

AMENDED IN SENATE AUGUST 18, 2015

AMENDED IN SENATE JULY 9, 2015

AMENDED IN ASSEMBLY MAY 28, 2015

AMENDED IN ASSEMBLY MAY 4, 2015

AMENDED IN ASSEMBLY APRIL 14, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 854**

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**Introduced by Assembly Member Weber**

February 26, 2015

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An act to amend Sections 42920.5, 42921, 42923, and 42924 of, to add Section 42926 to, *to repeal Section 42922 of*, and to repeal and add Sections 42920 and 42925 of, ~~and to repeal Section 42922 of~~, the Education Code, relating to educational services.

LEGISLATIVE COUNSEL'S DIGEST

AB 854, as amended, Weber. Educational services: pupils in foster care.

(1) Existing law requires 6 specified foster children services program sites to receive a certain allowance that is required to be used exclusively for foster children services. Existing law authorizes any county office of education, or consortium of county offices of education, in addition to the 6 specified program sites, to apply to the Superintendent of Public Instruction for grant funding, to the extent the funds are available, to operate an education-based foster youth services program to provide educational and support services for foster children who reside in a

licensed foster home or county-operated juvenile detention facility, as specified.

This bill would instead establish, commencing with the 2015–16 fiscal year and for each fiscal year thereafter, the Foster Youth Services Coordinating Program, to be administered by the Superintendent, *as specified*, to coordinate and ensure that local educational agencies within its jurisdiction are providing services to foster youth pupils pursuant to a foster youth services coordinating plan with the purpose of ensuring positive educational outcomes. As part of the program, the bill would authorize a county office of education, or consortium of county offices of education, to apply to the Superintendent for grant funding, to the extent funds are available, to operate an education-based foster youth services coordinating program to provide educational support for pupils in foster care. The bill would require county offices of education and consortia of county offices of education receiving funds under the program, and the local educational agencies within a county or a consortium of counties, to coordinate services to ensure that, for the 2015–16 and 2016–17 fiscal years, the level of direct services provided to support foster youth pupils is not less than what was provided in the 2014–15 fiscal year through the previous program. To the extent this would impose additional duties on local educational agencies within a county or a consortium to counties, the bill would impose a state-mandated local program.

(2) Existing law also requires each foster youth services program to identify at least one person as the foster youth educational services coordinator, if sufficient funds are available, and assigns the foster youth educational services coordinator certain responsibilities, and requires him or her to facilitate the provision of educational services, as provided, to certain foster youth.

This bill would instead require each foster youth services coordinating program to identify the foster youth educational services coordinator to facilitate the provision of educational support to any pupil in foster care residing or attending school in the county or consortium of counties, as specified. The bill would require each foster youth services, coordinating program, as a condition of receiving funding, to develop and implement a foster youth services coordinating plan, as specified, for purposes of establishing guiding principles and protocols to provide supports for foster care pupils aligned with ~~the~~ certain population priorities. The bill would require each foster youth services program to establish a local interagency Executive Advisory Council, as provided.

(3) Existing law requires the Superintendent, by February 15 of each even-numbered year, to report to the Legislature and the Governor on the foster children services provided by school districts, as specified, and requires each school district providing foster children services to report to the Superintendent, by January 1 of each even-numbered year, any information the Superintendent may require for purposes of preparing the report.

This bill would instead require each county office of education and consortium of county offices of education providing a foster youth services coordinating program to report to the Superintendent, by January 1 of each even-numbered year, any information the Superintendent may require and that is accessible to the foster youth services coordinating program for purposes of preparing the report that would instead be submitted to the appropriate fiscal and policy committees of the Legislature and the Governor by February 15 of each even-numbered year. The bill would require the report to include different information, including aggregate educational outcome data, as specified.

(4) Existing law provides that any school district which provides educational services for foster children pursuant to the provisions above shall receive funding in any fiscal year for those services only by such sums as may be specifically appropriated by the annual Budget Act of the Legislature for that fiscal year for support of those school-centered foster children services which provide program effectiveness and potential cost savings to the state.

