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## SENATE COMMITTEE ON EDUCATION

Senator Benjamin Allen, Chair

2017 - 2018 Regular

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**Bill No:** AB 318 **Hearing Date:** July 5, 2017  
**Author:** Caballero  
**Version:** June 19, 2017  
**Urgency:** No **Fiscal:** Yes  
**Consultant:** Lynn Lorber

**Subject:** Pupil instruction: independent study

**NOTE:** This bill was heard in this Committee on June 28, 2017. Testimony was provided but no vote was taken.

### SUMMARY

This bill prohibits a local educational agency from being eligible to receive apportionments for independent study unless it has adopted and implemented written policies that include a statement that a teacher shall make visual in-person contact with a student or by a live visual connection at least once per week.

### BACKGROUND

Existing law:

#### *Traditional independent study option*

- 1) Prohibits a school district or county office of education from being eligible to receive apportionments for independent study unless it has adopted and implemented written policies, pursuant to rules and regulations adopted by the Superintendent of Public Instruction, 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 student must complete the assigned work.
  - b) The number of missed assignments that will be allowed before an evaluation is conducted to determine whether it is in the best interest of the student to remain in independent study.
  - c) A requirement that a current written agreement for each independent study student is maintain on file, including specified information.
  - d) A statement of the adopted policies for a-b (above).
  - e) The duration of the independent study agreement. Existing law prohibits an agreement from being valid for longer than one school year.

- f) A statement of the number of course credits or for elementary grades, other measures of academic accomplishment, to be earned by the student upon completion.
  - g) A statement in each agreement that independent study is an optional educational alternative.
  - h) A requirement that each agreement is signed, before the beginning of independent study, by the student, the student's parent, legal guardian or caregiver, the certificated employee who has the responsibility for general supervision of independent study, and all people who have direct responsibility for providing assistance to the student. (EC § 51747)
- 2) Requires the independent study by each student to be coordinated, evaluate, and under the general supervision of an employee of the local educational agency (LEA) who possesses a valid and appropriate teaching credential or an emergency permit. (EC § 51747.5)
- 3) Authorizes school districts, charter schools and county offices of education to claim apportionment credit for independent study only to the extent of the time value of student work products, as personally judged in each instance by a certificated teacher. (EC § 51747.5)

*Course-based independent study*

- 4) Authorizes a school district, charter school, or county office of education to provide independent study courses to students in grades K-12 pursuant to numerous conditions, including, among many other things:
- a) A signed learning agreement is completed and on file.
  - b) Courses are taught under the general supervision of certificated employees who hold the appropriate subject matter credential.
  - c) Courses are annually certified, by the governing board or body of the LEA, to be of the same rigor and educational quality as equivalent classroom-based courses, and must be aligned to all relevant local and state content standards.
  - d) Certificated employees and each student must communicate in person, by telephone, or by another live visual or audio connection, at least twice per calendar month to assess whether each student is making satisfactory educational progress. (Education Code § 51749.5)
- 5) Requires a LEA, before enrolling a student in an independent study course, to provide the student and parent or guardian with a written learning agreement that includes all of the following:
- a) A summary of the policies and procedures described in # 1 that have been

- adopted by the governing board or body of the local educational agency (LEA).
- b) The duration of the enrolled course or courses, the duration of the learning agreement, and the number of course credits for each course. Existing law prohibits the duration of a learning agreement from exceeding a school year or spanning multiple school years.
  - c) The learning objectives and expectations for each course, including a description of how satisfactory educational progress is measured and when a student evaluation is required to determine whether the student should remain in independent study.
  - d) The specific resources, including materials and personnel, that will be made available to the student.
  - e) A statement that the student is not required to enroll in independent study courses. (EC § 51749.6)
- 6) Requires the learning agreement, before instruction may begin, to be signed by the student and, if the student is under the age of 18 years, the student's parent or legal guardian, and all certificated employees providing instruction. (EC § 51749.6)

