

AMENDED IN ASSEMBLY JULY 17, 2025

AMENDED IN ASSEMBLY JULY 7, 2025

AMENDED IN SENATE MARCH 26, 2025

SENATE BILL

No. 373

Introduced by Senator Grove
(Principal coauthor: Senator Rubio)
(Principal coauthor: Assembly Member Lackey)
(Coauthor: Assembly Member Patel)

February 13, 2025

An act to amend Sections 49001, 56301, 56366.1, 56366.4, and 56366.12 of the Education Code, relating to special education.

LEGISLATIVE COUNSEL'S DIGEST

SB 373, as amended, Grove. Special education: nonpublic, nonsectarian schools or agencies.

(1) Existing law requires local educational agencies to identify, locate, and assess individuals with exceptional needs and to provide those pupils with a free appropriate public education in the least restrictive environment, with special education and related services as reflected in an individualized education program. Existing law requires, in accordance with specified federal laws, parents to be given a copy of their rights and procedural safeguards, as specified.

This bill would require pupils to also be given a copy of their rights and procedural safeguards and would require both parents and pupils to be given information on how to contact the State Department of Education's Equitable Services Ombudsman. By imposing additional duties on local educational agencies, the bill would impose a state-mandated local program.

(2) Existing law permits, under certain circumstances, contracts to be entered into for the provision of special education and related services by nonpublic, nonsectarian schools or agencies, as defined. Existing law authorizes a master contract for special education and related services provided by a nonpublic, nonsectarian school or agency only if the school or agency has been certified by the Superintendent of Public Instruction as meeting specified standards. Existing law requires, before certification, the Superintendent to conduct an onsite review of the facility and program for which the applicant seeks certification, as specified.

This bill, commencing with the 2026–27 school year, would require the Superintendent, before certifying a nonpublic, nonsectarian school, to take additional actions, including, among other things, to review policies on restraint and seclusion to evaluate consistency with California laws and to interview pupils with an individualized education program to discuss progress and address any concerns respecting any limitations due to the pupil’s disability, as specified. The bill would require the Superintendent, by July 1, 2026, to develop a tool for purposes of the interviews, as provided, and would require the tool to be made available to local educational agencies for their own use, which the bill would authorize.

Existing law requires a nonpublic, nonsectarian school or agency that seeks certification to file an application with the Superintendent on forms provided by the department, and to include specified information on the application.

This bill would add assurances of compliance with specified laws relating to behavioral interventions to be included in that required information on the application.

Existing law requires, commencing with the 2020–21 school year, a local educational agency that enters into a master contract with a nonpublic, nonsectarian school to conduct at least one onsite monitoring visit during each school year to the nonpublic, nonsectarian school at which the local educational agency has a pupil attending and with which it maintains a master contract. Existing law requires the monitoring visit to include, among other things, an observation of the pupil during instruction and a walkthrough of the facility. Existing law requires the local educational agency to report the findings resulting from the monitoring visit to the department within 60 calendar days of the onsite visit. Existing law requires, before June 30, 2020, the department to,

with input from special education local plan area administrators, create and publish criteria for reporting this information to the department.

This bill would require the monitoring visit to include an in-person interview with the pupil, in a manner consistent with their individualized education program, to evaluate their health and safety. The bill would require the local educational agency to report the findings resulting from the monitoring visit to the department using a specified form developed and published by the department on its internet website. The bill would require, on or before July 1, 2026, the department to update the form to require additional findings to be reported to the department. The bill would also require the local educational agency to conduct a quarterly check-in with a pupil attending the nonpublic, nonsectarian school through an unmonitored telephone call in a manner consistent with their individualized education program.

Existing law requires the Superintendent to make a determination on an application for certification within 120 days of receipt of the application and to certify, conditionally certify, or deny certification to the applicant. If certification is denied, existing law requires the Superintendent to provide reasons for the denial.

This bill, commencing with the 2026–27 school year, would require the Superintendent to make available, upon request from a local educational agency or special education local plan area, specified information and documentation relating to certification. The bill would require a local educational agency to disclose the information received to the parent or guardian at the time the individualized education program team considers placement of the pupil in a nonpublic, nonsectarian school or agency, as specified. By imposing additional duties on local educational agencies, the bill would impose a state-mandated local program.

Existing law requires a nonpublic, nonsectarian school to ensure private and confidential communication between a pupil of the nonpublic, nonsectarian school and members of the pupil's individualized education program team, at the pupil's discretion.