This bill would repeal those provisions and would instead provide that the Foster Youth Services Coordinating Program shall only be operative if funding is provided for its purposes in the annual Budget Act or another enacted statute.

(5) This bill would require a county child welfare agency, county probation department, or local educational agency that determines that it is unable to provide tutoring, mentoring, counseling, transition, school-based social work, or emancipation services, if those services are established as needed and identified by the appropriate local educational agency, in collaboration with the county child welfare agency and county probation department, where applicable, to annually certify in writing to the applicable ~~Foster Youth Services Coordinating Program~~ governing board of the local educational agency in which the foster youth attends school and to the State Department of Education the reasons why it is unable to provide those services, as provided. By

imposing additional duties on local officials, the bill would impose a state-mandated local program.

(6) 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 these statutory provisions.

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 42920 of the Education Code is repealed.
- 2 SEC. 2. Section 42920 is added to the Education Code, to read:
- 3 42920. The Legislature finds and declares all of the following:
- 4 (a) The Foster Youth Services (FYS) program has been a
- 5 successful program that supports the educational achievement of
- 6 pupils in foster care. This success has contributed to landmark
- 7 California education finance reform that prioritizes the educational
- 8 needs of pupils in foster care.
- 9 (b) The county office of education FYS program is uniquely
- 10 situated to support interagency collaboration and capacity building,
- 11 both at the system and individual pupil level, focused on improving
- 12 educational outcomes for pupils in foster care. This is a key
- 13 component to the successful implementation of the local control
- 14 funding formula (LCFF). The FYS program should support and
- 15 facilitate such collaboration and capacity building while preserving
- 16 the ability to provide direct services such as tutoring, mentoring,
- 17 counseling, transition, school-based social work, and emancipation
- 18 assistance when there are identified gaps in service at the local
- 19 level and the local Executive Advisory Council establishes that
- 20 these services are needed and aligned with local control and
- 21 accountability plan priorities.
- 22 (c) Pupils in foster care will benefit from increased levels of
- 23 supports and services as a result of the FYS program supporting
- 24 implementation of the LCFF for pupils in foster care.
- 25 (d) Pupils in foster care represent one of the most vulnerable
- 26 and academically at-risk pupil groups enrolled in California

1 schools. The academic status of pupils in foster care is often  
2 profoundly impacted by the foster care system in which many  
3 pupils in foster care experience multiple placements with an  
4 average frequency of one placement change every six months. Due  
5 to this movement, pupils in foster care lose an average of four to  
6 six months of educational attainment with each move. Therefore,  
7 it is essential to recognize, identify, and plan for the critical and  
8 unique educational needs of pupils in foster care.

9 (e) A high percentage of pupils in foster care are working  
10 substantially below grade level, and over one-half of the pupils in  
11 foster care are retained at least one year in the same grade level.  
12 Pupils in foster care earn lower grades and achieve lower scores  
13 on standardized achievements tests in reading and mathematics,  
14 have lower levels of engagement in school, and are half as likely  
15 as pupils not in foster care to be involved in extracurricular  
16 activities. The long-term consequences of poor academic  
17 experiences are significant. Pupils in foster care are twice as likely  
18 as pupils not in foster care to drop out of school before graduation  
19 and only 45 percent of pupils in foster care have graduated from  
20 high school at the time of emancipation. Foster youth are similarly  
21 underrepresented in college enrollment rates and dramatically  
22 underperform their peers in relation to college completion. Pupils  
23 in foster care are also subject to disproportionate levels of  
24 disciplinary measures, including suspension and expulsion. It is  
25 imperative that California close the foster youth achievement gap  
26 so that pupils in foster care can realize their full potential, reach  
27 their college and career goals, and become independent, productive  
28 members of society.

29 (f) Foster youth are an especially vulnerable pupil population,  
30 as they are often also members of other underserved pupil groups.  
31 In 2013, the demographic data of pupils in foster care in California  
32 were as follows:

33 (1) The largest ethnic group amongst pupils in foster care was  
34 Hispanic, with nearly half of the population.

