignments allowed before an evaluation of whether or not the pupil should be allowed to continue in course-based independent study.
- A statement of the number of course credits or, for the elementary grades, other measures of academic accomplishment appropriate to the learning agreement, to be earned by the pupil upon completion.
- The learning plan may be electronically signed so long as the e-signature complies with state and federal standards, as determined by the CDE, 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. The use of an electronic signature shall have the same force and effect as the use of a manual signature if the requirements for digital signatures and their acceptable technology, as provided in Section 16.5 of the Government Code and in Chapter 10 (commencing with Section 22000) of Division 7 of Title 2 of the California Code of Regulations, are satisfied.

employee who has been designated as having responsibility for the general supervision of the independent study course, and all persons who have direct responsibility for providing assistance to the pupil no later than 30 days after the first day of instruction. This subparagraph does not relieve a [LEA] from the obligation to comply with the requirements of this article, as amended by the act adding this paragraph, upon commencement of instruction for a participating pupil in the 2021–22 school year.

⁵¹ Cal. Educ. Code § 51749.6.



- LEAs may maintain signed written agreements, supplemental agreements, assignment records, work samples, and attendance records assessing time value of work or evidence that an instructional activity occurred as an electronic file.⁵²

LGTBQ+

Funds for training, including online training, of staff to support LGTBQ+ students.⁵³ The training must, at a minimum, address:

- (1) The creation of safe and supportive learning environments for LGTBQ+ pupils, including those with multiple intersecting identities, including, but not limited to, those who are members of the LGTBQ+ community, members of communities of color, immigrants, or people living with the human immunodeficiency virus.
- (2) Identifying LGTBQ+ youth who are subject to, or may be at risk of, bullying and lack of acceptance at home or in their communities.
- (3) The provision of targeted support services to LGTBQ+ youth, including counseling services.
- (4) Requirements regarding school antibullying and harassment policies, and complaint procedures.
- (5) Requirements regarding suicide prevention policies and related procedures.
- (6) Requirements regarding policies relating to use of school facilities, including, but not limited to, bathrooms and locker rooms.
- (7) Requirements regarding policies and procedures to protect the privacy of LGTBQ+ pupils.
- (8) The importance of identifying local, community-based organizations that provide support to LGTBQ+ youth.
- (9) The importance of identifying local physical and mental health providers with experience in treating and supporting LGTBQ+ youth.
- (10) The formation of peer support or affinity clubs and organizations.
- (11) The importance of school staff who have received antibias or other training aimed at supporting LGTBQ+ youth.
- (12) Health and other curriculum materials that are inclusive of, and relevant to, LGTBQ+ youth.

Local Control Funding Formula/Concentration Grant Funding for Districts and Charter Schools

Starting in the 2021–22 fiscal year, the concentration grant add-on shall be equal to 65 percent of the base grants for each grade span, as adjusted for each school district’s or charter school’s percentage of unduplicated pupils calculated in excess of 55 percent of the school district’s or charter school’s total enrollment. The concentration grant shall be calculated by multiplying the base grants, as adjusted annually (there are no changes in the adjustment calculation) by 65 percent and by the percentage of unduplicated pupils in excess of 55 percent of the total enrollment in that school district or charter school.

⁵² Id.

⁵³ Section 148 of AB 130.



See also “Nutrition.” below for changes related to “free or reduced lunch,” which may affect your LCFF.

Local Control and Accountability Plans⁵⁴

AB 130 requires the state board’s LCAP template to be revised, on or before January 1, 2022, to include a demonstration that the full proportionality obligation for unduplicated students and concentration funds is being met annually through the listed actions and services in the LEA’s LCAP. This will document that each action’s quantitative contribution toward the proportionality obligation as expenditures or its qualitative contribution as a percentage of increased or improved services for unduplicated pupils over and above the level of services provided to all pupils, and, for LEAs that receive concentration grant funding, that the additional funding received as a result of the increased concentration grant add-ons described above (under LCFF) is being used to increase the number of credentialed staff, classified staff, or both of those, that provide direct services to pupils on certain school campuses.