This bill would require the private and confidential communication to include telecommunication and would require a nonpublic, nonsectarian school to also ensure private and confidential communication between a pupil and the department's Equitable Services Ombudsman.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 49001 of the Education Code is amended
2 to read:

3 49001. (a) For the purposes of this section “corporal
4 punishment” means the willful infliction of, or willfully causing
5 the infliction of, physical pain on a pupil. An amount of force that
6 is reasonable and necessary for a person employed by or engaged
7 in a public school to quell a disturbance threatening physical injury
8 to persons or damage to property, for purposes of self-defense, or
9 to obtain possession of weapons or other dangerous objects within
10 the control of the pupil, is not and shall not be construed to be
11 corporal punishment within the meaning and intent of this section.
12 Physical pain or discomfort caused by athletic competition or other
13 such recreational activity, voluntarily engaged in by the pupil, is
14 not and shall not be construed to be corporal punishment within
15 the meaning and intent of this section.

16 (b) No person employed by or engaged in a public school shall
17 inflict, or cause to be inflicted corporal punishment upon a pupil.
18 Every resolution, bylaw, rule, ordinance, or other act or authority
19 permitting or authorizing the infliction of corporal punishment
20 upon a pupil attending a public school is void and unenforceable.

21 (c) For purposes of this section, a “public school” includes a
22 school operated by a school district or a county office of education,
23 a charter school, a nonpublic, nonsectarian school, and the state
24 special schools for the blind and the deaf.

25 SEC. 2. Section 56301 of the Education Code is amended to
26 read:

27 56301. (a) All children with disabilities residing in the state,
28 including children with disabilities who are homeless children or

1 are wards of the state and children with disabilities attending
2 private, including religious, elementary and secondary schools,
3 regardless of the severity of their disabilities, and who are in need
4 of special education and related services, shall be identified,
5 located, and assessed and a practical method is developed and
6 implemented to determine which children with disabilities are
7 currently receiving needed special education and related services
8 as required by Sections 1412(a)(3) and 1412(a)(10)(A)(ii) of Title
9 20 of the United States Code. A child is not required to be classified
10 by their disability so long as each child who has a disability listed
11 in Section 1401(3) of Title 20 of the United States Code and who,
12 by reason of that disability, needs special education and related
13 services as an individual with exceptional needs defined in Section
14 56026.

15 (b) (1) In accordance with Section 300.111(c) of Title 34 of
16 the Code of Federal Regulations, the requirements of this section
17 also apply to highly mobile individuals with exceptional needs,
18 including migrant children, and children who are suspected of
19 being an individual with exceptional needs pursuant to Section
20 56026 and in need of special education, even though they are
21 advancing from grade to grade.

22 (2) In accordance with Section 300.213 of Title 34 of the Code
23 of Federal Regulations, the local educational agency shall cooperate
24 in the efforts of the federal Secretary of Education, under Section
25 6398 of Title 20 of the United States Code, to ensure the linkage
26 of records pertaining to migratory children with disabilities for the
27 purpose of electronically exchanging, among other states, health
28 and educational information regarding those children.

29 (c) (1) The child find process shall ensure the equitable
30 participation in special education and related services of parentally
31 placed private schoolchildren with disabilities and an accurate
32 count of those children. Child find activities conducted by local
33 educational agencies, or where applicable, the department, shall
34 be similar to those activities undertaken for pupils in public
35 schools.

36 (2) In accordance with Section 1412(a)(10)(A)(ii)(IV) of Title
37 20 of the United States Code, the cost of the child find activities
38 in private, including religious, elementary and secondary schools,
39 may not be considered in determining whether a local educational
40 agency has met its obligations under the proportionate funding

1 provisions for children enrolled in private, including religious,
2 elementary and secondary schools.

3 (3) The child find process described in paragraph (1) shall be
4 completed in a time period comparable to that for other pupils
5 attending public schools in the local educational agency.

6 (d) (1) Each special education local plan area shall establish
7 written policies and procedures pursuant to Section 56205 for use
8 by its constituent local agencies for a continuous child find system
9 that addresses the relationships among identification, screening,
10 referral, assessment, planning, implementation, review, and the
11 triennial assessment. The policies and procedures shall include,
12 but need not be limited to, written notification to all parents of
13 their rights under this chapter, and the procedure for initiating a
14 referral for assessment to identify individuals with exceptional
15 needs.

16 (2) Parents and pupils shall be given information on how to
17 contact the department's Equitable Services Ombudsman and a
18 copy of their rights and procedural safeguards in accordance with
19 Section 1415(d)(1)(A) of Title 20 of the United States Code and
20 Section 300.504(a) of Title 34 of the Code of Federal Regulations,
21 once every school year and at all of the following times:

22 (A) Upon initial referral or parental request for assessment.

23 (B) Upon receipt of the first state complaint under Section
24 56500.2 in a school year.

25 (C) Upon receipt of the first due process hearing request under
26 Section 56502 in a school year.

27 (D) When a decision is made to make a removal that constitutes
28 a change of placement of an individual with exceptional needs
29 because of a violation of a code of pupil conduct in accordance
30 with Section 300.530(h) of Title 34 of the Code of Federal
31 Regulations.

32 (E) Upon request by a parent or pupil.