35 (2) African American and Native American pupils continue to  
36 be disproportionately represented in the child welfare system, as  
37 researchers found that 26 percent of pupils in foster care were  
38 African American despite African Americans only accounting for  
39 7 percent of the pupil population in California, and 2 percent of  
40 pupils in foster care were Native American despite Native

1 Americans only accounting for 1 percent of the pupil population  
2 in California.

3 (3) Nearly one in five pupils in foster care had special education  
4 needs, which is over twice the rate of the statewide pupil  
5 population.

6 (4) More than 1 in 10 pupils in foster care were English learners.

7 (5) A significant number of youth in foster care identify as  
8 lesbian, gay, bisexual, transgender, queer, questioning, or gender  
9 nonconforming.

10 (g) Compounded by the research that indicates that there is a  
11 need for California to close the achievement gap between specific  
12 ethnic pupil populations and white pupils, addressing the foster  
13 youth achievement gap will further efforts that support education  
14 equity for all pupils.

15 (h) Given their current academic status, pupils in foster care are  
16 more likely to achieve their full potential when they are provided  
17 services and programs designed to meet their particular needs,  
18 including, but not limited to, supplemental instruction, counseling,  
19 tutoring, support services offered to lesbian, gay, bisexual,  
20 transgender, queer, questioning, and gender nonconforming youth,  
21 and other assistance relevant to their experience.

22 (i) Policies and laws addressing the educational rights of pupils  
23 in foster care must be implemented so that pupils in foster care are  
24 immediately enrolled in school, provided access to meaningful  
25 opportunities to meet state pupil academic achievement standards  
26 to which all pupils are held, provided access to a rigorous  
27 curriculum, adequately prepared to enter postsecondary education,  
28 and afforded the academic resources, services, and extracurricular  
29 and enrichment activities made available to other pupils enrolled  
30 in California's public schools, including, but not limited to,  
31 interscholastic sports administered by the California Interscholastic  
32 Federation. In fulfilling their responsibilities to these pupils,  
33 educators, county placing agencies, caregivers, advocates, and the  
34 juvenile courts will work together to ensure that each pupil is  
35 placed in the least restrictive educational environment.

36 (j) Foster youth services programs provide pupils in foster care  
37 needed educational support and are a state priority.

38 SEC. 3. Section 42920.5 of the Education Code is amended to  
39 read:

1 42920.5. (a) Commencing with the 2015–16 fiscal year, and  
2 each fiscal year thereafter, the Foster Youth Services Coordinating  
3 Program, administered by the Superintendent, is hereby established  
4 to provide supplemental funding to county offices of education,  
5 or a consortium of county offices of education, to coordinate and  
6 ensure that local educational agencies within its jurisdiction are  
7 providing services to foster youth pupils pursuant to the plan  
8 established in Section 42921, with the purpose of ensuring positive  
9 educational outcomes.

10 (b) A county office of education, or a consortium of county  
11 offices of education, receiving funds under this program, and the  
12 local educational agencies within the county or consortium of  
13 counties, shall coordinate services to ensure that, for the 2015–16  
14 and 2016–17 fiscal years, the level of direct services provided to  
15 support foster youth pupils is not less than what was provided in  
16 the 2014–15 fiscal year through the foster youth services program  
17 established pursuant to Section 42921, as it read on June 30, 2015.  
18 In meeting this requirement, services for foster youth pupils may  
19 be provided through one or any combination of state funding,  
20 including, but not limited to, the local control funding formula, or  
21 federal, local, or other funding.

22 SEC. 4. Section 42921 of the Education Code is amended to  
23 read:

24 42921. (a) A county office of education, or consortium of  
25 county offices of education, may elect to apply to the  
26 Superintendent for grant funding, to the extent funds are available,  
27 to operate an education-based foster youth services coordinating  
28 program to provide educational support for pupils in foster care.

29 (b) Each foster youth services coordinating program operated  
30 pursuant to this chapter, if sufficient funds are available, shall have  
31 at least one person identified as the foster youth educational  
32 services coordinator. The foster youth educational services  
33 coordinator shall facilitate the provision of educational support  
34 pursuant to subdivision subdivisions (d) and (e) to any pupil in  
35 foster care residing or attending school in the county or consortium  
36 of counties.