Medi-Cal & Health

AB 130 establishes, by January 1, 2022, an Office of School-Based Health within the CDE to provide LEAs with technical assistance, outreach, and informational material about the submission of Medi-Cal claims.⁵⁵

It also establishes a pilot project for up to 25 LEAs “to expand comprehensive health and mental health services to public school pupils by providing local educational agencies with intensive assistance and support to build the capacity for long-term sustainability by leveraging multiple revenue sources.”⁵⁶ The goal is to establish technical assistance teams that provide hands-on, intensive support for a two-year period to the LEAs selected to be pilot participants to create capacity, for those LEAs to become self-sustaining by securing federal reimbursement and other revenue sources for health and mental health services provided to pupils.⁵⁷

Multi-Tiered Systems of Support (“MTSS”)

As overseen by the Orange County Department of Education (“OCDOE”), to be spent on or before June 30, 2026, OCDOE will award grants to agencies for the purpose of funding schoolwide and districtwide implementation of services or practices aligned to the Multi-tiered Systems of Support framework, developed under the “Scale Up MTSS Statewide” (“SUMS”) project. The grants shall be awarded to LEAs on or before December 15, 2021.⁵⁸ Grants will be awarded with priority to LEAs serving a high number of unduplicated pupils, that have participated in LEA-level training to implement an integrated multi-tiered system of support.

⁵⁴ Cal. Educ. Code § 42238.02.

⁵⁵ Cal. Educ. Code § 49419.

⁵⁶ Cal. Educ. Code § 49421.

⁵⁷ Id.

⁵⁸ Cal. Educ. Code § 41490.

Nutrition

Another significant area addressed by AB 130 is nutrition. In addition to what is referenced above under “ASES Programs,” here are some other notable changes:

- A school participating in a special assistance alternative authorized by Section 11(a)(1) of the federal Richard B. Russell National School Lunch Act may now establish a base year for purposes of the LCFF by doing either of the following:
 - (i) Determining the pupils at the school who are eligible for free or reduced-price meals and using each pupil’s eligibility status in that base year to report eligibility for up to each of the following three school years.
 - (ii) Carrying over the number of pupils at the school who were eligible for free or reduced-price meals from the school year in which the school applied to use a federal universal school meal provision, and using each pupil’s eligibility status in the base year to report eligibility for up to each of the following three school years.*

The italicized portion is new law.⁵⁹

High Poverty Schools:⁶⁰ Defining a “high-poverty school” as a school that enrolls pupils in kindergarten or in any of grades 1 to 12, inclusive, and is eligible to operate under the Community Eligibility Provision (Special Assistance Funds)⁶¹, such schools “shall provide breakfast and lunch free of charge to *all* pupils at a high-poverty school pursuant to this section.” (Emphasis added.)

A charter school shall be considered a high-poverty school subject to this requirement only if it participates in the federal National School Lunch Program or the federal School Breakfast Program, or both, and meets the description in definition of “high poverty school.”⁶²

Note that on or before June 30, 2022, a school district or county superintendent of schools that has a high-poverty school in its jurisdiction *shall* apply to operate a federal universal meal service provision, which may include, but is not limited to, the Community Eligibility Provision or Provision 2.⁶³

Additional funds are allocated to improve kitchen infrastructure.⁶⁴

As an aside, the United States Department of Agriculture continues to allow schools to send students home with bagged meals through the 2021-22 school year, an exception to the federal requirement that lunches are provided and consumed on site.⁶⁵

⁵⁹ Cal. Educ. Code § 42238.01.

⁶⁰ Cal. Educ. Code § 49564.3.

⁶¹ 42 U.S.C. § 1759a.

⁶² Cal. Educ. Code § 49564.3.

⁶³ Cal. Educ. Code § 49564.3; 42 U.S.C. 1759a.

⁶⁴ Section 138 of AB 130.

