

ASSEMBLY BILL

No. 1573

Introduced by Assembly Member Jones-Sawyer

January 30, 2014

An act to amend Sections 46201, 46300.8, and 52052 of, and to add Article 5 (commencing with Section 52078) to Chapter 6.1 of Part 28 of Division 4 of Title 2 of, the Education Code, relating to alternative schools.

LEGISLATIVE COUNSEL'S DIGEST

AB 1573, as introduced, Jones-Sawyer. Alternative schools: Student Achievement via Excellence accountability system: instructional time.

(1) Existing law requires the Superintendent of Public Instruction, with the approval of the State Board of Education, to develop an Academic Performance Index (API) to measure the performance of schools and school districts, especially the academic performance of pupils. Existing law also requires the Superintendent, with the approval of the state board, to develop an alternative accountability system for schools under the jurisdiction of a county board of education or a county superintendent of schools, community day schools, nonpublic, nonsectarian schools, and alternative schools serving high-risk pupils, including continuation high schools and opportunity schools. Existing law provides that schools in the alternative accountability system may receive an API score, but shall not be included in the API rankings.

This bill would, by July 1, 2016, require the Superintendent, with the approval of the state board, to develop the Student Achievement via Excellence (SAVE) accountability system for the schools under the jurisdiction of a county board of education or a county superintendent of schools, community day schools, nonpublic, nonsectarian schools,

and alternative schools, including continuation high schools and opportunity schools. The bill would require the SAVE accountability system to be designed in conformity with certain requirements, and would provide that its purpose is to annually measure the positive outcome performance of a covered school, as expressed by the school's SAVE score. The bill would, among other things, require a school's SAVE score to be calculated based upon 3 weighted categories: learning readiness, save rate, and academic achievement, and would specify indicators for each of these categories. The bill would require the SAVE accountability system to be fully implemented beginning with the 2016–17 school year.

(2) Existing law requires the governing board of each high school district and each unified school district to establish and maintain within its boundaries special continuation education classes whenever there are any minors residing within the district who are subject to compulsory continuation education, as provided. Existing law specifies that a day of attendance at a continuation high school and continuation education classes is 180 minutes. Existing law requires the state funding for county superintendents of schools and school districts, and charter schools that previously received a general-purpose entitlement, to be calculated pursuant to a local control funding formula, as specified. Existing law further requires the Superintendent of Public Instruction to reduce the apportionment of certain school districts pursuant to a prescribed formula if the school district offers less than the required amount of instructional time, as specified. Existing law provides that the reduction shall not apply to continuation high schools, among others.

This bill would, for a school district that operates a continuation high school or provides continuation education classes to pupils, and that offers less than the required amount of instructional time, as specified, require the Superintendent to apply the same apportionment reduction formula to that school district that is applicable to certain other school districts, as specified. The bill would also make conforming changes.

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

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

- 1 SECTION 1. This act shall be known, and may be cited, as
- 2 The Fairness in Instruction Act.

1 SEC. 2. Section 46201 of the Education Code is amended to
2 read:

3 46201. (a) For each school district that received an
4 apportionment pursuant to subdivision (a) of this section, as it read
5 on January 1, 2013, *or that operates a continuation high school*
6 *or provides continuation classes to pupils*, and that reduces the
7 amount of instructional time offered below the minimum amounts
8 specified in subdivision (b), the Superintendent shall withhold
9 from the school district's local control funding formula grant
10 apportionment pursuant to Section 42238.02, as implemented by
11 Section 42238.03, for the average daily attendance of each affected
12 grade level, the sum of that apportionment multiplied by the
13 percentage of the minimum offered minutes at that grade level that
14 the school district failed to offer.

15 (b) Commencing with the 2013–14 fiscal year:

16 (1) Thirty-six thousand minutes in kindergarten.

17 (2) Fifty thousand four hundred minutes in grades 1 to 3,
18 inclusive.

19 (3) Fifty-four thousand minutes in grades 4 to 8, inclusive.

20 (4) Sixty-four thousand eight hundred minutes in grades 9 to
21 12, inclusive.

