

Date of Hearing: March 23, 2022

ASSEMBLY COMMITTEE ON EDUCATION  
Patrick O'Donnell, Chair  
AB 2329 (Carrillo) – As Amended March 15, 2022

**[Note: This bill was double referred to the Assembly Judiciary Committee and will be heard by that Committee as it relates to issues under its jurisdiction.]**

**SUBJECT:** Pupil health: mobile vision examinations: schoolsites

**SUMMARY:** Authorizes school districts and charter schools to enter into a memorandum of understanding (MOU) with a nonprofit mobile vision examination provider for vision examinations to pupils; requires notification to parents; and deems that informed medical consent has been given if the parent does not opt-out of the examination in writing. Specifically, **this bill:**

- 1) Authorizes public schools to enter into an MOU with a nonprofit mobile vision examination provider to provide vision examinations to pupils at a schoolsite.
- 2) Provides that the vision examinations would be supplemental to, and not replace, the mandatory vision appraisals required for pupils in specified grades in current law.
- 3) Requires that the vision examinations be noninvasive and be provided exclusively for the purpose of providing vision examinations and eyeglasses.
- 4) Requires reports of the pupil vision examinations to be provided to the parent or guardians of the pupil, as specified.
- 5) Requires a school, prior to offering vision examinations on its site, to have an MOU with the provider in place, and to notify parents and guardians of the upcoming provision of vision examinations at the schoolsite. The notification must include a form allowing parents to opt-out of their child receiving a vision examination.
- 6) Requires the CDE to develop and post on its website a model opt-out form for parents to complete if they do not wish their children's vision to be examined at school.
- 7) Requires, if the parent or guardian does not opt-out by submitting a written form, as specified, that informed medical consent for the vision examination is deemed to have been given.
- 8) Requires that parents, guardians, or pupils who do not opt-out in writing, as specified, be deemed to have waived all claims against the public school and the State of California for injury, accident, illness, or death that occurs during a vision examination.
- 9) Requires that parents, guardians, or pupils who participate in a vision examination be deemed to have waived all claims against participating health care professionals for providing services without parent or guardian consent.
- 10) Requires that participating licensed health care professionals, including independent contractors of those professionals, who provide services that are authorized by this section,

have immunity from civil and criminal liability, and not be subject to disciplinary action by a licensing board.

- 11) Specifies that this immunity does not affect any of the following:
  - a) A person's liability for damages caused by an act or omission that constitutes gross negligence or willful or wanton misconduct;
  - b) A person's culpability for an act that constitutes a crime and is not specifically authorized by this section;
  - c) The ability of a parent or guardian of a pupil to file an annual written statement, as specified, stating that they do not consent to a physical examination of their child, thereby exempting the pupil from any physical examination, including the vision examination authorized in this section.
- 12) Requires that vision examination providers be subject to current law prohibiting the solicitation of the pupil or the pupil's parent or guardian to encourage or advise treatment or consultation for the pupil by any entity in which the licensed provider has a financial interest.
- 13) Requires that any nonprofit mobile vision examination provider, participating licensed health care professional, including independent contractors of those professionals, or other entity providing services comply with the requirement to have a valid criminal background check before interacting with any pupils.
- 14) Defines "public school" to mean a school of a school district or a charter school.

**EXISTING LAW:**

- 1) Requires a pupil's vision to be appraised by the school nurse or other authorized person during the kindergarten year or upon first enrollment or entry in a California school district of a pupil at an elementary school, and in grades 2, 5, and 8. (Education Code (EC) 49455)
  - a) Specifies that a pupil whose first enrollment occurs in grade 4 or 7 is not required to be appraised in the year immediately following the pupil's first enrollment or entry;
  - b) Requires the appraisal to include tests for visual acuity, including near vision and color vision; (color vision is to be appraised once for male pupils only once they reach first grade), and that the results of the appraisal be entered in the health record of the pupil;
  - c) Specifies that the vision appraisal may be waived, if the pupil's parents so desire, by the presenting of a certificate from a physician or surgeon, a physician assistant, or an optometrist, setting out the results of a determination of the pupil's vision, including visual acuity and color vision;
  - d) Specifies that a pupil's vision may be appraised by using an eye chart or any other scientifically validated photoscreening test. Requires that photoscreening tests be performed under an agreement with, or the supervision of, an optometrist or ophthalmologist, by the school nurse or a trained individual who meets requirements established by the California Department of Education (CDE);