33 (3) A local educational agency may place a current copy of the
34 procedural safeguards notice on its internet website, if the internet
35 website exists, pursuant to Section 1415(d)(1)(B) of Title 20 of
36 the United States Code.

37 (4) The contents of the procedural safeguards notice shall
38 contain the requirements listed in Section 1415(d)(2) of Title 20
39 of the United States Code and Section 300.504(c) of Title 34 of
40 the Code of Federal Regulations.

(e) Child find data collected pursuant to this chapter, or collected pursuant to a regulation or an interagency agreement, are subject to the confidentiality requirements of Sections 300.610 to 300.627, inclusive, of Title 34 of the Code of Federal Regulations.

SEC. 3. Section 56366.1 of the Education Code is amended to read:

56366.1. (a) A nonpublic, nonsectarian school or agency that seeks certification shall file an application with the Superintendent on forms provided by the department, and shall include all of the following information on the application:

(1) A description of the special education and designated instruction and services provided to individuals with exceptional needs if the application is for nonpublic, nonsectarian school certification.

(2) A description of the designated instruction and services provided to individuals with exceptional needs if the application is for nonpublic, nonsectarian agency certification.

(3) A list of appropriately qualified staff, a description of the credential, license, or registration that qualifies each staff member rendering special education or designated instruction and services to do so, and copies of their credentials, licenses, or certificates of registration with the appropriate state or national organization that has established standards for the service rendered.

(4) (A) (i) Commencing with the 2020–21 school year, documentation that the nonpublic, nonsectarian school or agency will train staff who will have contact or interaction with pupils during the schoolday in the use of evidence-based practices and interventions specific to the unique behavioral needs of the nonpublic, nonsectarian school’s or agency’s pupil population. The training shall be provided within 30 days of employment to new staff who have any contact or interaction with pupils during the schoolday, and annually to all staff who have any contact or interaction with pupils during the schoolday.

(ii) For a nonpublic, nonsectarian school or agency that was in existence as of the January 1 immediately preceding a school year, documentation that the nonpublic, nonsectarian school’s or agency’s staff members who will have contact or interaction with pupils during the schoolday have received training that complies with the requirements of subparagraphs (B) and (C).

1 (B) The training described in this paragraph shall be selected
2 and conducted by the nonpublic, nonsectarian school or agency
3 and shall satisfy all of the following conditions:

4 (i) Be conducted by persons licensed or certified in fields related
5 to the evidence-based practices and interventions being taught.

6 (ii) Be taught in a manner consistent with the development and
7 implementation of individualized education programs.

8 (iii) Be consistent with the requirements of Article 5.2
9 (commencing with Section 49005) of Chapter 6 of Part 27, relating
10 to pupil discipline.

11 (C) The content of the training described in this paragraph shall
12 include, but is not limited to, all of the following:

13 (i) Positive behavioral intervention and supports, including
14 collection, analysis, and use of data to inform, plan, and implement
15 behavioral supports.

16 (ii) How to understand and address challenging behaviors,
17 including evidence-based strategies for preventing those behaviors.

18 (iii) Evidence-based interventions for reducing and replacing
19 challenging behaviors, including deescalation techniques.

20 (D) (i) The contracting local educational agency shall verify
21 the nonpublic, nonsectarian school's or agency's compliance with
22 the requirements of this paragraph, and the nonpublic, nonsectarian
23 school or agency shall report the contracting local educational
24 agency's verification to the Superintendent annually with the
25 annual certification documents described in subdivision (h).

26 (ii) For a nonpublic, nonsectarian school or agency seeking
27 initial certification, the contracting local educational agency shall
28 verify that the plan and timeline for training provided pursuant to
29 this paragraph are included in the master contract.

30 (iii) For a nonpublic, nonsectarian school or agency not in
31 existence as of the January 1 immediately preceding a school year,
32 the contracting local educational agency shall, 30 days following
33 the commencement of the school year, verify that the nonpublic,
34 nonsectarian school or agency provided the training required by
35 this paragraph, and shall submit the verification to the
36 Superintendent at that time.

37 (iv) The nonpublic, nonsectarian school or agency shall maintain
38 written records of the training provided pursuant to this paragraph,
39 and shall provide written verification of the training upon request.

1 (5) Commencing with the 2021–22 school year, documentation
2 that the administrator of the nonpublic, nonsectarian school holds
3 or is in the process of obtaining one of the following:

4 (A) An administrative credential granted by an accredited
5 postsecondary educational institution and two years of experience
6 with pupils with disabilities.

7 (B) A pupil personnel services credential that authorizes school
8 counseling or psychology.

9 (C) A license as a clinical social worker issued by the Board of
10 Behavioral Sciences.

11 (D) A license in psychology regulated by the Board of
12 Psychology.

13 (E) A master’s degree issued by an accredited postsecondary
14 institution in education, special education, psychology, counseling,
15 behavioral analysis, social work, behavioral science, or
16 rehabilitation.