## ANALYSIS

This bill prohibits a local educational agency (LEA) from being eligible to receive apportionments for independent study unless it has adopted and implemented written policies that include a statement that a teacher shall make visual in-person contact with a student or by a live visual connection at least once per week. Specifically, this bill:

- 1) Prohibits a LEA from being eligible to receive apportionments for independent study unless it has adopted and implemented written policies that include a statement that a teacher shall make visual in-person contact with a student or by a live visual connection at least once per week, to assess whether the student is making satisfactory educational progress.
- 2) Authorizes an exception to be made on a case-by-case basis by the principal of the program, or a designee of the governing board of the LEA, for justifiable reasons and for a specified period of time.
- 3) Requires a parent or guardian to request in writing that designates the reason and the specified period of time for the exception.
- 4) Requires the principal of the program or designee of the LEA to approve or deny the request pursuant to uniform standards established by the governing board of the LEA.
- 5) Applies the provisions of this bill to charter schools.

**STAFF COMMENTS**

- 1) ***Need for the bill.*** According to the author, “Today’s rigorous academic standards require frequent formative assessment in order to monitor and adjust the instructional needs of each pupil. While current law requires a minimum amount of communication between certificated staff and their independent study pupils, allowing for that communication to occur over the telephone or other kinds of audio-only connection means school staff can go weeks or even months with no visual interaction with a pupil. Without in-person or live visual interaction on a weekly basis, the teaching and learning progress in many cases is minimal and the learning opportunities constrained. Additionally, child neglect and abuse that may be occurring can go undetected when a child is not seen frequently, as was the case in Monterey County. Public education programs have an obligation to ensure the safety and well-being of their students, and that the student is making satisfactory academic progress.”
  
- 2) ***Cases of child abuse.*** This bill is in response to cases of child abuse involving children enrolled in independent study programs in Monterey. In one case, the abuse resulted in the death of two children. The author notes that the child abuse went undetected, at least in part, because the children were enrolled in independent study and were not physically seen on a regular basis. According to news reports, one of the children in this case was enrolled in the Monterey Charter Home School; the article notes that the county does not conduct home visits as the charter instruction takes place in a classroom in the offices of the Monterey County Office of Education.  
<http://www.mercurynews.com/2015/12/17/monterey-county-death-probe-where-are-kids-asked-neighbors/>
  
- 3) ***Frequency of contact.*** Existing law requires the written agreement for each student enrolled in traditional independent study to include the manner, time, frequency, and place for submitting a student’s assignments and for reporting his or her progress. Existing law requires, for course-based independent study, teachers to communicate with independent study students at least twice every calendar month and authorizes the contact to be over the telephone or other audio connection. This is a minimum requirement; local educational agencies (LEA) may establish policies that require more frequent communication if they desire.

Independent study may be offered in a variety of formats: as a program or class within a comprehensive school, through a charter school, home-based, or online. This bill applies to all formats of independent study, but no longer applies to course-based independent study.

This bill requires teachers to have visual contact on at least a weekly basis with students who are enrolled in independent study in the following scenarios:

- a) A stand-alone course while also physically attending school.
- b) A home-based program in a remote geographic area.

- c) A home-based program where the student does not have access to the Internet.

*Will teachers be required to travel great distances once a week, will local educational agencies (LEAs) be required to acquire the technology necessary to communicate visually, or will teachers be required to visually contact students who also physically attend school on a regular basis?*

*Should discretion remain with LEAs to determine the appropriate frequency and type of communication, particularly in challenging scenarios?*

The author notes that the intent of this bill is to verify the safety of students, rather than to assess academic progress, and therefore frequent and visual contact is necessary. **Staff recommends an amendment** to allow any employee of the LEA who is a mandated reporter to conduct the weekly contact pursuant to this bill.