22 SEC. 3. Section 46300.8 of the Education Code is amended to
23 read:

24 46300.8. (a) Commencing with the 2014–15 school year,
25 attendance of pupils in grades 9 to 12, inclusive, under the
26 immediate supervision and control of a certificated employee of
27 the school district or county office of education who is delivering
28 synchronous, online instruction shall be included in computing
29 average daily attendance, provided that all of the following occur:

30 (1) The certificated employee providing the instruction confirms
31 pupil attendance through visual recognition during the class period.
32 A pupil logon, without any other pupil identification, is not
33 sufficient to confirm pupil attendance.

34 (2) The class has regularly scheduled starting and ending times,
35 and the pupil is scheduled to attend the entire class period. Average
36 daily attendance shall be counted only for attendance in classes
37 held at the regularly scheduled time.

38 (3) An individual with exceptional needs, as defined in Section
39 56026, may participate in synchronous, online instruction only if
40 his or her individualized education program developed pursuant

1 to Article 3 (commencing with Section 56340) of Chapter 4 of
2 Part 30 specifically provides for that participation.

3 (4) If a school district or county office of education elects to
4 offer synchronous, online instruction pursuant to this paragraph,
5 the school district or county office of education shall not deny
6 enrollment to a pupil based solely on the pupil's lack of access to
7 the computer hardware or software necessary to participate in the
8 synchronous, online course. If a pupil chooses to enroll in a
9 synchronous, online course and does not have access to the
10 necessary equipment, the school district or county office of
11 education shall provide, for each pupil who chooses to enroll in a
12 synchronous, online course, access to the computer hardware or
13 software necessary to participate in the synchronous, online course.

14 (5) The ratio of average daily attendance for synchronous, online
15 pupils who are 18 years of age or younger to school district
16 full-time equivalent certificated employees responsible for
17 synchronous, online instruction, calculated as specified by the
18 department, shall not exceed the equivalent ratio of pupils to
19 full-time certificated employees for all other educational programs
20 operated by the school district, unless a higher or lower ratio is
21 negotiated in a collective bargaining agreement.

22 (6) The ratio of average daily attendance for synchronous, online
23 pupils who are 18 years of age or younger to county office of
24 education full-time equivalent certificated employees who provide
25 synchronous, online instruction, to be calculated in a manner
26 prescribed by the department, shall not exceed the equivalent ratio
27 of pupils to full-time certificated employees for all other
28 educational programs operated by the high school or unified school
29 district with the greatest average daily attendance of pupils in that
30 county, unless a higher or lower ratio is provided for in a collective
31 bargaining agreement. The computation of the ratios specified in
32 paragraph (5) and this paragraph shall be performed annually by
33 the reporting agency at the time of, and in connection with, the
34 second principal apportionment report to the Superintendent.

35 (b) The Superintendent shall establish rules and regulations for
36 purposes of implementing this section that, at a minimum, address
37 all of the following:

38 (1) How school districts and county offices of education include
39 pupil attendance in online courses in the calculation of average
40 daily attendance pursuant to Section 46300.

1 (2) How to ensure a pupil meets minimum instructional time
2 requirements pursuant to the following:

3 (A) Section 46141 and Section 46201, 46201.5, or 46202, as
4 applicable, for pupils enrolled in a noncharter school in a school
5 district or county office of education.

6 (B) ~~Section 46170~~, *Sections 46170 and 46201*, for pupils
7 enrolled in a continuation school.

8 (C) Section 46180, for pupils enrolled in an opportunity school.

9 (3) Require statewide testing results for online pupils to be
10 reported and assigned to the school in which the pupil is enrolled
11 for regular classroom courses, and to any school district or county
12 office of education within which that school's testing results are
13 aggregated.

14 (4) Require attendance accounted for pursuant to this section
15 to be subject to the audit conducted pursuant to Section 41020.

16 (c) The Superintendent may provide guidance regarding the
17 ability of a school district or county office of education to provide
18 synchronous, online instruction.

19 (d) For purposes of this section, "synchronous, online
20 instruction" means a class or course in which the pupil and the
21 certificated employee who is providing instruction are online at
22 the same time and use real-time, Internet-based collaborative
23 software that combines audio, video, file sharing, and other forms
24 of interaction.