17 (F) A credential authorizing special education instruction and
18 at least two years of experience teaching in special education before
19 becoming an administrator.

20 (G) A license as a marriage and family therapist certified by the
21 Board of Behavioral Sciences.

22 (H) A license as an educational psychologist issued by the Board
23 of Behavioral Sciences.

24 (I) A license as a professional clinical counselor issued by the
25 Board of Behavioral Sciences.

26 (6) An annual operating budget.

27 (7) Affidavits and assurances necessary to comply with all
28 applicable federal, state, and local laws and regulations that include
29 criminal record summaries required of all nonpublic, nonsectarian
30 school or agency personnel having contact with minor children
31 under Section 44237.

32 (8) Assurances of compliance with Article 5 (commencing with
33 Section 49000) and Article 5.2 (commencing with Section 49005)
34 of Chapter 6 of Part 27, and Section 56521.1, relating to behavioral
35 interventions.

36 (9) Commencing with the 2024–25 school year, a nonpublic
37 nonsectarian school shall include assurances that for any pupil
38 served by the school who is a foster child as defined in subdivision
39 (a) of Section 48853.5, the school agrees to do both of the
40 following:

1 (A) Serve as the school of origin of the foster child, as applicable
2 pursuant to subdivision (g) of Section 48853.5.

3 (B) Allow the foster child to continue their education in the
4 school, as applicable pursuant to subdivisions (f) and (g) of Section
5 48853.5.

6 (b) (1) The applicant shall provide the special education local
7 plan area in which the applicant is located with the written
8 notification of its intent to seek certification or renewal of its
9 certification. The local educational agency representatives shall
10 acknowledge that they have been notified of the intent to certify
11 or renew certification. The acknowledgment shall include a
12 statement that representatives of the local educational agency for
13 the area in which the applicant is located have had the opportunity
14 to review the application at least 60 calendar days before
15 submission of an initial application to the Superintendent, or at
16 least 30 calendar days before submission of a renewal application
17 to the Superintendent. The acknowledgment shall provide
18 assurances that local educational agency representatives have had
19 the opportunity to provide input on all required components of the
20 application.

21 (2) If the local educational agency has not acknowledged an
22 applicant's intent to be certified 60 calendar days from the date of
23 submission for initial applications or 30 calendar days from the
24 date of the return receipt for renewal applications, the applicant
25 may file the application with the Superintendent.

26 (3) The department shall provide electronic notification of the
27 availability of renewal application materials to certified nonpublic,
28 nonsectarian schools and agencies at least 120 days before the date
29 their current certification expires.

30 (c) If the applicant operates a facility or program on more than
31 one site, each site shall be certified.

32 (d) If the applicant is part of a larger program or facility on the
33 same site, the Superintendent shall consider the effect of the total
34 program on the applicant. A copy of the policies and standards for
35 the nonpublic, nonsectarian school or agency and the larger
36 program shall be available to the Superintendent.

37 (e) (1) Before certification, the Superintendent shall conduct
38 an onsite review of the facility and program for which the applicant
39 seeks certification. The Superintendent may be assisted by
40 representatives of the special education local plan area in which

1 the applicant is located and a nonpublic, nonsectarian school or
2 agency representative who does not have a conflict of interest with
3 the applicant. The Superintendent shall conduct an additional onsite
4 review of the facility and program within three years of the
5 effective date of the certification, unless the Superintendent
6 conditionally certifies the nonpublic, nonsectarian school or
7 agency, or unless the Superintendent receives a formal complaint
8 against the nonpublic, nonsectarian school or agency. In the latter
9 two cases, the Superintendent shall conduct an onsite review at
10 least annually.

11 (2) In carrying out paragraph (1), the Superintendent may verify
12 that the nonpublic, nonsectarian school or agency has received a
13 successful criminal background check clearance and has enrolled
14 in subsequent arrest notice service, pursuant to Section 44237, for
15 each owner, operator, and employee of the nonpublic, nonsectarian
16 school or agency.

17 (3) Commencing with the 2026–27 school year, the
18 Superintendent shall also do all of the following before certifying
19 a nonpublic, nonsectarian school:

20 (A) ~~Review policies on restraint and seclusion~~ *assurances*
21 *provided pursuant to paragraph (8) of subdivision (a) relating to*
22 *behavioral interventions* to evaluate consistency with California
23 laws.

24 (B) Ensure that pupils have been provided a copy of their rights
25 and procedural safeguards, as referenced in Section 300.504(a) of
26 Title 34 of the Code of Federal Regulations, upon admission to
27 the nonpublic, nonsectarian school and that this information is
28 accessible, and require the telephone number for the department's
29 Equitable Services Ombudsman to be prominently displayed at
30 the nonpublic, nonsectarian school.

