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LEGAL UPDATE

August 27, 2021

To: Superintendents, Member School Districts (K-12)
From: Carl D. Corbin, General Counsel *CDC*
Subject: AB 130 Independent Study 30 Days to Sign Agreement
Memo No. 27-2021

Our office has received questions regarding the 30-calendar day allowance for a Local Educational Agency (“LEA”) to obtain a signed written agreement for a student to participate in Independent Study (“IS”) during the 2021-2022 school year. As discussed in more detail below, for the 2021-2022 school year only, LEAs have 30 calendar days from the date of the student’s first day of participation in IS to obtain all required signatures on the IS agreement. This means in the case of a student who starts participating in IS on, for example, October 1, 2021, the LEA will have until October 31, 2021, to obtain the required signatures on the IS agreement. So, while LEAs have a duty to comply with all instructional requirements for IS as soon as the student begins participating in IS, the LEA has 30 calendar days to obtain all required signatures on the IS agreement.

Assembly Bill (“AB”) 130 amended the independent study statutes to provide, in part:

(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.¹

¹ Education Code section 51747(g)(9)(F).



Our interpretation of this legal issue is based on the August 23, 2021, updated Frequently Asked Questions (“FAQ”) from the California Department of Education (“CDE”) and communications with the CDE.²

Specifically, CDE’s FAQ 17 and 78 read as follows:

17. May a school counselor or administrator enroll a new pupil and assign work for the first assignment period in traditional independent study?

The following codes and regulations guide schools in claiming attendance credit:

- Each written agreement shall be signed, prior to the commencement of independent study, by the pupil, the pupil's parent/guardian, if the pupil is less than eighteen 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. *EC* sections 51747(g)(9)(A) and 51749.6(b)(1), **except** for the 2021–22 school year only, LEAs shall secure the required signatures no later than 30 days after the first day of instruction. *EC* Section 51747(g)(9)(F).
- The independent study by each pupil **must** be coordinated, evaluated, and, notwithstanding subdivision (a) of *EC* Section 46300, **must** be under the general supervision of an employee of the LEA who possesses a valid certification document pursuant to *EC* Section 44865 or an emergency credential pursuant to *EC* Section 44300 for traditional independent study, or who holds the appropriate subject matter credential for CBIS. *EC* sections 51747.5(a) and 51749.5(a)(3)
- ❖ “General supervision” means the supervising teacher’s:
 - Continuing oversight of the study design, implementation plan, allocation of resources, and evaluation of pupil progress for any pupil's independent study; and
 - ❖ Personal determination or personal review of the determination made by another certificated teacher of the time values for apportionment purposes of each pupil's work products. 5 *CCR* 11700(b)

[Emphasis Added]

² <https://www.cde.ca.gov/sp/eo/is/faq.asp>.



78. Are pupils allowed to start instruction before all required signatures are on the written agreement?

Yes. For the 2021–22 school year only, LEAs shall allow pupils to begin instruction before all signatures are on the written agreement; however, required signatures shall be affixed on the written agreement no later than 30 days after the pupil’s first day of instruction. Failure to do so may have fiscal implications for the LEA, including a loss of ADA. *EC* Section 51747(g)(9)(F).

Via email correspondence between our office and a CDE consultant on August 23, 2021, the CDE consultant stated the following:

“The intent of the legislation is that for the 2021-22 school year only, LEAs shall obtain all required signatures within 30 days of the first day of the pupil’s participation in independent study instruction.”

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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