⁶⁵ <https://fns-prod.azureedge.net/sites/default/files/resource-files/COVID19NationwideWaiver87os.pdf>

The CDE has listed all USDA federal policy waivers regarding school lunches on its website, additionally including waivers to allow flexibility regarding meal service time, parent/guardian pick-up, meal pattern, and offer versus



Penalties for School Districts and Charter Schools Not Meeting Instructional Day Documentation Requirements for Remote Learning

As you know, for the 2020-21 school year, the State reduced instructional minutes requirements and created penalties for not meeting instructional day requirements based upon the provision of those instructional minutes through in-person, distance learning, or a hybrid program.⁶⁶ For school districts and charter schools that did not meet documentation requirements, AB 130 modifies the penalty to the following: The SPI “shall withhold from the school district’s or charter school’s local control funding formula grant apportionment an amount equal to the total days out of compliance divided by the number of instructional days required to be offered, multiplied by the derived value of average daily attendance.”⁶⁷

Preschools, Transitional Kindergarten and Kindergarten

Additional funds are appropriated for preschools, transitional kindergarten (“TK”), and full day kindergarten facilities.⁶⁸ COEs and school districts are eligible for these funds, and they may not be used by a school district for portables.

Universal Transitional Kindergarten

- Phasing in from the 2022–23 school year to the 2025–26 school year, a school district or charter school, as a condition of receipt of apportionments for pupils in a TK program, will be required to admit to a TK program maintained by the school district or charter school a child who will have their 4th birthday by September 1.⁶⁹
- AB 130 delays the deadline for a credentialed teacher first assigned to a TK classroom after July 1, 2015, to meet one of the designated criteria to August 1, 2023.⁷⁰ Apportionment is also contingent on a school district or charter school maintaining an average TK class enrollment of not more than 24 pupils for each schoolsite. By the 2022–23 school year, the LEA must maintain an average of at least one adult for every 12

serve: <https://www.cde.ca.gov/ls/nu/cnpcovid19policyguidance.asp#meal>. See also USDA list of waivers applicable to California schools: <https://www.fns.usda.gov/disaster/pandemic/covid-19/california#cn>.

⁶⁶ Cal. Educ. Code §§ 43502, 43504.

⁶⁷ Cal. Educ. Code § 43504.

⁶⁸ Cal. Educ. Code § 17375.

⁶⁹ Cal. Educ. Code § 48000. (“ . . . (D) In the 2022–23 school year, a child who will have their fifth birthday between September 2 and February 2 shall be admitted to a transitional kindergarten program maintained by the school district or charter school. (E) In the 2023–24 school year, a child who will have their fifth birthday between September 2 and April 2 shall be admitted to a transitional kindergarten program maintained by the school district or charter school. (F) In the 2024–25 school year, a child who will have their fifth birthday between September 2 and June 2 shall be admitted to a transitional kindergarten program maintained by the school district or charter school. (G) In the 2025–26 school year, and in each school year thereafter, a child who will have their fourth birthday by September 1 shall be admitted to a transitional kindergarten program maintained by the school district or charter school.”

⁷⁰ Cal. Educ. Code § 48000 states that to receive apportionment for TK, the LEA must, “Ensure that credentialed teachers who are first assigned to a transitional kindergarten classroom after July 1, 2015, have, by August 1, 2023, one of the following: (A) At least 24 units in early childhood education, or childhood development, or both. (B) As determined by the local educational agency employing the teacher, professional experience in a classroom setting with preschool age children that is comparable to the 24 units of education described in subparagraph (A). (C) A child development teacher permit issued by the Commission on Teacher Credentialing.

pupils for transitional kindergarten classrooms; by the 2023–24 school year, and for each year thereafter, the LEA must maintain an average of at least one adult for every 10 pupils for transitional kindergarten classrooms, “contingent upon an appropriation of funds for this purpose.”⁷¹

See, also, “Special Education Early Intervention Grant” funding changes noted under “Special Education.”

Kindergarten

AB 130 also permits kindergarten to extend beyond four hours of instruction per day for “kindergarten pupils in expanded learning opportunity programs intended to supplement instructional time provided by a school district. . . , expanding learning opportunities for unduplicated students as well as other students.”