31 (C) Review policies, procedures, and practices of the nonpublic,
32 nonsectarian school to determine if there is a clear and confidential
33 process for residents to report grievances without fear of retaliation,
34 and review the process for investigating and reporting internal and
35 external resident complaints.

36 (D) (i) Interview pupils with an individualized education
37 program to discuss progress and address any concerns respecting
38 any limitations due to the pupil's disability at the following times:

39 (I) If the nonpublic, nonsectarian school is the subject of an
40 investigation pursuant to subdivision (i).

(II) If there is a change in certification status or during the year three monitoring follow-up visit specified in paragraph (3) of subdivision (j).

(III) The nonpublic, nonsectarian school has pupil level findings from year two.

(ii) On or before July 1, 2026, the Superintendent shall develop an interview tool to be used for interviews with pupils to assess their perceptions of the nonpublic, nonsectarian school and the services provided to discuss progress and address any concerns. The interview tool shall include, at minimum, the pupil's perceptions of being treated with respect and dignity, and if the staff maintain appropriate professional boundaries. This tool shall be made available to local educational agencies upon request to conduct interviews.

(E) Examine the use of positive behavioral reinforcement systems, including if the nonpublic, nonsectarian school correctly implements behavior intervention pursuant to Chapter 5.5 (commencing with Section 56520) and manifestation determinations pursuant to Section 300.530(e) of Title 34 of the Code of Federal Regulations, and provide a copy of the nonpublic, nonsectarian school's policies on behavior intervention to pupils of parents enrolled in the nonpublic, nonsectarian school.

(F) Review protocols for identifying signs of abuse or neglect, both physical and psychological, *for consistency with the mandated reporting requirements of Section 11165.7 of the Penal Code*, ensure that all staff are trained to recognize these signs, and review any behavior emergency reports required pursuant to Section 56521.1 to ensure compliance with that section.

(4) Commencing with the 2020–21 school year, a local educational agency that enters into a master contract with a nonpublic, nonsectarian school shall conduct, at minimum, all of the following:

(A) An onsite visit to the nonpublic, nonsectarian school before placement of a pupil if the local educational agency does not have any pupils enrolled at the school at the time of placement.

(B) At least one onsite monitoring visit during each school year to the nonpublic, nonsectarian school at which the local educational agency has a pupil attending and with which it maintains a master contract. The monitoring visit shall include, but is not limited to, a review of services provided to the pupil through the individual

1 service agreement between the local educational agency and the
2 nonpublic, nonsectarian school, a review of progress the pupil is
3 making toward the goals set forth in the pupil's individualized
4 education program, a review of progress the pupil is making toward
5 the goals set forth in the pupil's behavioral intervention plan, if
6 applicable, an observation of the pupil during instruction, a
7 walkthrough of the facility, and an in-person interview with the
8 pupil, in a manner consistent with their individualized education
9 program, to evaluate their health and safety. The local educational
10 agency shall report the findings resulting from the monitoring visit
11 to the department, using the "Local Educational Agency Onsite
12 Visit for Nonpublic School" form developed and published by the
13 department on its internet website, within 60 calendar days of the
14 onsite visit. On or before July 1, 2026, the department shall update
15 the form to additionally require all of the following findings to be
16 reported to the department:

17 (i) A summary of the perception of respect for pupil dignity,
18 collected during the local educational interview of pupils respecting
19 any limitations caused by the pupil's disability to assess their
20 perceptions of the nonpublic, nonsectarian school and the services
21 provided, including their perceptions of being treated with respect
22 and dignity, and appropriate professional boundaries from staff at
23 the nonpublic, nonsectarian school. The local educational agency
24 may also use the tool used by the Superintendent to conduct
25 interviews or develop their own interview tool.

26 (ii) Positive behavioral support, for which the local educational
27 agency shall examine the use of positive behavioral reinforcement
28 systems, including if the nonpublic, nonsectarian school correctly
29 implements behavior intervention pursuant to Chapter 5.5
30 (commencing with Section 56520) and manifestation
31 determinations pursuant to Section 300.530(e) of Title 34 of the
32 Code of Federal Regulations.

33 (iii) Screening for abuse and neglect, for which the local
34 educational agency shall review the protocols for identifying signs
35 of abuse or neglect, both physical and psychological, ensure that
36 all staff are trained to recognize these signs through a review of
37 any behavior emergency reports required pursuant to Section
38 56521.1.

39 (C) A quarterly check-in with a pupil attending the nonpublic,
40 nonsectarian school through an unmonitored telephone call, in a

1 manner consistent with the pupil's individualized education
2 program.

3 (f) (1) The Superintendent shall make a determination on an
4 application within 120 days of receipt of the application and shall
5 certify, conditionally certify, or deny certification to the applicant.
6 If the Superintendent fails to take one of these actions within 120
7 days, the applicant is automatically granted conditional certification
8 for a period terminating on August 31 of the current school year.
9 If certification is denied, the Superintendent shall provide reasons
10 for the denial. The Superintendent shall not certify the nonpublic,
11 nonsectarian school or agency for a period longer than one year.