37 (c) For purposes of this chapter, a pupil in foster care means a  
38 foster youth, as defined in paragraph (b) of Section 42238.01, or  
39 a foster child who resides in a county-operated juvenile detention  
40 facility.

1 (d) It is the intent of the Legislature that pupils in foster care  
 2 with the greatest need for services be identified as the first priority  
 3 for foster youth services—~~coordinating~~. *coordinating programs*.  
 4 Priority shall be given to pupils who are living in out-of-home  
 5 placements.

6 (e) As a condition of receiving funds pursuant to this chapter,  
 7 each foster youth services coordinating program operated by a  
 8 county office of education or a consortium of county offices of  
 9 education pursuant to this chapter shall develop and implement a  
 10 foster youth services coordinating plan for purposes of establishing  
 11 guiding principles and protocols to provide supports for foster care  
 12 pupils aligned with the population priorities established in  
 13 paragraph (f). The plan shall include, to the extent possible, but  
 14 not be limited to, the following:

15 (1) (A) A description of how the program will establish ongoing  
 16 collaboration with local educational agencies, county child welfare  
 17 agencies, and county probation departments, to determine the  
 18 proper educational placement of the foster youth. This includes,  
 19 but is not limited to, the following:

20 (i) Building the capacity of county agencies, school districts,  
 21 and community organizations to better support the educational  
 22 success of pupils in foster care.

23 (ii) Facilitating collaboration between county agencies, school  
 24 districts, and community organizations to ensure coordinated and  
 25 nonduplicative service delivery and to ensure pupils in foster care  
 26 receive the educational supports and services they need to succeed  
 27 in school.

28 (iii) Providing services and educational case management in  
 29 support of individual pupils in foster care, as necessary.

30 (B) The primary goal of the collaboration required pursuant to  
 31 this section shall be to minimize changes in school placement and  
 32 support the implementation of subdivision (c) of Section 48853.  
 33 As necessary, and in accordance with Section 48853.5, the foster  
 34 youth services coordinating program may pay for the cost of  
 35 transportation to support this paragraph.

36 (i) If it is in the best interests of a pupil in foster care to transfer  
 37 schools, local educational agencies shall ensure transfers are done  
 38 at an educationally appropriate time, educational records are  
 39 quickly transferred, appropriate partial credits are awarded, and  
 40 the pupil in foster care is quickly enrolled in appropriate classes.

1 (ii) In determining the appropriate educational placement of  
2 foster youth pupils, local educational agencies, county welfare  
3 agencies, and county probation departments shall consult with an  
4 educational rights holder, caregiver, social worker, teacher,  
5 counselor, court-appointed special advocate, other stakeholders,  
6 and the pupil, as appropriate. The purpose of the consultation shall  
7 be to ensure all educational programmatic options are considered,  
8 including, but not limited to, English learner, special education,  
9 advanced placement, and career technical education.

10 (2) (A) If the county child welfare agency, county probation  
11 department, or local educational agency certifies in writing  
12 pursuant to subparagraph (B) that it is unable, using any other  
13 state, federal, local, or private funds, to provide tutoring, mentoring,  
14 counseling, transition, school-based social work, or emancipation  
15 services, and if those services are established as needed and  
16 identified by the appropriate local educational agency, in  
17 collaboration with the county child welfare agency and county  
18 probation department, where applicable, a description of how foster  
19 youth pupils will receive those services.

20 (B) If the county child welfare agency, county probation  
21 department, or local educational agency determines that it is unable  
22 to provide the services listed in subparagraph (A), it must annually  
23 certify in writing to the ~~applicable foster youth services~~  
24 ~~coordinating program~~ *governing board of the local educational*  
25 *agency in which the foster youth attends school* and to the  
26 department the reasons why it is unable to provide the services.  
27 In doing so, it must identify all other state, local, federal, or private  
28 funds available for use for those purposes, and the reasons why  
29 each is unavailable for support of those services.

30 (C) It is the intent of the Legislature that local educational  
31 agencies include information provided in subparagraph (D) in their  
32 local control and accountability plans when describing their  
33 services for foster youth pupils as required pursuant to paragraph  
34 (10) of subdivision (d) of Section 52066.