Special Education

AB 130 led to many changes in the area of special education. These include:

- Increasing ADA for each Special Education Local Plan Area (“SELPA”) to either \$715 per unit of ADA, or the amount the SELPA received in 2020-21, as adjusted by certain specified inflation factors, whichever is greater.⁷²
- Adding Education Code Section 56836.168, updating the out-of-home care formula, and establishing certain dollar amounts for SELPA funding generated by foster youth, short term residential therapeutic program placements, and children and youth residing in community care facilities, intermediate care facilities, and skilled nursing homes. “For the 2021–22 fiscal year and each fiscal year thereafter, the total amount apportioned to a SELPA shall be equal to the amount calculated based on such placements. If the sum of the amounts calculated pursuant to Section 56836.168 for all [SELPAs] exceeds the annual Budget Act appropriation for this purpose, the [CDE] shall apply proportionate reductions to all SELPAs. If the annual Budget Act appropriation for this purpose exceeds the sum of the amounts calculated pursuant to Section 56836.168 for all special education local plan areas, any remaining funding shall be allocated in proportion to each special local plan area’s share of that sum calculated pursuant to subdivision (a) of Section 56836.168.”⁷³
- Special Education Early Intervention Grant funding now requires funds allocated to school districts under that grant to be used to provide services and supports in inclusive settings that have been determined to improve school readiness and long-term outcomes for infants, toddlers, and preschool pupils from birth to five years of age, inclusive. These include, but are not limited to, all of the following:
 - (1) Early intervention services, including preschool and supportive services for children from birth to five years of age, inclusive, who are not meeting age-appropriate developmental milestones and are at risk for being identified as eligible for special education and

⁷¹ Cal. Educ. Code § 48000.

⁷² Cal. Educ. Code § 56836.146.

⁷³ Cal. Educ. Code § 56836.173.



related services. This may include children who received individualized family support plan services but did not qualify for an individualized education program, and children who have not received an individualized family support plan nor an individualized education program.

(2) One-time programs, services, or resources for preschool children with exceptional needs that may not be medically or educationally necessary or required by an individualized education program or in an individualized family support plan, but which the school district has determined will have a positive impact on a young child.

(3) Strategies to improve pupil outcomes as identified through the state system of support, including inclusive educational programming that ensures a pupil's right to placement in the least restrictive educational environment.

(4) Wraparound services for preschool children with exceptional needs not required by federal or state law.⁷⁴

(5) Expansion of inclusive practices to ensure that preschool children with exceptional needs have access to learn in the least restrictive environment.

(6) Professional development for preschool teachers, administrators, and paraprofessionals on evidence-based strategies to build capacity to serve preschool children with exceptional needs in more inclusive settings. This professional development may also include training for teachers, administrators, and paraprofessionals on the development of physical, social, emotional, and academic skills and on developing appropriate individualized education programs for preschool children with exceptional needs that ensure access to a free, appropriate public education in the least restrictive environment.

Additional funds are allocated for the specific purpose of SELPAs supporting LEAs in conducting dispute resolution and alternative dispute resolution activities, including those stemming from COVID-19 related disputes.⁷⁵ To receive these funds, on or before October 1, 2021, the SELPA must develop and submit a plan to the SPI detailing how they will support their member LEAs in conducting dispute prevention and voluntary alternative dispute resolution activities, including detailed proposed expenditure information broken down by eligible activity, the number, disabilities, and demographics of pupils proposed to be served, and any other information required by the CDE.

And yet more grant funds are allocated to SELPAs for the purpose of providing learning recovery support to special education pupils associated with impacts to learning due to school disruptions stemming from the COVID-19 public health emergency during the period of March

⁷⁴ “‘Wraparound services’ means integrated services and supports that address a child’s holistic needs, including, but not limited to, academic, health, and social services.” Cal. Educ. Code § 56836.40.

⁷⁵ Section 160 of AB 130.

13, 2020, to September 1, 2021, inclusive.⁷⁶ A condition for receipt of this grant is that the SELPA, on or before October 1, 2021, must work with its member LEAs to develop and submit a plan to the SPI detailing how the SELPA and its member LEAs will implement the requirements of the law, including detailed proposed expenditure information broken down by eligible activity, the number, disabilities, and demographics of pupils proposed to be served, evidence of matching funds, and any other information required by the CDE.