12 (2) Commencing with the 2026–27 school year, the
13 Superintendent shall make available, upon request from a local
14 educational agency or a special education local plan area, the
15 following information:

16 (A) The certification status of the nonpublic, nonsectarian school
17 or agency, including whether certification was granted, denied,
18 revoked, suspended, or granted with conditions.

19 (B) A summary of the findings supporting the Superintendent's
20 determination, including any corrective actions or areas of
21 noncompliance identified.

22 (C) Access to relevant documentation used to support the
23 determination, including compliance review reports and any
24 findings resulting from onsite monitoring visits.

25 (3) A local educational agency shall disclose the information
26 received in paragraph (2) to the parent or guardian at the time the
27 individualized education program team considers placement of
28 the pupil in a nonpublic, nonsectarian school or agency.

29 (4) The local educational agency shall document in the
30 individualized education program that the information described
31 in paragraph (2) was provided to the parent or guardian, and that
32 the parent or guardian was given an opportunity to review and
33 discuss the information as part of the placement decision.

34 (5) This subdivision does not authorize the disclosure of any
35 personally identifiable information and shall be consistent with
36 applicable state and federal pupil privacy laws.

37 (g) Certification becomes effective on the date the nonpublic,
38 nonsectarian school or agency meets all the application
39 requirements and is approved by the Superintendent. Certification
40 may be retroactive if the nonpublic, nonsectarian school or agency

1 met all the requirements of this section on the date the retroactive
2 certification is effective. Certification expires on December 31 of
3 the terminating year.

4 (h) The Superintendent annually shall review the certification
5 of each nonpublic, nonsectarian school or agency. For this purpose,
6 a certified nonpublic, nonsectarian school or agency annually shall
7 update its application between August 1 and October 31, unless
8 the state board grants a waiver pursuant to Section 56101. The
9 Superintendent may conduct an onsite review as part of the annual
10 review.

11 (i) (1) The Superintendent shall conduct an investigation of a
12 nonpublic, nonsectarian school or agency onsite at any time without
13 prior notice if there is substantial reason to believe that there is an
14 immediate danger to the health, safety, or welfare of a child. The
15 Superintendent shall document the concern and submit it to the
16 nonpublic, nonsectarian school or agency at the time of the onsite
17 investigation. The Superintendent shall require a written response
18 to any noncompliance or deficiency found.

19 (2) A nonpublic, nonsectarian school or agency shall notify the
20 department and the local educational agency with which it has a
21 master contract of any pupil-involved incident at the school or
22 agency in which law enforcement was contacted. This notification
23 shall be provided in writing, no later than one business day after
24 the incident occurred.

25 (3) With respect to a nonpublic, nonsectarian school or agency,
26 the Superintendent shall conduct an investigation, which may
27 include an unannounced onsite visit, if the Superintendent receives
28 evidence of a significant deficiency in the quality of educational
29 services provided, a violation of Section 56366.9, or
30 noncompliance with the policies expressed by subdivision (b) of
31 Section 1501 of the Health and Safety Code by the nonpublic,
32 nonsectarian school or agency. The Superintendent shall document
33 the complaint and the results of the investigation and shall provide
34 copies of the documentation to the complainant, the nonpublic,
35 nonsectarian school or agency, and the contracting local educational
36 agency.

37 (4) Violations or noncompliance documented pursuant to
38 paragraph (1) or (3) shall be reflected in the status of the
39 certification of the nonpublic, nonsectarian school or agency, at
40 the discretion of the Superintendent, pending an approved plan of

1 correction by the nonpublic, nonsectarian school or agency. The
2 department shall retain for a period of 10 years all violations
3 pertaining to certification of the nonpublic, nonsectarian school
4 or agency.

5 (5) In carrying out this subdivision, the Superintendent may
6 verify that the nonpublic, nonsectarian school or agency received
7 a successful criminal background check clearance and has enrolled
8 in subsequent arrest notice service, pursuant to Section 44237, for
9 each owner, operator, and employee of the nonpublic, nonsectarian
10 school or agency.

11 (j) The Superintendent shall monitor the facilities, the
12 educational environment, and the quality of the educational
13 program, including the teaching staff, the credentials authorizing
14 service, the standards-based core curriculum being employed, and
15 the standards-focused instructional materials used, of an existing
16 certified nonpublic, nonsectarian school or agency on a three-year
17 cycle, as follows:

18 (1) The nonpublic, nonsectarian school or agency shall complete
19 a self-review in year one.

20 (2) The Superintendent shall conduct an onsite review of the
21 nonpublic, nonsectarian school or agency in year two.

22 (3) The Superintendent shall conduct a followup visit to the
23 nonpublic, nonsectarian school or agency in year three.