- 4) **Identification of abuse or neglect.** All school district teachers and employees are considered to be “mandated reporters,” including instructional aides, teacher assistants, classified employees, and employees of a school district police or security department, pursuant to the Child Abuse and Neglect Reporting Act. Mandated reporters are required to report to any law enforcement department knowledge or observations they may have of a child they know or reasonably suspect to have been the subject of child abuse or neglect. Existing law requires all school districts, county offices of education, state special schools and diagnostic centers operated by the California Department of Education (CDE), and charter schools to provide annual training to their employees and people working on behalf of the LEA on the mandated reporting requirements.
- 5) **Liability issues?** This bill requires teachers to have more frequent and visual-only contact with students enrolled in independent study for the purpose of ensuring the safety of students. Teachers are mandated reporters, who are required to contact child protective services if they suspect a child is being abused or neglected. Some have raised concerns that this bill could place teachers in jeopardy if cases of abuse or neglect are not identified by teachers who communicate with independent study students or if an exemption is provided and teachers do not see a student for over a week. Staff notes that existing law provides that mandated reporters have immunity from state criminal or civil liability for reporting as required, even if the mandated reporter acquired the knowledge, or suspicion of the abuse or neglect, outside his or her professional capacity or scope of employment. **Staff recommends an amendment** to provide that pursuant to The Child Abuse and Neglect Reporting Act (Penal Code § 11164-11174.3), no teacher or local educational agency shall be civilly or criminally liable for failing to detect child abuse or neglect as a result of failing to make visual contact with a pupil in person or by live visual connection at least once per week to the extent that the teacher exercised due diligence to have contact with a pupil in person or by live visual connection at least once per week.
- 6) **Elements of exemplary independent study.** The CDE’s website includes an outline of fundamental elements and indicators of the characteristics of

exemplary independent study practice. One of the fundamental elements and indicators is:

*Students have regularly scheduled meetings with their teachers on a sufficiently frequent basis for the teachers to provide needed instruction, adequately judge student progress, and make appropriate modifications. At least weekly interaction on student progress, whether in person or by electronic means, is recommended. Teachers are available to students between regularly scheduled meetings as-needed to ensure student success, whether on a drop-in basis on site, by phone or e-mail, in labs for tutoring, etc.*

<http://www.cde.ca.gov/sp/eo/is/elementsexemplary.asp>

- 7) ***Traditional independent study option vs course-based independent study.*** Existing law provides for two different independent study program options for local educational agencies (LEAs) to administer. Most LEAs offer the traditional independent study option. The course-based independent study option was established in 2015, with distinct apportionment requirements that differ from those of the traditional independent study program. Traditional independent study and course-based independent study average daily attendance (ADA) is tracked and reported separately to CDE. ADA is one of the factors used by CDE when calculating an LEA's Local Control Funding Formula entitlement.

Course-based independent study relates to a way of calculating ADA; it has nothing to do with a specific independent study delivery model. This bill applies only to traditional independent study. **Staff recommends an amendment** to reinsert changes to the section of the Education Code related to course-based independent study (51749.5) to ensure the provisions of this bill are applied to all independent study programs. Existing law related to course-based independent study requires certificated employees and each student to communicate in person, by telephone or by any other live visual or audio connection, at least twice per calendar month to assess whether each student is making satisfactory educational progress.

- 8) ***Fiscal impact.*** This bill was recently flagged as being fiscal, as a result of the June 19 amendments. Therefore, a fiscal analysis has not been completed for this bill.

## **SUPPORT**

California Federation of Teachers  
 California State PTA  
 California Teachers Association  
 Chief Probation Officers of California  
 City of Salinas, Chief of Police  
 County Behavioral Health Directors Association of California  
 County Welfare Directors Association of California  
 Court Appointed Special Advocates of Monterey

District Attorney, Monterey County  
Monterey County Board of Education  
Monterey County Department of Social Services  
Monterey County District Attorney  
Monterey County Home Charter School Charter Advisory Board  
Monterey County Office of Education  
Monterey County Sheriff's Office  
San Benito County Office of Education  
Santa Cruz County Office of Education  
United Way Monterey County  
Individuals

**OPPOSITION**

A Plus – Association of Personalized Learning Schools & Services  
California Charter School Association  
California Connections Academy  
California Consortium for Independent Study  
Charter Schools Development Center  
Choices Charter School  
K-12, Inc.  
Pathways Charter School  
Individuals

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