

Date of Hearing: April 5, 2017

ASSEMBLY COMMITTEE ON EDUCATION
Patrick O'Donnell, Chair
AB 1264 (Eduardo Garcia) – As Amended March 28, 2017

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

SUMMARY: Requires that parents be given copies of all school records regarding the provision of special education and related services prior to a meeting regarding a student's individualized education program (IEP). Specifically, **this bill:**

- 1) Requires that, before any meeting regarding an IEP, public agencies provide copies of all school records regarding the provision of special education and related services to the student relating to that meeting, including the IEP, to the student's parent at least five schooldays before the meeting.
- 2) Requires that those documents be provided to the parent at no charge.
- 3) Strikes guardians from various requirements related to special education.

EXISTING LAW:

- 1) Establishes the right of the parent or guardian of a student 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, either orally or in writing, and before any meeting regarding an IEP or any hearing or resolution. (EC 56043)
- 2) Requires, in a separate section (EC 56504), that parents have the right and opportunity to examine all school records of their children and to receive copies within five business days after the request is made by the parent, either orally or in writing.
- 3) Requires public agencies to comply with a request for school records without unnecessary delay before any meeting regarding an IEP or any hearing, in no case more than five business days after the request is made orally or in writing.
- 4) Requires that parents have the right to a response from the public agency to reasonable requests for explanations and interpretations of the records.
- 5) Requires a public agency to provide a parent, on request of the parent, a list of the types and locations of school records collected, maintained, or used by the agency.
- 6) Prohibits a public agency from charging more than the actual cost of reproducing the records, but if this cost effectively prevents the parent from exercising the right to receive the copy or copies, requires that the copies be reproduced at no cost.
- 7) 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)

- 8) Requires that parents be provided with a Notice of Procedural Safeguards at specified times. (EC 56321)
- 9) Establishes Family Empowerment Centers on Disability to provide families with children with disabilities with accurate information, specialized training, and peer-to-peer support regarding special education. (EC 56504)

FISCAL EFFECT: This bill has been keyed a state mandated local program by the Office of Legislative Counsel.

COMMENTS:

Need for the bill. According to the author, “AB 1264 would require school districts to automatically provide parents/guardians with copies of assessments and other educational records (i.e. draft copy of the proposed IEP, student work samples, data collections, etc.) five school days prior to the date of the scheduled IEP meeting.

School districts are required by federal and state law to provide copies of assessments and other educational records before the IEP meeting, but parents/guardians need to submit a written request first.

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 meeting 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.”

How are parents informed of their right to request documents? How are parents informed of their rights in special education, including the right to be provided with copies of documents to be discussed at an IEP meeting?

State and federal 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 IDEA and state law, including the right to be provided with copies of documents to be discussed at an IEP meeting, upon their request. The CDE provides a model Notice of Procedural Safeguards on their website, which districts may use. CDE posts this document translated into five languages.

According to CDE, schools must provide this notice at specified times:

- When the parent asks for a copy
- The first time a child is referred for a special education assessment
- Each time the parent is given an assessment plan to evaluate his or her child

- Upon receipt of the first state or due process complaint in a school year
- When the decision is made to make a removal that constitutes a change of placement

Parents may also learn about their rights by consulting with one of the Family Empowerment Centers on Disability (FECs) established by state law to help parents navigate the special education process through peer support. The FEC statute requires a center in each of the 32 regions of the state established under the Early Start Family Resource Centers. There are currently fourteen such centers. Additionally, there are two types of federally-funded parent resources: Parent Training Information Centers and California Community Parent Resource Centers.

Statewide Task Force on Special Education report. In 2015 the California Statewide Task Force on Special Education, comprised of the State Board of Education, the California Department of Education, and the California Commission on Teacher Credentialing published a report titled “One System: Reforming Education to Serve ALL Students.” This report made numerous recommendations in the areas of evidence-based school and classroom practices, accountability, assessment, special education finance, educator preparation, early education, and family and student engagement. The report recommended increasing the number of Family Empowerment Centers, increasing the funding provided to the centers, and establishing data-collection systems to monitor the work of the centers.

Arguments in support. The Coachella Valley Autism Society of America writes, “AB 1264 gives parents/guardians the opportunity to review all documentation pertaining to their child’s education in advance of the IEP meeting, rather than having to do this during the IEP meeting.

This allows the parent/guardian 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 ensuring that everyone attending the IEP meeting 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.”

Arguments in opposition. The Special Education Local Plan Area (SELPA) Administrators of California writes: “There are multiple reasons why current law provides access to these records *upon request* rather than automatically. First, it is important that the range of special education and educationally-related services a student may receive pursuant to an IEP are not pre-determined in advance of the IEP meeting itself. The objective of an IEP meeting is to make decisions in consultation with parents. Providing copies of *all* documents related to the IEP meeting that are prepared – for example, drafts that still await the input of the parent – could be construed as the local educational agency (LEA) making unilateral decisions about services prior to the IEP meeting. Second, allowing parents to receive documents *upon request* ensures that they are receiving the documents that are actually helpful to them, such as assessment reports, rather than any and all school records, which could mean the entire cumulative folder.

Lastly, this bill represents an unfunded mandate that would place new burdens on LEAs. With a shortage of special education providers in all areas of the state, LEAs often work on completion of final documents up until the day of the IEP meeting and have a bare minimum of staff to comply with various existing timelines ranging from 10-60 days. A requirement to provide IEP-

related documents 5 days early would subject LEAs to even stricter and faster turnaround times for items such as Manifestation Determination IEPs (10-day timeline currently), Interim Placements (30-day timeline currently), and initial and three-year evaluations (60-day timeline currently).”

Recommended amendments. Staff recommends the following amendments to this bill:

- 1) This bill deletes the rights of guardians to participate in various parts of the special education process. The author indicates that this was unintentional. **Staff recommends that the bill be amended** to return those references to current law.
- 2) To address concerns expressed by the opposition to this bill, **staff recommends that the bill be amended** to require that parents and guardians be offered the documents, and if the parent responds in the affirmative, the documents be provided within five business days (instead of school days) before the IEP meeting.
- 3) **Staff recommends** that the types of documents be narrowed to 1) available, completed school records related to present levels of performance, and 2) available, completed assessment reports, which are related to the meeting. **The Committee may wish to consider** that state and federal law would still provide a right of parents and guardians to request all school records related to an IEP meeting and due process hearings, and would still require that parents and guardians be provided documents no later than five business days after the request is made.

Related and prior legislation. SB 354 (Portantino) of this Session would require an LEA to provide a student’s parent with a copy of the student’s completed IEP and any revisions to the IEP in the native language of the parent within 30 days of the IEP team meeting, if requested by the pupil’s parent, or within 30 days of a later request by the pupil’s parent.

AB 2091 of the 2015-16 Session would have required LEAs to provide parents with a translated copy of an IEP and other specified documents, upon request, and requires that the IEP and related documents be translated by a qualified translator. This bill was held in the Senate Appropriations Committee.

REGISTERED SUPPORT / OPPOSITION:

Support

Coachella Valley Autism Society of America (sponsor)
 Angel View Outreach
 ARC – Imperial Valley
 Autism Society – Kern Autism Network
 Easy Speech Pathology, Inc.
 LULAC of the Desert

Opposition

SELPA Administrators of California

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