24 (k) (1) Notwithstanding any other law, the Superintendent shall
25 not certify a nonpublic, nonsectarian school or agency that proposes
26 to initiate or expand services to pupils currently educated in the
27 immediate prior fiscal year in a juvenile court program, community
28 school pursuant to Section 56150, or other nonspecial education
29 program, including independent study or adult school, or both,
30 unless the nonpublic, nonsectarian school or agency notifies the
31 county superintendent of schools and the special education local
32 plan area in which the proposed new or expanded nonpublic,
33 nonsectarian school or agency is located of its intent to seek
34 certification.

35 (2) The notification shall occur no later than the December 1
36 before the new fiscal year in which the proposed or expanding
37 school or agency intends to initiate services. The notice shall
38 include the following:

39 (A) The specific date upon which the proposed nonpublic,
40 nonsectarian school or agency is to be established.

1 (B) The location of the proposed program or facility.

2 (C) The number of pupils proposed for services, the number of
3 pupils currently served in the juvenile court, community school,
4 or other nonspecial education program, the current school services
5 including special education and related services provided for these
6 pupils, and the specific program of special education and related
7 services to be provided under the proposed program.

8 (D) The reason for the proposed change in services.

9 (E) The number of staff who will provide special education and
10 designated instruction and services and hold a current valid
11 California credential or license in the service rendered.

12 (3) In addition to the requirements in subdivisions (a) to (f),
13 inclusive, the Superintendent shall require and consider the
14 following in determining whether to certify a nonpublic,
15 nonsectarian school or agency as described in this subdivision:

16 (A) A complete statement of the information required as part
17 of the notice under paragraph (1).

18 (B) Documentation of the steps taken in preparation for the
19 conversion to a nonpublic, nonsectarian school or agency, including
20 information related to changes in the population to be served and
21 the services to be provided pursuant to each pupil's individualized
22 education program.

23 (4) Notwithstanding any other law, the certification becomes
24 effective no earlier than July 1 if the nonpublic, nonsectarian school
25 or agency provided the notification required pursuant to paragraph
26 (1).

27 (l) (1) Notwithstanding any other law, the Superintendent shall
28 not certify or renew the certification of a nonpublic, nonsectarian
29 school that also operates a licensed children's institution, unless
30 all of the following conditions are met:

31 (A) The entity operating the nonpublic, nonsectarian school
32 maintains separate financial records for each entity that it operates,
33 with each nonpublic, nonsectarian school identified separately
34 from any licensed children's institution that it operates.

35 (B) The entity submits an annual budget that identifies the
36 projected costs and revenues for each entity and demonstrates that
37 the rates to be charged are reasonable to support the operation of
38 the entity.

39 (C) The entity submits an entitywide annual audit that identifies
40 its costs and revenues, by entity, in accordance with generally

accepted accounting and auditing principles. The audit shall clearly document the amount of moneys received and expended on the educational program provided by the nonpublic, nonsectarian school.

(D) The relationship between various entities operated by the same entity are documented, defining the responsibilities of the entities. The documentation shall clearly identify the services to be provided as part of each program, for example, the residential or medical program, the mental health program, or the educational program. The entity shall not seek funding from a public agency for a service, either separately or as part of a package of services, if the service is funded by another public agency, either separately or as part of a package of services.

(2) For purposes of this section, “licensed children’s institution” has the same meaning as it is defined by Section 56155.5.

(m) (1) The nonpublic, nonsectarian school or agency shall be charged a reasonable fee for certification. The Superintendent may adjust the fee annually commensurate with the statewide average percentage inflation adjustment computed for local control funding formula allocations pursuant to Section 42238.02, as implemented by Section 42238.03, of unified school districts with greater than 1,500 units of average daily attendance if the percentage increase is reflected in the school district local control funding formula allocation pursuant to Section 42238.02, as implemented by Section 42238.03, for inflation purposes. For purposes of this section, the base fee shall be the following:

(1) 1–5 pupils	\$ 300
(2) 6–10 pupils	500
(3) 11–24 pupils	1,000
(4) 25–75 pupils	1,500
(5) 76 pupils and over	2,000

(2) The nonpublic, nonsectarian school or agency shall pay this fee when it applies for certification and when it updates its application for annual renewal by the Superintendent. The Superintendent shall use these fees to conduct onsite reviews, which may include field experts. A fee shall not be refunded if the application is withdrawn or is denied by the Superintendent.

(n) (1) Notwithstanding any other law, only those nonpublic, nonsectarian schools or agencies that provide special education and designated instruction and services using administrators and staff who hold a certificate, permit, or other document equivalent to that which staff in a public school are required to hold in the service rendered are eligible to receive certification. Only those nonpublic, nonsectarian schools or agencies located outside of California that employ staff who hold a current valid credential or license to render special education and related services as required by that state shall be eligible to be certified. Commencing with the 2021–22 school year, this paragraph shall not apply to administrators.