25 (e) This section shall become inoperative on July 1, 2019, and,
26 as of January 1, 2020, is repealed, unless a later enacted statute,
27 that becomes operative on or before January 1, 2020, deletes or
28 extends the dates on which it becomes inoperative and is repealed.

29 SEC. 4. Section 52052 of the Education Code is amended to
30 read:

31 52052. (a) (1) The Superintendent, with approval of the state
32 board, shall develop an Academic Performance Index (API), to
33 measure the performance of schools and school districts, especially
34 the academic performance of pupils.

35 (2) A school or school district shall demonstrate comparable
36 improvement in academic achievement as measured by the API
37 by all numerically significant pupil subgroups at the school or
38 school district, including:

39 (A) Ethnic subgroups.

40 (B) Socioeconomically disadvantaged pupils.

1 (C) English learners.

2 (D) Pupils with disabilities.

3 (E) Foster youth.

4 (3) (A) For purposes of this section, a numerically significant
5 pupil subgroup is one that consists of at least 30 pupils, each of
6 whom has a valid test score.

7 (B) Notwithstanding subparagraph (A), for a subgroup of pupils
8 who are foster youth, a numerically significant pupil subgroup is
9 one that consists of at least 15 pupils.

10 (C) For a school or school district with an API score that is
11 based on no fewer than 11 and no more than 99 pupils with valid
12 test scores, numerically significant pupil subgroups shall be defined
13 by the Superintendent, with approval by the state board.

14 (4) (A) The API shall consist of a variety of indicators currently
15 reported to the department, including, but not limited to, the results
16 of the achievement test administered pursuant to Section 60640,
17 attendance rates for pupils in elementary schools, middle schools,
18 and secondary schools, and the graduation rates for pupils in
19 secondary schools.

20 (B) The Superintendent, with the approval of the state board,
21 may also incorporate into the API the rates at which pupils
22 successfully promote from one grade to the next in middle school
23 and high school, and successfully matriculate from middle school
24 to high school.

25 (C) Graduation rates for pupils in secondary schools shall be
26 calculated for the API as follows:

27 (i) Four-year graduation rates shall be calculated by taking the
28 number of pupils who graduated on time for the current school
29 year, which is considered to be three school years after the pupils
30 entered grade 9 for the first time, and dividing that number by the
31 total calculated in clause (ii).

32 (ii) The number of pupils entering grade 9 for the first time in
33 the school year three school years before the current school year,
34 plus the number of pupils who transferred into the class graduating
35 at the end of the current school year between the school year that
36 was three school years before the current school year and the date
37 of graduation, less the number of pupils who transferred out of the
38 school between the school year that was three school years before
39 the current school year and the date of graduation who were

1 members of the class that is graduating at the end of the current
2 school year.

3 (iii) Five-year graduation rates shall be calculated by taking the
4 number of pupils who graduated on time for the current school
5 year, which is considered to be four school years after the pupils
6 entered grade 9 for the first time, and dividing that number by the
7 total calculated in clause (iv).

8 (iv) The number of pupils entering grade 9 for the first time in
9 the school year four years before the current school year, plus the
10 number of pupils who transferred into the class graduating at the
11 end of the current school year between the school year that was
12 four school years before the current school year and the date of
13 graduation, less the number of pupils who transferred out of the
14 school between the school year that was four years before the
15 current school year and the date of graduation who were members
16 of the class that is graduating at the end of the current school year.

17 (v) Six-year graduation rates shall be calculated by taking the
18 number of pupils who graduated on time for the current school
19 year, which is considered to be five school years after the pupils
20 entered grade 9 for the first time, and dividing that number by the
21 total calculated in clause (vi).

22 (vi) The number of pupils entering grade 9 for the first time in
23 the school year five years before the current school year, plus the
24 number of pupils who transferred into the class graduating at the
25 end of the current school year between the school year that was
26 five school years before the current school year and the date of
27 graduation, less the number of pupils who transferred out of the
28 school between the school year that was five years before the
29 current school year and the date of graduation who were members
30 of the class that is graduating at the end of the current school year.

31 (D) The inclusion of five- and six-year graduation rates for
32 pupils in secondary schools shall meet the following requirements:

33 (i) Schools and school districts shall be granted one-half the
34 credit in their API scores for graduating pupils in five years that
35 they are granted for graduating pupils in four years.