Supplemental Instruction and Supports

There are many increases in funding for supplemental instruction and support throughout AB 130. A new statute specifically addresses expanding learning opportunities for grades kindergarten through sixth, with a focus on serving unduplicated students.⁷⁷ Commencing with the 2021–22 school year, as a condition of receipt of apportionment, LEAs that receive funds pursuant to subdivision (d)⁷⁸ shall offer to at least all unduplicated pupils in classroom-based instructional programs in kindergarten and grades 1 to 6, inclusive, and provide to at least 50 percent of enrolled unduplicated pupils in classroom-based instructional programs in kindergarten and grades 1 to 6, inclusive, access to expanded learning opportunity programs.⁷⁹ Commencing with the 2022–23 school year, as a condition of receipt of funds, all LEAs must offer to all pupils in classroom-based instructional programs in kindergarten and grades 1 to 6,

⁷⁶ Section 161 of AB 130.

⁷⁷ Cal. Educ. Code § 46120.

⁷⁸ Subdivision (d) provides that:

(1) The Superintendent shall allocate funding . . . in the following manner:

(A) For local educational agencies with a prior year local control funding formula unduplicated pupil percentage calculated pursuant to paragraph (5) of subdivision (b) of Section 42238.02 of greater than 80 percent, the amount of one thousand one hundred seventy dollars (\$1,170) per unit of the local educational agency's prior year reported kindergarten and grade 1 to 6, inclusive, classroom-based average daily attendance multiplied by the local educational agency's unduplicated pupil percentage.

(B) For all other local educational agencies not receiving an allocation under subparagraph (A), the amount of funds remaining from the appropriations in Item 6100-110-0001 of the annual Budget Act and subdivision (f), if applicable, after the amount allocated pursuant to subparagraph (A), shall be allocated on a per-unit basis of the local educational agency's prior year reported kindergarten and grade 1 to 6, inclusive, classroom-based average daily attendance multiplied by the local educational agency's unduplicated pupil percentage.

(2) A local educational agency with prior year classroom-based average daily attendance in kindergarten and grades 1 to 6, inclusive, shall not receive funding pursuant to paragraph (1) of less than fifty thousand dollars (\$50,000).

(3) Funds provided to a local educational agency pursuant to paragraph (1) shall be used to support pupil access to expanded learning opportunity programs.

(4) A local educational agency receiving funding pursuant to subparagraph (A) of paragraph (1) shall be provided at least three years of funding pursuant to subparagraph (A) of paragraph (1) upon becoming eligible to receive funding pursuant to that subparagraph.

(5) It is the intent of the Legislature to increase rates for expanded learning opportunities in future years to two thousand five hundred dollars (\$2,500) per unduplicated pupil on a schedule to be determined each year in the annual Budget Act pursuant to the availability of funds, prioritizing increases based on the local control funding formula unduplicated pupil percentages calculated pursuant to paragraph (5) of subdivision (b) of Section 42238.02 for local educational agencies.

⁷⁹ "Expanded learning opportunities" means before school, after school, summer, or intersession learning programs that focus on developing the academic, social, emotional, and physical needs and interests of pupils through hands-on, engaging learning experiences. It is the intent of the Legislature that expanded learning programs are pupil-centered, results driven, include community partners, and complement, but do not replicate, learning activities in the regular schoolday and school year. *Id.*; see also Cal. Educ. Code § 8482.1. "Expanded learning opportunities" does not mean an extension of instructional time, but rather, opportunities to engage pupils in enrichment, play, nutrition, and other developmentally appropriate activities. Cal. Educ. Code § 46120.



inclusive, access to expanded learning opportunity programs, and shall ensure that access is provided to any pupil whose parent or guardian requests their placement in a program.

To receive grant money for expanded learning opportunity programs under this statute, LEAs, excluding nonclassroom based charter schools, must provide:

- In-person before or after school expanded learning opportunities that, when added to daily instructional minutes, are no less than nine hours of combined instructional time and expanded learning opportunities per instructional day.
- For at least 30 nonschooldays, during intersessional periods, no less than nine hours of in-person expanded learning opportunities per day.

However, LEAs must prioritize services provided pursuant to this section at schoolsites in the lowest income communities, as determined by prior year percentages of pupils eligible for free and reduced-price meals, while maximizing the number of schools and neighborhoods with expanded learning opportunities programs across their attendance area.