(2) Commencing with the 2021–22 school year, notwithstanding any other law, only those nonpublic, nonsectarian schools or agencies that provide special education and related services using administrators who hold or are in the process of obtaining a credential, degree, or license in accordance with paragraph (5) of subdivision (a) are eligible to be certified.

(3) The state board shall develop regulations to implement this subdivision.

(o) In addition to meeting the standards adopted by the state board, a nonpublic, nonsectarian school or agency shall provide written assurances that it meets all applicable standards relating to fire, health, sanitation, and building safety.

(p) (1) Notwithstanding subdivision (n) of Section 44237, and for purposes of enabling the Superintendent to carry out the duties pursuant to this section, a nonpublic, nonsectarian school or agency shall, upon demand, make available to the Superintendent evidence of a successful criminal background check clearance and enrollment in subsequent arrest notice service, conducted pursuant to Section 44237, for each owner, operator, and employee of the nonpublic, nonsectarian school or agency.

(2) The nonpublic, nonsectarian school or agency shall retain the evidence and store it in a locked file separate from other files.

SEC. 4. Section 56366.4 of the Education Code is amended to read:

56366.4. (a) The Superintendent may revoke or suspend the certification of a nonpublic, nonsectarian school or agency for any of the following reasons:

1 (1) Violation of an applicable state or federal rule or regulation,
2 or aiding, abetting, or permitting the violation of an applicable
3 state or federal rule or regulation.

4 (2) Falsification or intentional misrepresentation of an element
5 of the application, pupil records, or program presented for
6 certification purposes.

7 (3) Conduct in the operation or maintenance of the nonpublic,
8 nonsectarian school or agency that is harmful to the health, welfare,
9 or safety of an individual with exceptional needs, including, but
10 not limited to, the use of interventions prohibited by subdivision
11 (d) of Section 56521.1 and subdivision (a) of Section 49005.8.

12 (4) Failure to comply with a provision in the master contract
13 with the local educational agency.

14 (5) Failure to notify the department in writing of any of the
15 following within 45 days of the occurrence:

16 (A) Changes in credentialed, licensed, or registered staff who
17 render special education and related services, ownership,
18 management, or control of the nonpublic, nonsectarian school or
19 agency.

20 (B) Major modification or relocation of facilities.

21 (C) Significant modification of the nonpublic, nonsectarian
22 school or agency program.

23 (6) Failure to implement recommendations and compliance
24 requirements following an onsite review of the school or agency.

25 (7) Failure to provide appropriate services, supplies, equipment,
26 or facilities for a pupil as required in the pupil's individualized
27 education program.

28 (8) Failure to notify the Superintendent in writing within 10
29 days of the revocation or suspension of a license or permit,
30 including, but not limited to, a residential care license, business
31 license, or other required license or permit.

32 (9) Failure to implement a pupil's individualized education
33 program.

34 (10) Failure to notify the Superintendent in writing within 10
35 days of the death of a pupil or any other individual of unnatural
36 causes within the school or agency, including the circumstances
37 surrounding the death and appropriate preventative measures being
38 taken or recommended.

39 (b) If an investigation conducted by the department results in a
40 finding that pupil health or safety has been compromised or is in

1 danger of being compromised at a nonpublic, nonsectarian school
2 or agency, the department may immediately suspend or revoke the
3 certification of the nonpublic, nonsectarian school or agency.

4 (c) The Superintendent shall notify contracting local educational
5 agencies and the special education local plan area in which the
6 nonpublic, nonsectarian school or agency is located of the
7 determination to suspend or revoke state certification.

8 (d) If the Superintendent determines that a nonpublic,
9 nonsectarian school or agency has violated the certification
10 requirements pursuant to this section and revokes the certification,
11 the nonpublic, nonsectarian school or agency; the site administrator,
12 business, organization, or entity involved in the administration of
13 the nonpublic, nonsectarian school or agency whose certification
14 was revoked; and the site administrator, business, organization, or
15 entity whose nonpublic, nonsectarian school or agency certification
16 was revoked at any time previously, shall not be eligible to apply
17 for recertification of the school or agency for two full years from
18 the date of revocation.

19 SEC. 5. Section 56366.12 of the Education Code is amended
20 to read:

21 56366.12. A nonpublic, nonsectarian school shall ensure private
22 and confidential communication, including telecommunication,
23 between a pupil of the nonpublic, nonsectarian school and members
24 of the pupil's individualized education program team and the
25 department's Equitable Services Ombudsman, at the pupil's
26 discretion.

27 SEC. 6. If the Commission on State Mandates determines that
28 this act contains costs mandated by the state, reimbursement to
29 local agencies and school districts for those costs shall be made
30 pursuant to Part 7 (commencing with Section 17500) of Division
31 4 of Title 2 of the Government Code.