- e) Requires continual and regular observation by the school nurse and the classroom teacher of the pupil's eyes, appearance, behavior, visual performance, and perception that may indicate vision difficulties;
  - f) Exempts a pupil from the vision appraisal if the parents or guardian provides a statement in writing that they adhere to the faith or teachings of any well-recognized religious sect, denomination, or organization and in accordance with its creed, tenets, or principles depend for healing upon prayer in the practice of their religion; and
  - g) Requires the CDE to adopt guidelines on vision screening, including training requirements and a method of testing for near vision.
- 2) Requires the governing board of any school district to provide for the testing of the sight and hearing of each pupil enrolled in the schools of the district. The test shall be adequate in nature and shall be given only by duly qualified supervisors of health employed by the district; or by certificated employees of the district or of the county superintendent of schools who possess the qualifications prescribed by the Commission for Teacher Preparation and Licensing; or by contract with an agency duly authorized to perform those services by the county superintendent of schools of the county in which the district is located, under guidelines established by the State Board of Education; or accredited schools or colleges of optometry, osteopathic medicine, or medicine. (EC 49452 and 5 CCR 591)
  - 3) Authorizes a parent or guardian of a pupil enrolled in public schools to file an annual statement in writing stating that they will not consent to a physical examination of their child, and requires that the child be exempt from any physical examination. (EC 49451)
  - 4) Requires a parent or guardian to provide, within 90 days of entrance into the first grade, a certificate signed by a health professional, documenting that the child has received the appropriate health screening and evaluation services (including vision screening) within the previous 18 months, unless the parent or guardian signs a waiver indicating they do not want or are unable to obtain the health screening. (Health and Safety Code (HSC) 124085)
  - 5) Requires the governing board of a school district to exclude from school, for not more than five days, any first grade pupil who has not provided a signed health certificate or waiver, on or before the 90<sup>th</sup> day after the pupil's entrance into first grade. (HSC 124105)
  - 6) Authorizes a parent to annually file, with the principal of the school in which their child is enrolled, a signed document stating that they will not consent to a physical examination of their child, and requires the school to exempt the child from any physical examination. (EC 49451)
  - 7) Prohibits a pupil from being tested for a behavioral, mental, or emotional evaluation without the informed written consent of the parent or guardian, and specifies that a general consent, including medical consent used to approve admission to a special education or remedial program or regular school activity does not constitute written consent. (EC 49091.12)

- 8) Requires that any entity that has a contract with a local educational agency (LEA) to 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 valid criminal background check. (EC 45125.1)

**FISCAL EFFECT:** Unknown

**COMMENTS:**

***Need for the bill.*** According to the author: "This bill will remove administrative barriers to make it easier for California students to receive a vision exam from a community provider. It will also make it easier for California school districts to enter into an agreement with a nonprofit community vision provider. Studies show that addressing a vision problem is a powerful childhood intervention that improves grades, classroom and extracurricular engagement, and even prevents physical pain, and this bill will make vision exams and services more widely available to families in need."

***Importance of vision in school success.*** The American Optometric Association notes that good vision is key to a student's success in school. Reading, writing, computer work, and viewing material on classroom screens or chalkboards are some of the visual tasks students perform daily. As children progress in school, demands on their visual abilities increase as the size of print in their schoolbooks becomes smaller and they are required to spend more time on homework. Children with visual skill deficits may avoid reading, experience lower levels of comprehension, or suffer from fatigue, discomfort, and a shorter attention span.

***Prevalence of visual disorders in U.S. children.*** A 2016 report, *Children's Vision and Eye Health: A Snapshot of Current National Issues*, produced by the National Center for Children's Vision and Eye Health, included the following statistics on eye disorders among children between 5 and 17 years of age:

- 9% have myopia or nearsightedness, which results in defective vision of distant objects. This varies by race/ethnicity with Asian (19%) and Hispanic (13%) children having significantly higher rates of myopia;
- 13% have hyperopia, or farsightedness, which results in defective vision of near objects. Again, this varies by race/ethnicity, with the greatest prevalence among Non-Hispanic White (20%) children; and
- Between 15 to 28% have astigmatism, an irregularity in the shape of the cornea or lens that causes blurry vision at all distances if not corrected.

***Vision screening currently required for school entry.*** Current law requires a parent or guardian of a first grade student, within the first 90 days of the school year, to provide a certificate, signed by a medical professional, documenting that the child has received a health check-up within the last 18 months. This required health examination for school entry includes a vision screening, completed by the child's regular healthcare provider.