36 (ii) Schools and school districts shall be granted one-quarter the
37 credit in their API scores for graduating pupils in six years that
38 they are granted for graduating pupils in four years.

39 (iii) Notwithstanding clauses (i) and (ii), schools and school
40 districts shall be granted full credit in their API scores for

1 graduating in five or six years a pupil with disabilities who
2 graduates in accordance with his or her individualized education
3 program.

4 (E) The pupil data collected for the API that comes from the
5 achievement test administered pursuant to Section 60640 and the
6 high school exit examination administered pursuant to Section
7 60851, when fully implemented, shall be disaggregated by special
8 education status, English learners, socioeconomic status, gender,
9 and ethnic group. Only the test scores of pupils who were counted
10 as part of the enrollment in the annual data collection of the
11 California Basic Educational Data System for the current fiscal
12 year and who were continuously enrolled during that year may be
13 included in the test result reports in the API score of the school.

14 (F) (i) Commencing with the baseline API calculation in 2016,
15 and for each year thereafter, results of the achievement test and
16 other tests specified in subdivision (b) shall constitute no more
17 than 60 percent of the value of the index for secondary schools.

18 (ii) In addition to the elements required by this paragraph, the
19 Superintendent, with approval of the state board, may incorporate
20 into the index for secondary schools valid, reliable, and stable
21 measures of pupil preparedness for postsecondary education and
22 career.

23 (G) Results of the achievement test and other tests specified in
24 subdivision (b) shall constitute at least 60 percent of the value of
25 the index for primary schools and middle schools.

26 (H) It is the intent of the Legislature that the state's system of
27 public school accountability be more closely aligned with both the
28 public's expectations for public education and the workforce needs
29 of the state's economy. It is therefore necessary that the
30 accountability system evolve beyond its narrow focus on pupil test
31 scores to encompass other valuable information about school
32 performance, including, but not limited to, pupil preparedness for
33 college and career, as well as the high school graduation rates
34 already required by law.

35 (I) The Superintendent shall annually determine the accuracy
36 of the graduation rate data. Notwithstanding any other law,
37 graduation rates for pupils in dropout recovery high schools shall
38 not be included in the API. For purposes of this subparagraph,
39 "dropout recovery high school" means a high school in which 50
40 percent or more of its pupils have been designated as dropouts

1 pursuant to the exit/withdrawal codes developed by the department
2 or left a school and were not otherwise enrolled in a school for a
3 period of at least 180 days.

4 (J) To complement the API, the Superintendent, with the
5 approval of the state board, may develop and implement a program
6 of school quality review that features locally convened panels to
7 visit schools, observe teachers, interview pupils, and examine pupil
8 work, if an appropriation for this purpose is made in the annual
9 Budget Act.

10 (K) The Superintendent shall annually provide to local
11 educational agencies and the public a transparent and
12 understandable explanation of the individual components of the
13 API and their relative values within the API.

14 (L) An additional element chosen by the Superintendent and
15 the state board for inclusion in the API pursuant to this paragraph
16 shall not be incorporated into the API until at least one full school
17 year after the state board's decision to include the element into the
18 API.

19 (b) Pupil scores from the following tests, when available and
20 when found to be valid and reliable for this purpose, shall be
21 incorporated into the API:

22 (1) The standards-based achievement tests provided for in
23 Section 60642.5.

24 (2) The high school exit examination.

25 (c) Based on the API, the Superintendent shall develop, and the
26 state board shall adopt, expected annual percentage growth targets
27 for all schools based on their API baseline score from the previous
28 year. Schools are expected to meet these growth targets through
29 effective allocation of available resources. For schools below the
30 statewide API performance target adopted by the state board
31 pursuant to subdivision (d), the minimum annual percentage growth
32 target shall be 5 percent of the difference between the actual API
33 score of a school and the statewide API performance target, or one
34 API point, whichever is greater. Schools at or above the statewide
35 API performance target shall have, as their growth target,
36 maintenance of their API score above the statewide API
37 performance target. However, the state board may set differential
38 growth targets based on grade level of instruction and may set
39 higher growth targets for the lowest performing schools because
40 they have the greatest room for improvement. To meet its growth

1 target, a school shall demonstrate that the annual growth in its API
2 is equal to or more than its schoolwide annual percentage growth
3 target and that all numerically significant pupil subgroups, as
4 defined in subdivision (a), are making comparable improvement.