LEAs may charge pupil fees for expanded learning opportunity programs provided pursuant to this section, except for pupils who are eligible for free or reduced-price meals; for a child if the program knows that the child is a homeless youth, as defined by the federal McKinney-Vento Homeless Assistance Act; or for a child whom the program knows is in foster care.⁸⁰

Suggested Action Items

- Update all Board Policies and Administrative Regulations related to independent study.
- Review deadlines to apply for grants and plan those steps required to meet those deadlines.
- Ensure your LCAP reflects required proportional spending on unduplicated students.
- Prepare for Universal TK.
- If in a high poverty school, plan to provide breakfast and lunch to all students.

Please contact our office with questions regarding this Legal Update or any other legal matter.

The information in this Legal Update is provided as a summary of law and is not intended as legal advice. Application of the law may vary depending on the particular facts and circumstances at issue. We, therefore, recommend that you consult legal counsel to advise you on how the law applies to your specific situation.

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⁸⁰ Cal. Educ. Code § 46120 citing to Cal. Educ. Code § 8482.6.

Attachment A

Revised California Education Code Section 51747 - Apportionments for independent study by pupils; policy requirements

~~A school district or county office of education~~⁵¹⁷⁴⁷. A local educational agency shall not be eligible to receive apportionments for independent study by pupils, regardless of age, unless it has adopted written policies, and has implemented those policies, pursuant to rules and regulations adopted by the Superintendent, that include, but are not limited to, all of the following:

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

~~(b) The~~^{(b) (1)} The level of satisfactory educational progress and the number of missed assignments that will be allowed before an evaluation is conducted to determine whether it is in the best interests of the pupil to remain in independent study, or whether ~~he or she~~^{the pupil} should return to the regular school program. A written record of the findings of any evaluation made pursuant to this subdivision shall be treated as a mandatory interim pupil record. The record shall be maintained for a period of three years from the date of the evaluation and, if the pupil transfers to another California public school, the record shall be forwarded to that school.

~~(c)~~⁽²⁾ Satisfactory educational progress shall be determined based on all of the following indicators:

(A) 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 set forth in paragraphs (4) and (5) of subdivision (d) of Section 52060.

(B) The completion of assignments, assessments, or other indicators that evidence that the pupil is working on assignments.

(C) Learning required concepts, as determined by the supervising teacher.

(D) Progressing toward successful completion of the course of study or individual course, as determined by the supervising teacher.

(c) The provision of content aligned to grade level standards that is provided at a level of quality and intellectual challenge substantially equivalent to in-person instruction. For high schools, this shall include access to all courses offered by the local educational agency for graduation and approved by the University of California or the California State University as creditable under the A-G admissions criteria.

(d) Procedures for tiered reengagement strategies for all pupils who are not generating attendance for more than three schooldays or 60 percent of the instructional days in a school week, or who are in violation of the written agreement pursuant to subdivision (g). These procedures shall include, but are not necessarily limited to, all of the following:

(1) Verification of current contact information for each enrolled pupil.

(2) Notification to parents or guardians of lack of participation within one school day of the absence or lack of participation.

(3) A plan for outreach from the school to determine pupil needs, including connection with health and social services as necessary.

(4) 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 the policies adopted pursuant to paragraph (4) of subdivision (g).

(e) (1) 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.

(2) 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.

(3) 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.

(f) A plan to transition pupils whose families wish to return to in-person instruction from independent study expeditiously, and, in no case, later than five instructional days.

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

(1) The manner, time, frequency, and place for submitting a ~~pupil's~~pupil's assignments ~~and,~~ for reporting ~~his~~the pupil's academic progress, and for communicating with a pupil's parent or her guardian regarding a pupil's academic progress.

(2) The objectives and methods of study for the ~~pupil's~~pupil's work, and the methods ~~utilized~~used to evaluate that work.

(3) The specific resources, including materials and personnel, that will be made available to the pupil. These resources shall include confirming or providing access to all pupils to the connectivity and devices adequate to participate in the educational program and complete assigned work.

(4) A statement of the policies adopted pursuant to subdivisions (a) and (b) regarding the maximum length of time allowed between the assignment and the completion of a ~~pupil's~~pupil's assigned work, the level of satisfactory educational progress, and the number of missed assignments allowed before an evaluation of whether or not the pupil should be allowed to continue in independent study.