The parent or guardian may submit a signed waiver stating they are unwilling or unable to obtain a health screening for the child. School districts are required to exclude children from school for up to five days, if the parent has not provided the health documentation or waiver.

*The CDE provides guidance for schools on vision testing.* *Guide For Vision Testing In California Public Schools*, (CDE, 2019) notes that a vision testing program meets state requirements when it is provided under the direction of qualified personnel and has the following objectives to:

- Identify students with potential vision deficits through:
  - Administration of selected vision screening tools;
  - Planned procedures of observation;
- Notify parents of each student identified as having a possible vision deficit and to encourage further examination through a professional comprehensive eye and vision evaluation;
- Establish follow-up procedures that will ensure that each identified student receives appropriate follow-up care; and
- Inform teachers of students who have vision deficits about vision eye care professionals’ recommendations and assist them in planning for needed adjustments in the educational program.

The CDE guide identifies the elements of a pupil vision screening that are legally required:

Grade Level	Distance Vision	Near Vision	Color Vision Deficiency
TK/K	Required	Required	Not required
Grade 1	Not required	Not required	Required
Grade 2	Required	Required	Required only if not screened in 1 <sup>st</sup> grade
Grade 5	Required	Required	See above
Grade 8	Required	Required	See above
Special education	Required	Required	Required

This bill stipulates that the vision screenings authorized under the proposed MOU would be in addition to, but not replace, the legally required screenings as noted above.

*Current law limits who can provide vision screening in California public schools.* Only the following persons are authorized to conduct vision screening:

- Duly qualified supervisors of health employed by the school district or COE;
- A registered nurse who holds both (1) a license from the appropriate California board or agency; and (2) a health and development credential, a standard designated service credential with a specialization in health, a health services credential as a school nurse, or a school nurse services credential;
- Certificated school district or county employees who hold a teaching credential and are qualified by training, including satisfactory completion of either six hours of vision screening; or an accredited college or university course in vision screening of at least one semester unit;
- Contracting agents who have met the requirements noted above and who have been authorized by the County Superintendent of Schools in which the district is located to perform tests.

***What's the difference between vision screening and an eye exam?*** The American Association for Pediatric Ophthalmology and Strabismus notes,

Vision screening is an efficient and cost-effective method to identify children with visual impairment or eye conditions that are likely to lead to vision loss so that a referral can be made to an appropriate eye care professional for further evaluation and treatment. Pediatricians, family practitioners, nurses and technicians can perform vision screening at regular well care office visits. In addition, many day care programs, churches, schools and health departments offer vision screening programs for children.

Vision screening is more efficient and cost effective (which allows many more children to be examined) than a complete examination on every child. Only about 2 to 4% of children have an eye problem that requires treatment, so it is not practical to perform a comprehensive eye examination on every child. In addition, some problems are missed on a one-time comprehensive eye examination, so it is preferable to have several screenings performed over time. Also, mandated comprehensive eye examinations likely result in glasses being prescribed unnecessarily for many children.

Nevertheless, if a child has known risk factors for eye disease, if there is a family history of pediatric eye disease, or if a child has signs or symptoms suspicious for a vision problem, it is reasonable and appropriate for a child to have a comprehensive eye examination.

The American Academy of Ophthalmology advises parents to seek a comprehensive eye exam if the child fails a vision screening or the vision screening is inconclusive or cannot be performed; is referred by a pediatrician or school nurse; has a vision complaint or observed abnormal visual behavior, or is at risk for developing eye problems; or has a learning disability, developmental delay, neuropsychological condition or behavioral issue.

***Los Angeles County pilot program.*** In an effort to determine whether children's access to, and utilization of, vision care services can be increased by providing vision care services at schools, existing law required the California Department of Health Care Services to establish a three-year pilot program in the County of Los Angeles that enabled school districts to allow students enrolled in Medi-Cal managed care plans to receive vision care services at the schoolsite through

the use of a mobile vision service provider. The vision care services available under this pilot program were limited to vision examinations and providing eyeglasses and were supplemental to the vision testing required by schools in the Education Code. School districts had the option to participate in the pilot program and student participation was also voluntary and required parental consent.