5 (d) Upon adoption of state performance standards by the state
6 board, the Superintendent shall recommend, and the state board
7 shall adopt, a statewide API performance target that includes
8 consideration of performance standards and represents the
9 proficiency level required to meet the state performance target.

10 (e) (1) A school or school district with 11 to 99 pupils with
11 valid test scores shall receive an API score with an asterisk that
12 indicates less statistical certainty than API scores based on 100 or
13 more test scores.

14 (2) A school or school district annually shall receive an API
15 score, unless the Superintendent determines that an API score
16 would be an invalid measure of the performance of the school or
17 school district for one or more of the following reasons:

18 (A) Irregularities in testing procedures occurred.

19 (B) The data used to calculate the API score of the school or
20 school district are not representative of the pupil population at the
21 school or school district.

22 (C) Significant demographic changes in the pupil population
23 render year-to-year comparisons of pupil performance invalid.

24 (D) The department discovers or receives information indicating
25 that the integrity of the API score has been compromised.

26 (E) Insufficient pupil participation in the assessments included
27 in the API.

28 (F) A transition to new standards-based assessments
29 compromises comparability of results across schools or school
30 districts. The Superintendent may use the authority in this
31 subparagraph in the 2013–14 and 2014–15 school years only, with
32 approval of the state board.

33 (3) If a school or school district has fewer than 100 pupils with
34 valid test scores, the calculation of the API or adequate yearly
35 progress pursuant to the federal No Child Left Behind Act of 2001
36 (20 U.S.C. Sec. 6301 et seq.) and federal regulations may be
37 calculated over more than one annual administration of the tests
38 administered pursuant to Section 60640 and the high school exit
39 examination administered pursuant to Section 60851, consistent
40 with regulations adopted by the state board.

1 (4) Any school or school district that does not receive an API
2 calculated pursuant to subparagraph (F) of paragraph (2) shall not
3 receive an API growth target pursuant to subdivision (c). Schools
4 and school districts that do not have an API calculated pursuant
5 to subparagraph (F) of paragraph (2) shall use one of the following:

6 (A) The most recent API calculation.

7 (B) An average of the three most recent annual API calculations.

8 (C) Alternative measures that show increases in pupil academic
9 achievement for all groups of pupils schoolwide and among
10 significant subgroups.

11 (f) Only schools with 100 or more test scores contributing to
12 the API may be included in the API rankings.

13 ~~(g) The Superintendent, with the approval of the state board,~~
14 ~~shall develop an alternative accountability system for schools under~~
15 ~~the jurisdiction of a county board of education or a county~~
16 ~~superintendent of schools, community day schools, nonpublic,~~
17 ~~nonsectarian schools pursuant to Section 56366, and alternative~~
18 ~~schools serving high-risk pupils, including continuation high~~
19 ~~schools and opportunity schools. Schools in the alternative *Student*~~
20 ~~*Achievement via Excellence* accountability system, as specified in~~
21 ~~Article 5 (commencing with Section 52078), may receive an API~~
22 ~~score, but shall not be included in the API rankings.~~

23 (h) For purposes of this section, county offices of education
24 shall be considered school districts.

25 SEC. 5. Article 5 (commencing with Section 52078) is added
26 to Chapter 6.1 of Part 28 of Division 4 of Title 2 of the Education
27 Code, to read:

28
29 Article 5. Student Achievement via Excellence (SAVE)
30 Accountability System
31

32 52078. By July 1, 2016, the Superintendent, with the approval
33 of the state board, shall develop the Student Achievement via
34 Excellence (SAVE) accountability system for the schools under
35 the jurisdiction of a county board of education or a county
36 superintendent of schools, community day schools, nonpublic,
37 nonsectarian schools pursuant to Section 56366, and alternative
38 schools, including continuation high schools and opportunity
39 schools.

1 52079. (a) The SAVE accountability system developed
2 pursuant to Section 52078 shall be fully implemented beginning
3 with the 2016–17 school year.

