
SENATE COMMITTEE ON EDUCATION

Senator Benjamin Allen, Chair

2017 - 2018 Regular

Bill No: AB 1264 **Hearing Date:** June 14, 2017
Author: Eduardo Garcia
Version: April 18, 2017
Urgency: No **Fiscal:** Yes
Consultant: Lynn Lorber

Subject: Special education pupils: individualized education program: meetings: school records

SUMMARY

This bill requires that a parent or guardian be offered copies of relevant school records and assessment reports at least five business days prior to a meeting regarding an individualized education program (IEP).

BACKGROUND

Existing law, relative to special education:

- 1) Provides that the parent or guardian has the right and opportunity to examine all school records of the student and to receive complete copies within five business days after a request is made by the parent or guardian and before any meeting regarding an IEP or any hearing or resolution session. (Education Code § 56043)
- 2) Provides that the parent or guardian has the right and opportunity to examine all school records of the student and to receive copies within five business days after a request is made by the parent or guardian. Existing law requires the public agency to comply with a request for school records without unnecessary delay before any meeting regarding an IEP or any hearing or resolution session.(EC § 56504)
- 3) Requires local educational agencies (LEAs) to give the parent or guardian a copy of the IEP, at no cost to the parent or guardian. (EC § 56341.5)
- 4) Provides that the parent has the right to a response from the public agency to reasonable requests for explanations and interpretations of student records. (EC § 56504)
- 5) Prohibits a public agency from charging more than the actual cost of reproducing the student records, but requires that the copies be reproduced at no cost if this cost effectively prevents the parent from exercising the right to receive the copy or copies. (EC § 56504)
- 6) Requires LEAs to take any action necessary to ensure that, in an IEP team meeting, the parent or guardian understands the proceeding, including arranging for an interpreter for parents or guardians with deafness or whose native language is a language other than English. (EC § 56341.5)

- 7) Requires that parents be provided with a Notice of Procedural Safeguards (explanation of parents and students rights specific to special education) at specified times. (EC § 56301 and § 56500.1; United States Code, Title 20 § 1415(d)(1)(A); Code of Federal Regulations, Title 34, § 300.50(a))

ANALYSIS

This bill requires that a parent or guardian be offered copies of relevant school records and assessment reports at least five business days prior to a meeting regarding an individualized education program (IEP). Specifically, this bill:

- 1) Requires a public agency, before any meeting regarding an IEP, to offer to provide to the parent or guardian copies of any available, completed school records related to the student's current levels of performance, and any available, completed assessment reports if those records and reports are related to that meeting.
- 2) Requires the public agency, if the parent requests the records and reports, to make the records and reports available to the parent or guardian at least five business days prior to the IEP team meeting
- 3) Prohibits a public agency from charging a parent for the cost to provide copies of these records and reports.

STAFF COMMENTS

- 1) ***Need for the bill.*** According to the author, "Most parents are not aware that they can make a request to view these important educational documents before an IEP meeting. If parents were automatically provided with all this information 5 days prior to an IEP meeting, it would allow them to become familiar with any documentation that will be a part of the IEP meeting, as well as prepare their questions in advance of the IEP meeting. Implementing this change will also encourage further transparency from the school district to the parent/guardian, as well as ensure that everyone attending the IEP has the same information at relatively the same time. This makes the IEP process, especially for parents/guardians, more equitable for all IEP meeting attendees, rather than allowing the school district to be the only party to have this information in advance."
- 2) ***Practical effect.*** Existing law provides parents with the right to request copies of student records, get copies within five business days of the request and before any meeting regarding an IEP or any hearing or resolution session, and requires parents to be notified of this right. Existing law requires that parents be provided with a document known as a Notice of Procedural Safeguards. This document explains all of the rights afforded to students and parents under the federal Individuals with Disabilities Education Act (IDEA) and state law, including the right to be provided with copies of documents to be discussed at an IEP meeting, upon request of the parent. Existing law requires parents to be given a copy of the Procedural Safeguards once each school year, as well as when the following

occur:

- a) Upon initial referral or request for assessment.
- b) At each individualized education program (IEP) team meeting
- c) Upon receipt of the first complaint from the parent in a school year.
- d) Upon receipt of the first due process hearing request in a school year.
- e) When a decision is made to make a change of placement because of a violation of a code of student conduct.
- f) Upon request by a parent.

This bill essentially requires local educational agencies (LEAs) to *offer to provide* records copies of relevant school records and assessment reports at least five business days prior to an IEP team meeting, rather than relying upon the parent to request the records.

- 3) ***Author's amendments to expand notification.*** Existing state law requires a LEA, when convening an IEP team meeting, to inform the parent of the Procedural Safeguards, which include the right to obtain student records. Existing law requires parents to be provided the Notice of Procedural Safeguards *at the time* the IEP team meeting is occurring but not necessarily *before* the IEP team meeting takes place. The author wishes to amend this bill to require the notification to parents of the scheduling of the next IEP team meeting to include a checkbox for the parent to request a copy of the student records referenced in this bill, and to require any verbal notification to specifically ask the parent if they would like to request those student records. This should ensure that parents are aware, before the IEP team meeting occurs, of their right to request and obtain student records. In addition, the author wishes to amend this bill to require the Notice of Procedural Safeguards to clarify that the right to request student records includes the right to obtain those records within five business days of the request.
- 4) ***Fiscal impact.*** According to the Assembly Appropriations Committee, this bill, in its current form, would impose:
 - a) Minor and absorbable cost to LEAs. LEAs are already authorized to provide this information; the key difference is that they must now offer to provide the documents.
 - b) Potential reimbursable cost should the Commission on State Mandates determine this is a reimbursable cost. However, since LEAs are allowed to charge for the actual cost of producing the materials, it is unlikely to result in a significant reimbursable mandated cost.
- 5) ***To charge, or not to charge?*** Existing law prohibits a public agency from charging more than the actual cost of reproducing the student records but

requires that the copies be reproduced at no cost if this cost effectively prevents the parent from exercising the right to receive the copy or copies. This bill prohibits a public agency from charging a parent for the cost to provide copies of student records. **Staff recommends an amendment** to apply existing law to this bill (authorize public agencies to charge for actual costs but prohibit any charge if the cost is prohibitive for parents).

- 6) **Related legislation.** SB 354 (Portantino) requires a local educational agency (LEA) to communicate in the native language of a parent during the planning process for an individualized education program (IEP), and requires a LEA to provide a student's parent with a copy of the completed IEP other related documents in the native language of the parent within 45 days of the IEP team meeting. SB 354 is pending referral in the Assembly.
- 7) **Prior legislation.** AB 2091 (Lopez, 2016) required LEAs to provide parents with a translated copy of an IEP and other specified documents within 60 days of the IEP team meeting upon request by the parent and requires that the IEP and related documents be translated by a qualified translator. AB 2091 was held in the Senate Appropriations Committee.

SUPPORT

Coachella Valley Autism Society of America (sponsor)
ARC Imperial Valley
Autism Society – Kern Autism Network
Autism Society of California
Autism Society of Santa Barbara
California Immigrant Policy Center
California State PTA
Center for Autism and Related Disorders
Easy Speech Pathology, Inc.

OPPOSITION

None received

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