35 (D) It is the intent of the Legislature that county offices of  
36 education, in the development and adoption of their local control  
37 and accountability plans, include information specific to the  
38 transition requirement established pursuant to subdivision (b) of  
39 Section 42920.5 when describing the coordination of services for

1 foster youth pupils required pursuant to paragraph (10) of  
2 subdivision (d) of Section 52066.

3 (3) (A) Policies and procedures to ensure educational placement  
4 for a foster youth pupil is not delayed, including, but not limited  
5 to, facilitating the establishment of an individualized education  
6 ~~plan~~ *program* in accordance with the federal Individuals with  
7 Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.), if  
8 applicable, the transfer of records, transcripts, and other relevant  
9 educational information.

10 (B) The plan shall also describe how the program will facilitate  
11 coordination with local postsecondary educational institutions,  
12 including, but not limited to, the California Community Colleges,  
13 the California State University, and the University of California,  
14 to ensure foster youth pupils meet admission requirements and  
15 access programs that support their matriculation needs.

16 (4) Policies and procedures for local educational agencies,  
17 county welfare agencies, and county probation departments to  
18 share all relevant educational information for foster youth to ensure  
19 the court has updated and accurate information as it makes  
20 decisions regarding foster youths.

21 (f) When developing the plan required pursuant to this section,  
22 the county office of education, or the consortium of county offices  
23 of education, shall consider the needs of specific age groups, pupils  
24 in foster care in specific geographic areas with the highest  
25 concentration of pupils in foster care, and pupils in foster care with  
26 the greatest academic need. A foster youth services coordinating  
27 program is encouraged to first provide services for pupils in foster  
28 care who reside in group homes, institutional settings, or other  
29 placements with pupils with high academic needs, as determined  
30 by the local Executive Advisory Council.

31 (g) (1) Each foster youth services coordinating program  
32 operated pursuant to this chapter shall establish a local interagency  
33 Executive Advisory Council.

34 (2) The Executive Advisory Council shall include  
35 representatives from the county child welfare agency, the county  
36 probation department, local educational agencies, local  
37 postsecondary educational institutions, and community  
38 organizations. If possible, the Executive Advisory Council may  
39 include, but is not limited to, foster youth, caregivers, educational  
40 rights holders, dependency attorneys, court representatives,

1 court-appointed special advocates, and other interested  
2 stakeholders.

3 (3) The foster youth educational services coordinator shall be  
4 a permanent member of the Executive Advisory Council.

5 (4) The Executive Advisory Council shall regularly review the  
6 recommendations to the foster youth services plan required  
7 pursuant to subdivision (e). ~~In the event of a disagreement, the  
8 foster youth educational services coordinator or a member of the  
9 council may ask the Superintendent to mediate a solution.~~

10 SEC. 5. Section 42922 of the Education Code is repealed.

11 SEC. 6. Section 42923 of the Education Code is amended to  
12 read:

13 42923. (a) Each county office of education and consortium of  
14 county offices of education providing a foster youth services  
15 coordinating program pursuant to this chapter shall, by January 1  
16 of each even-numbered year, report to the Superintendent any  
17 information as may be required by the Superintendent and as  
18 accessible to the Foster Youth Services Coordinating Program for  
19 purposes of subdivision (b).

20 (b) The Superintendent shall, by February 15 of each  
21 even-numbered year, report to the appropriate policy and fiscal  
22 committees of the Legislature and the Governor on the Foster  
23 Youth Services Coordinating Program. The report shall include,  
24 but not be limited to, the following:

25 (1) Recommendations regarding the effectiveness and  
26 continuation of the Foster Youth *Services* Coordinating Program.

27 (2) (A) To the extent possible, aggregate educational outcome  
28 data for each county in which there were at least 15 pupils in foster  
29 care who attended school in the county, with information on each  
30 of the following indicators:

31 (i) The number of pupils in foster care who attended school in  
32 the county.

33 (ii) The academic achievement of the pupils in foster care who  
34 attended school in the county, as determined by quantitative and  
35 qualitative data currently collected by program participants.

36 (iii) The number of pupils in foster care who were suspended  
37 or expelled.