4 (b) The SAVE accountability system shall be designed in
5 conformity with the requirements specified in subdivision (c), and
6 its purpose shall be to annually measure the positive outcome
7 performance of a covered school, as expressed by the school's
8 SAVE score.

9 (c) A school's SAVE score shall be calculated based upon three
10 separate categories: learning readiness, save rate, and academic
11 achievement. Each category shall be weighted, with learning
12 readiness accounting for 10 percent of the overall SAVE score,
13 the save rate accounting for 30 percent of the overall SAVE score,
14 and academic achievement accounting for 60 percent of the overall
15 SAVE score. Each weighted category shall be measured based
16 upon indicators specific to each category and appropriate to the
17 school being measured.

18 (1) Learning readiness indicators shall include, as appropriate,
19 all of the following:

20 (A) Improved pupil behavior, as measured by the percentage
21 of classroom-based long-term pupils suspended or recommended
22 for exclusion pursuant to Section 48900.

23 (B) Suspension rate, as measured by the percentage of long-term
24 pupils who receive out-of-school suspensions.

25 (C) Pupil punctuality, as measured by the percentage of
26 long-term pupils who are present on time at the beginning of the
27 school day.

28 (D) Sustained daily attendance, as measured by the percentage
29 of classroom-based long-term pupils who are present in class and
30 complete their full assigned school day.

31 (E) Pupil persistence, as measured by the percentage of
32 classroom-based long-term pupils and long-term pupils enrolled
33 in independent study considered accounted for by the annual
34 California Basic Educational Data System (CBEDS) Information
35 Day.

36 (F) Attendance, as measured by the percentage of apportionment
37 days claimed for all long-term pupils.

38 (2) The save rate shall measure the effectiveness of the
39 educational options at a school by tracking the outcome for each
40 individual pupil. A pupil shall be considered saved upon enrollment

1 in a SAVE accountability school, and shall remain saved over the
2 course of his or her enrollment at the school. A pupil shall maintain
3 his or her saved status so long as his or her transition out of the
4 SAVE accountability system school is a positive outcome, as
5 determined by the positive outcome indicators. A pupil whose
6 transition out of a SAVE accountability school is not a positive
7 outcome, shall lose his or her saved status. A school's save rate
8 shall be calculated by determining the proportion of a school's
9 pupils that transition out of the school with a positive outcome.
10 The positive outcome indicators shall include, as appropriate, all
11 of the following:

- 12 (A) Attainment of a high school diploma.
- 13 (B) Continued enrollment in a SAVE accountability system
14 school.
- 15 (C) Reenrollment in a traditional school.
- 16 (D) Attainment of a General Educational Development (GED)
17 credential.
- 18 (3) Academic achievement indicators shall include, as
19 appropriate, all of the following:
 - 20 (A) Writing achievement, as measured by suitable instruments
21 adopted by the state board.
 - 22 (B) Reading achievement, as measured by suitable instruments
23 adopted by the state board.
 - 24 (C) Mathematics achievement, as measured by suitable
25 instruments adopted by the state board.
 - 26 (D) Promotion to the next grade, as measured by the percentage
27 of pupils in kindergarten and grades 1 to 6, inclusive, who are
28 promoted to the next grade level.
 - 29 (E) Actual course completion, as measured by the percentage
30 of courses passed by all middle school long-term pupils based on
31 the number of courses attempted.
 - 32 (F) Average course completion, as measured by the average
33 number of courses passed by all middle school long-term pupils
34 per month of enrollment.
 - 35 (G) Actual credit completion, as measured by the percentage
36 of graduation credits earned by all high school long-term pupils
37 based on the number of graduation credits attempted.
 - 38 (H) Average credit completion, as measured by the average
39 number of graduation credits earned by all high school long-term
40 pupils per month of enrollment.

- 1 (d) For purposes of this section, “long-term pupil” means a pupil
- 2 enrolled at a school for 90 days or more.
- 3 (e) In addition to the indicators required by this section, the
- 4 Superintendent, with approval of the state board, may incorporate
- 5 additional indicators into a SAVE score category that are valid,
- 6 reliable, and stable measures, and consistent with the purposes of
- 7 the SAVE accountability system.
- 8 (f) The department may adopt regulations necessary to
- 9 implement the provisions of this article.