The pilot program operated for two years from January 1, 2015, to January 1, 2017. An evaluation of the pilot concluded that, “while the pilot project did not show a considerable change in the overall utilization of vision services, the pilot did serve thousands of students and based on the cohort analysis, it appears roughly two-thirds of those kids served by the pilot had not received a vision service in the study periods prior to the pilot, which would indicate increased access to services that were not otherwise being utilized.”

***Parental consent for vision screening.*** This bill requires that before a vision examination is provided at a schoolsite pursuant to this program, that the school must notify parents and guardians of the upcoming provision of the vision examinations. The notification must include a form for a parent to opt their child out of receiving the vision examination. If the parent does not submit a written opt-out form, it is deemed informed medical consent for the vision examination. ***The Committee may wish to consider*** whether it is appropriate for school children to receive a vision examination on the basis of a parental opt-out rather than an opt-in through a signed consent form.

***Arguments in support.*** The Los Angeles Unified School District, sponsor of the bill, notes “Recent research shows students who receive eyeglasses through school-based vision programs receive better reading scores, especially for girls and students with disabilities. When children’s visual skills have not developed properly, their learning can be impaired which can further exacerbate the opportunity gaps, especially among low-income students.

On average, pre-pandemic, Los Angeles Unified provided between 13,000 and 16,000 student vision examinations per semester by various district partners. All students are screened at each school and a consent is not required for screening; however, parent consent is required for an eye examination and for dental examinations. The goal of AB 2329 is to provide more students access to no-cost vision exams by third party health service providers. Public schools will need to enter into a memorandum of understanding with a nonprofit mobile vision examination provider regarding their partnership and scope of the program, and then provide a reasonable amount of time to allow parents to opt-out of the scheduled vision exam. This bill is permissive in nature for school districts that desire to offer these programs, but it is not mandatory.

Through AB 2329, Los Angeles Unified seeks to narrow opportunity gaps and to decrease the burdens of poverty as we continue to focus on addressing the academic, social-emotional, and health needs of every student.”

***Related legislation.*** AB 2904 (Carrillo) of the 2017-18 Session, would have authorized the governing board of a school district to enter into an MOU with a nonprofit mobile vision care services provider to provide vision care services to pupils at the schoolsite of a public school that are supplemental to required vision screenings. This bill was placed on the inactive file in the Senate.

AB 1110 (Burke) of the 2017-18 Session would have required parents to provide results of an eye and vision examination upon a pupil's first enrollment in elementary school, prohibit a school district from denying admission to a pupil if the parent failed to provide the examination results, and authorized vision screening for those pupils who had not received such an examination, by the school nurse or other authorized individual. This bill was held in the Assembly Appropriations Committee.

SB 402 (Mitchell) of the 2015-16 Session would have required a pupil's vision to be examined by a physician, optometrist, or ophthalmologist, and required the pupil's parent or guardian to provide the results of the examination to the pupil's school. This bill would have prohibited a school from denying admission to a pupil or taking any other adverse action against a pupil if his or her parent or guardian failed to provide the results of the examination. If the results of the examination were not provided to the school, this bill would have required a pupil's vision to instead be appraised pursuant to existing law. This bill was held in the Senate Appropriations Committee

SB 870 (Senate Budget and Fiscal Review Committee) Chapter 40, Statutes of 2014, authorized a pilot program in Los Angeles County no sooner than January 1, 2015, and concluding December 31, 2017, to expand pediatric vision examinations and services through the use of mobile vision providers.

SB 1172 (Steinberg) Chapter 925, Statutes of 2014, deletes the existing vision screening requirements, and instead requires, during the kindergarten year or upon first enrollment or entry in a California school district of a pupil at an elementary school, and in grades 2, 5, and 8, the pupil's vision to be appraised by the school nurse or other authorized person.

AB 1840 (Campos) Chapter 803, Statutes of 2014, clarifies that a child's vision is permitted to be appraised by using an eye chart or any scientifically validated photoscreening test. Requires photoscreening tests to be performed, under an agreement with, or the supervision of, an optometrist or ophthalmologist, by the school nurse or a trained individual who meets requirements established by the CDE.

SB 430 (Wright) of the 2013-14 Session would have required a pupil to receive a vision examination from a physician, optometrist, or ophthalmologist, and requires that screening to include a test for binocular function, refraction, and eye health. SB 430 was held in the Assembly Health Committee.

#### **REGISTERED SUPPORT / OPPOSITION:**

##### **Support**

Los Angeles Unified School District  
The Los Angeles Trust for Children's Health

##### **Opposition**

None on file

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