38 (iv) The number of pupils in foster care who were placed in a  
39 juvenile hall, camp, ranch, or other county-operated juvenile  
40 detention facility because of an incident of juvenile delinquency.

1 (v) The truancy rates, attendance rates, and dropout rates for  
2 pupils in foster care.

3 (vi) (I) The number of pupils in foster care participating in  
4 foster youth services coordinating programs pursuant to this chapter  
5 who successfully transition to postsecondary education.

6 (II) The department shall collaborate with the Chancellor of the  
7 California Community Colleges and the Chancellor of the  
8 California State University to identify indicators that can be used  
9 to track access to postsecondary education for pupils in foster care  
10 participating in a foster youth services coordinating program  
11 pursuant to this chapter.

12 (B) In meeting the requirement of this section, the  
13 Superintendent shall utilize data, where appropriate, reported  
14 pursuant to Section 49085.

15 (3) A discussion of the meaning and implications of the  
16 indicators contained in paragraph (2).

17 (4) Information about how the program has supported the  
18 development and implementation of new local educational agency  
19 and county agency policies, practices, and programs aimed at  
20 improving the educational outcomes of pupils in foster care.

21 (5) Information about how the program has improved  
22 coordination of services between local educational agencies and  
23 county agencies, including the types of services provided to pupils  
24 in foster care.

25 SEC. 7. Section 42924 of the Education Code is amended to  
26 read:

27 42924. (a) The Foster Youth Services Coordinating Program  
28 shall not be operative unless funding is provided for this purpose  
29 in the annual Budget Act or another enacted statute.

30 (b) Any funds allocated to county offices of education or  
31 consortia of county offices of education for foster youth services  
32 coordinating programs pursuant to Section 42921 shall be used  
33 only for foster youth services coordinating programs and any funds  
34 not used by local educational agencies for those services shall  
35 revert to the state General Fund.

36 SEC. 8. Section 42925 of the Education Code is repealed.

37 SEC. 9. Section 42925 is added to the Education Code, to read:

38 42925. (a) Each county office of education and consortium of  
39 county offices of education with a foster youth services  
40 coordinating program operated pursuant to this chapter shall, to

1 the extent possible, develop and enter into a memorandum of  
2 understanding, contract, or formal agreement with the county child  
3 welfare agency pursuant to which foster youth services  
4 coordinating program funds shall be used, to the maximum extent  
5 possible, to leverage funds received pursuant to Title IV–E of the  
6 federal Social Security Act (42 U.S.C. Sec. 670 et seq.) and any  
7 other funds that may be used to specifically address the educational  
8 needs of pupils in foster care, or they shall explain in writing,  
9 annually, why a memorandum of understanding is not practical or  
10 feasible.

11 (b) To the extent possible, each foster youth services  
12 coordinating program is encouraged to consider leveraging other  
13 local funding opportunities to support the educational success of  
14 pupils in foster care.

15 SEC. 10. Section 42926 is added to the Education Code, to  
16 read:

17 42926. (a) The Superintendent shall administer the Foster  
18 Youth Services Coordinating Program and shall be responsible  
19 for all of the following:

20 (1) Monitoring implementation of this chapter.

21 (2) Facilitating the data sharing and reporting necessary to meet  
22 the requirements of Section 42923.

23 (3) Ensure a county office of education’s local control and  
24 accountability plan addresses the needs of foster youth, as required  
25 pursuant to paragraph (10) of subdivision (d) of Section 52066.

26 (b) The Superintendent ~~may~~ *shall* use up to 5 percent of funding  
27 allocated for the Foster Youth Services Coordinating Program to  
28 contract with a local educational agency to administer the program  
29 established pursuant to this chapter, including, but not ~~limited, to~~  
30 *limited to*, providing technical assistance to county offices of  
31 ~~education, or education and~~ consortia of county offices of  
32 ~~education, education~~ as they implement this program.

33 SEC. 11. If the Commission on State Mandates determines  
34 that this act contains costs mandated by the state, reimbursement  
35 to local agencies and school districts for those costs shall be made  
36 pursuant to Part 7 (commencing with Section 17500) of Division  
37 4 of Title 2 of the Government Code.

O