(5) The duration of the independent study agreement, including the beginning and ending dates for the ~~pupil's~~pupil's participation in independent study under the agreement. No independent study agreement shall be valid for any period longer than one school year.

(6) A statement of the number of course credits or, for the elementary grades, other measures of academic accomplishment appropriate to the agreement, to be earned by the pupil upon completion.

~~(7)~~ (7) A 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, such as English learners, individuals with exceptional needs in order to be consistent with the pupil's individualized education program or plan pursuant to Section 504 of the federal Rehabilitation Act of 1973 (29 U.S.C. Sec. 794), pupils in foster care or experiencing homelessness, and pupils requiring mental health supports.

(8) The inclusion of a statement in each independent study agreement that independent study is an optional educational alternative in which no pupil may be required to participate. In the case of a pupil who is referred or assigned to any school, class, or program pursuant to Section 48915 or 48917, the agreement also shall include the statement that instruction may be provided to the pupil through independent study only if the pupil is offered the alternative of classroom instruction.

~~(8)~~ (9) (A) Each written agreement shall be signed, before the commencement of independent study, by the pupil, the pupil's parent, legal guardian, or caregiver, if the pupil is less than 18 years of age, the certificated employee who has been designated as having responsibility for the general supervision of independent study, and all persons who have direct responsibility for providing assistance to the pupil. For purposes of this paragraph "caregiver" means a person who has met the requirements of Part 1.5 (commencing with Section 6550) of Division 11 of the Family Code.

(B) Signed written agreements, supplemental agreements, assignment records, work samples, and attendance records assessing time value of work or evidence that an instructional activity occurred may be maintained as an electronic file.

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

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

(E) Written agreements may be signed using an electronic signature that complies with state and federal standards, as determined by the department, 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. The use of an electronic signature shall have the same force and effect as the use of a manual signature if the requirements for digital signatures and their acceptable technology, as provided in Section 16.5 of the Government Code and in Chapter 10 (commencing with Section 22000) of Division 7 of Title 2 of the California Code of Regulations, are satisfied.

(F) Notwithstanding subparagraph (A), for the 2021–22 school year only, a local educational agency shall obtain a signed written agreement for independent study from the pupil, or the pupil's parent or legal guardian if the pupil is less than 18 years of age, the certificated employee who has been designated as

having responsibility for the general supervision of independent study, and all persons who have direct responsibility for providing assistance to the pupil no later than 30 days after the first day of instruction. This subparagraph does not relieve a local educational agency from the obligation to comply with the requirements of this article, as amended by the act adding this subparagraph, upon commencement of instruction for a participating pupil in the 2021–22 school year.

(h) (1) For the 2021–22 school year only, school districts and county offices of education shall 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. This notice shall include written information on the local educational agency’s internet website, including, but not limited to, the right to request a pupil-parent-educator conference meeting before enrollment pursuant to this section, 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 a local educational agency that provides instruction in transitional kindergarten, kindergarten, or any of grades 1 to 12, inclusive, speak a single primary language other than English, as determined from the census data submitted to the department pursuant to Section 52164 in the preceding year, the written information shall, in addition to being written in English, be written in the primary language.

(2) Before signing a written agreement pursuant to this section, and upon the request of the parent or guardian of a pupil, the local educational agency shall conduct a phone, videoconference, or in-person pupil-parent-educator conference or other school meeting during which the pupil, parent or guardian, and, if requested by the pupil or parent, an education advocate, may ask questions about the educational options, including which curriculum offerings and nonacademic supports will be available to the pupil in independent study, before making the decision about enrollment or disenrollment in the various options for learning.

(i) Subdivisions (d), (e), and (f) shall not apply to pupils that participate in an independent study program for fewer than 15 schooldays in a school year.

(j) Commencing with the 2021–22 fiscal year Guide for Annual Audits of K–12 Local Education Agencies and State Compliance Reporting, the Controller shall incorporate verification of the adoption of the policies required pursuant to this section, including loss of apportionment for independent study for local educational agencies found to be noncompliant, unless compliance verification for those policies is already included in the audit guide.

(k) The provisions of this section are not subject to waiver by the state board, by the Superintendent, or under any provision of Part 26.8 (commencing with Section 47600).