
Assembly Bill 181 Includes Significant Changes to Independent Study Requirements for the 2022-2023 School Year

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Governor Newsom signed the Education Omnibus Budget Trailer Bill (AB 181) on June 30, 2022, which was effective immediately and includes significant changes to independent study requirements. These changes directly impact board policies and independent study agreements between families and local educational agencies (LEAs), which must be legally compliant for the LEA to collect attendance apportionment for students participating in independent study.

Below is a brief overview of the notable changes to the law. LEAs are encouraged to consult with legal counsel regarding necessary changes to board policies and agreements.

Return to Optional Independent Study

In response to the COVID-19 pandemic, the California Legislature *required* school districts and county offices of education to offer independent study for the 2021-2022 school year (See 2021 [Client News Brief Number 31](#)). AB 181 confirms that this requirement was *only* for the 2021-2022 school year and reinstates, for all LEAs, the option to offer independent study for the 2022-2023 school and beyond.

Independent Study for Students with IEPs

AB 181 revises the Education Code to state that students with exceptional needs *may* participate in traditional and course-based independent study *if* their individualized education programs (IEP) specifically provide for such instruction.

If an eligible student requests independent study, an IEP team must convene and make an individualized determination regarding whether the eligible student can receive a free appropriate public education (FAPE) through independent study. The IEP team may not decline a student's request for independent study based on the student's inability to work independently, the need for adult support, or the need for special education or related services.

AB 181 also authorizes LEAs to claim apportionment for students served in nonpublic, nonsectarian schools through a "virtual program," so long as the LEA offers independent study, the parent or guardian requests independent study, and the IEP team determined the student can receive FAPE in the virtual program, among other requirements. This provision remains effective only through July 1, 2024.

Signature Requirements for Independent Study Agreements

Agreements for traditional and course-based independent study no longer require signatures by “all persons who have direct responsibility for providing assistance to the pupil.” However, in addition to the student, the parent, guardian, or caregiver (if the student is less than 18 years old), and the certificated employee supervising independent study, agreements now must be signed by “the certificated employee designated as having responsibility for the special education programming of the pupil,” (i.e., special education teacher) if applicable.

For independent study programs scheduled for more than 14 school days, LEAs must obtain all applicable signatures for traditional and course-based independent study agreements before a student commences independent study. For independent study programs scheduled for less than 15 school days, the LEA has 10 school days from the student’s first day of independent study to obtain signatures. The 30-day/October 15 deadline for signatures for the 2021-2022 school year is no longer applicable.

Tiered Reengagement Strategies

AB 181 modifies the threshold for triggering tiered reengagement strategies for traditional independent study. In 2021-2022, these procedures applied to students who did not generate attendance for more than three school days or 60 percent of the instructional days in a school week, or who violated the agreement. Now, tiered reengagement strategies are triggered if any of the following occur:

- (1) The student fails to generate attendance for more than 10% of the required minimum instructional time over four continuous weeks of the LEA’s approved instructional calendar;
- (2) The student does not participate in synchronous instructional offerings for more than 50% of the scheduled times of synchronous instruction in a school month; or
- (3) The student is in violation of the written agreement.

Tiered reengagement strategies must now also include local programs intended to address chronic absenteeism, in addition to the existing tiered reengagement procedures.

AB 181 does not modify the 2021-2022 tiered reengagement procedures for course-based independent study.

More Students Excused from Tiered Reengagement and Related Requirements

During the 2021-2022 school year, the requirements for tiered reengagement, synchronous instruction or live interaction, and return to in-person instruction within five days did not apply to students participating in traditional independent study for less than 15 school days. Beginning with the 2022-2023 school year, these requirements also do not apply to students participating in traditional independent study under the care of a licensed professional due to medical treatments or inpatient treatment for mental health or substance abuse. LEAs must obtain evidence from appropriately licensed professionals supporting the student’s need to participate in independent study on this basis.

Apportionment Credit for Independent Study

AB 181 provides an alternative means of calculating apportionment credit for independent study. LEAs are now permitted to calculate apportionment based on either (1) the equivalent daily time value of work products or (2) the combined time value of the student's work product *and* the student's participation in synchronous instruction.

Additionally, LEAs are generally limited to collecting apportionment credit for independent study for not more than 10% of students participating in opportunity school or programs or continuation high schools. However, AB 181 excludes students participating in independent study due to an "emergency" (as defined in Education Code sections 41422 and 46392) from the 10% calculation.

Teachers Providing Synchronous Instruction

Previously, the teacher of record (i.e., supervising teacher) was required to provide synchronous instruction in traditional independent study. AB 181 permits synchronous instruction to be provided simply by "a teacher or teachers of record for that pupil."

Takeaways

AB 181 modifies important independent study requirements impacting board policies and agreements between families and LEAs, which must be legally compliant to ensure attendance apportionment. LEAs must review and revise their policies and agreements prior to the start of the 2022-2023 school year to avoid any loss of funding for students participating in independent study.

If you would like more information or assistance regarding independent study policies and agreements, 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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