
Significant Changes to Independent Study for the New School Year

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The 2021-2022 Education Omnibus Budget Trailer Bill (Trailer Bill) includes significant short-term and long-term changes to independent study. (See Ed. Code, § 51745, et seq.) For the 2021-2022 school year only, school districts and county offices of education (COE) will be required to offer an independent study program to meet the educational needs of pupils. Charter schools are not required to provide independent study, but charter schools that do offer independent study are subject to the new requirements otherwise applicable to school districts and COEs for the 2021-2022 school year.

As an alternative to developing its own independent study program, a school district or COE may contract with a COE or enter into an interdistrict transfer agreement with another school district to satisfy these requirements. Under very limited circumstances, the county superintendent or State Superintendent can grant a waiver.

These new changes require that, in order to be eligible for apportionments for independent study, local educational entities (LEA) must update their independent study policies and written agreements, and make significant programmatic revisions to both traditional and course-based independent study programs. Distance learning elements, such as “live interaction” and “synchronous instruction” will be incorporated, along with an authorization for independent study by a pupil whose health would be at risk by in-person instruction, as determined by the parent or guardian.

For the 2021-2022 school year only, LEAs have 30 days after the first day of instruction to obtain signed written agreements with the pupils. However, for pupils with exceptional needs, the individualized education program must still specifically provide for independent study before the pupil can begin participating in the program.

School districts and COEs will be required to notify parents and guardians of all enrolled pupils of their options to enroll in in-person or independent study during the 2021-2022 school year. This notice shall include specified written information on the website and shall be translated if 15% or more of the pupils enrolled in a local educational agency (LEA) speak a single primary language other than English.

The programmatic changes to independent study include:

- A conference between the LEA and parent/guardian prior to enrolling or disenrolling a pupil from any learning option, if requested by the parent or guardian;
- Instructional content aligned to grade level standards at a level of quality and intellectual challenge substantially equivalent to in-person instruction;
- For high schools, access to all courses offered by the LEA for graduation and approved as creditable under the A-G admissions criteria;
- For transitional kindergarten¹ and grades 1-3, a plan to provide opportunities for daily synchronous instruction;
- For grades 4-8, a plan to provide opportunities for both daily live interaction and at least weekly synchronous instruction;
- For grades 9-12, a plan to provide opportunities for synchronous instruction at least weekly;
- Documentation of a pupil's participation in live interaction and synchronous instruction;
- Retention of evidence of a pupil's engagement in instruction;
- Confirmation that the pupil has internet connectivity, otherwise the LEA will need to provide adequate connectivity or devices to the pupil; and
- A plan to promptly transition pupils back into in-person instruction within five instructional days of a parent or guardian's request to do so.

New elements that need to be incorporated into written policies include:

- Identification of the level of "satisfactory educational progress" (in addition to 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 pupil to remain in independent study or return to the regular school program. The indicators of "satisfactory educational progress" include the pupil's achievement and engagement, completion of assignments and learning required concepts; and
- Procedures for tiered reengagement of independent study pupils not generating more than three school days or 60% of the instructional days in a school week, or who are not in compliance with the written agreement; tiered reengagement and several other elements are not required for independent study of fewer than 15 days.

New elements that need to be incorporated into written policies and written agreements with pupils include:

- The manner, time, frequency, and place for communicating with a pupil's parent or guardian regarding a pupil's academic progress; and
- A statement detailing the academic and other supports that will be provided to address the needs of pupils who are not performing at grade level, or need support in other areas, such as English learners, pupils with exceptional needs, pupils in foster care or experiencing homelessness, and pupils requiring mental health supports.

¹ It appears that kindergarten was inadvertently omitted from this list.

Takeaways

These new independent study requirements are effective for the 2021-2022 school year and policies should be updated prior to the beginning of instruction. Given the short timeframe, LEAs are encouraged to plan now for how best to incorporate these changes for the new school year. As a reminder, existing CDE regulations require that, when setting policy on independent study, governing boards consider the scope, purpose, and related factors in a public hearing.

If it is anticipated that a large number of pupils in your district will enroll in independent study, there could be a significant effect on class sizes, ADA, certificated and classified personnel assignments, technology, bussing and many of the concerns that schools tackled during the 2020-2021 school year. Even if a limited number of independent study pupils is expected, eligibility for apportionments will require updates to the independent study agreement and the policy.

If you have any questions regarding these provisions of the Trailer Bill, or about independent study in general, please contact the authors of this Client News Brief or an attorney at one of our [eight offices](#) located statewide. You can also subscribe to our [podcast](#), follow us on [Facebook](#), [Twitter](#) and [LinkedIn](#) or download our [mobile app](#).

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