

AMENDED IN ASSEMBLY APRIL 21, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

## ASSEMBLY BILL

**No. 1484**

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**Introduced by Assembly Member Weber**

February 27, 2015

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An act to add ~~Section~~ *Sections 35035.5 and 35037* to the Education Code, relating to teachers.

### LEGISLATIVE COUNSEL'S DIGEST

AB 1484, as amended, Weber. Teachers: assignment prohibition: unsatisfactory performance.

Existing law requires the superintendent of each school district to assign employees employed in positions requiring certification qualifications to positions in which they are to serve, subject to the approval of the governing board of the school *district, and authorizes the superintendent of each school district to transfer teachers consistent with the adopted school district policy concerning transfer of teachers from one school to another school within the school district*. Existing law requires each school district to evaluate and assess certificated employee performance as it reasonably relates to pupil academic progress, the instructional techniques and strategies used by the employee, the employee's adherence to curricular objectives, and the establishment and maintenance of a suitable learning environment, within the scope of the employee's responsibilities.

~~This bill would prohibit a pupil from knowingly being assigned 2 consecutive years to a certified employee who has the primary responsibility of instructing pupils and has received an unsatisfactory performance rating in the most recent evaluation and assessment of the certificated employee's performance unless this prohibition is waived,~~

~~as specified.~~ prohibit the superintendent of a school district from transferring or assigning a certificated employee with the primary responsibility of being the classroom teacher of record to a schoolsite if the transfer or assignment would result in the reduction of the average effective teacher experience factor at the schoolsite to less than 90% of the average effective teaching experience factor in the school district for schools of the same type, as specified. Notwithstanding that provision, the bill would require the State Board of Education to waive the prohibition upon the request of the governing board of a school district if the governing board of the school district meets certain conditions, including, among others, demonstrating, to the satisfaction of the state board, that the certificated employee subject to transfer or assignment has the appropriate credential necessary to teach a specific course, grade level, or program of study, and there is a critical shortage for certificated employees with such a credential in the local labor market.

The bill also would prohibit a pupil from being knowingly assigned to a classroom where the teacher of record received an unsatisfactory performance rating in the most recent evaluation and assessment of the employee's job performance unless the employee is actively participating in a California Peer Assistance and Review Program or other specified conditions are met. The bill would authorize the governing board of a school district to waive the prohibition on an individual basis, as provided.

To the extent this bill would impose additional duties on school districts, the bill would impose a state-mandated local program.

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 35037 is added to the Education Code,~~
- 2     to read:

~~35037. (a) For purposes of daily classroom instruction or receiving services in an individualized education plan, no pupil shall knowingly be assigned two consecutive years to a certificated employee who has the primary responsibility of instructing pupils and has received an unsatisfactory performance rating pursuant to Article 11 (commencing with Section 44660) of Chapter 3 of Part 25 in the most recent evaluation and assessment of the certificated employee's performance.~~

~~(b) The prohibition in this section applies to the exercise of authority by any school administrator or other certificated school employee responsible for pupil assignment decisions, and notwithstanding subdivision (e) or (f) of Section 35035.~~

~~(c) This section may only be waived pursuant to Section 33050 prospectively, on an individual pupil basis, and only if the parent or guardian of the pupil has approved the submittal of the waiver request in writing prior to the proposed assignment.~~

*SECTION 1. Section 35035.5 is added to the Education Code, to read:*

*35035.5. (a) The superintendent of a school district shall not transfer or assign a certificated employee with the primary responsibility of being the classroom teacher of record to a schoolsite if the transfer or assignment would result in the reduction of the average effective teacher experience factor at the schoolsite to less than 90 percent of the average effective teaching experience factor in the school district for schools of the same type.*

*(b) The applicable effective teaching experience factor shall be determined by months, subject to the following conditions:*

*(1) The maximum number of months that may be counted for a single certificated employee is 60 months.*

*(2) At the discretion of the governing board of the school district, a certificated instructional employee with the highest rating on a multiple positive-rating level performance scale may be counted for up to 60 months, regardless of his or her length of service in the school district.*

*(3) Months during an evaluation cycle in which a probationary or permanent certificated instructional employee received a final evaluation rating of unsatisfactory shall not be counted.*

*(4) Months during which a certificated employee was assigned primarily noninstructional duties shall not be counted.*

1     (c) Notwithstanding any other law, the state board shall waive  
2     any part of this section or any regulation adopted by the state  
3     board that implements this section upon the request of the  
4     governing board of a school district if the governing board of the  
5     school district does all of the following:

6     (1) Demonstrates, to the satisfaction of the state board, that the  
7     certificated employee subject to transfer or assignment has the  
8     appropriate credential necessary to teach a specific course, grade  
9     level, or program of study, there is a critical shortage for  
10    certificated employees with such a credential in the local labor  
11    market, and the placement would enable the schoolsite to achieve  
12    its stated goals on behalf of all pupils, including identified  
13    subgroups, as identified for that schoolsite in the school district's  
14    local control and accountability plan adopted pursuant to Section  
15    52060.

16    (2) Provides written documentation that the exclusive  
17    representative of certificated employees has been consulted.

18    (3) Provides written documentation that the principal of the  
19    schoolsite has approved of the proposed transfer or assignment,  
20    and is aware of the related staff development, mentoring, and  
21    evaluation workload the transfer or assignment would necessitate.

22    (d) The prohibition in this section applies to the exercise of  
23    authority by any administrator or other certificated school  
24    employee responsible for certificated employee assignment  
25    decisions, notwithstanding subdivision (e) or (f) of Section 35035.

26    SEC. 2. Section 37037 is added to the Education Code, to read:

27    37037. (a) A pupil shall not knowingly be assigned to a  
28    classroom where the teacher of record received an unsatisfactory  
29    performance rating in the most recent evaluation and assessment  
30    of the employee's job performance unless the employee is actively  
31    participating in a California Peer Assistance and Review Program  
32    established pursuant to Article 4.5 (commencing with Section  
33    44500) of Chapter 3 of Part 25 or all of the following conditions  
34    are met:

35    (1) The teacher of record is receiving the assistance required  
36    by subdivision (b) of Section 44664 and is being supported with  
37    the assistance and guidance of a certificated employee who  
38    possesses a valid certification for the same level and type of  
39    credential required for the subject matter and grade level being  
40    taught.

1     (2) *The effective teaching experience factor calculated pursuant*  
2 *to Section 35035.5 of the employee providing assistance and*  
3 *guidance is not less than the average effective teaching experience*  
4 *factor in the school district for schools of the same type.*

5     (3) *The employee providing assistance and guidance to the*  
6 *teacher of record has not received an unsatisfactory performance*  
7 *rating in the three most recent evaluation cycles.*

8     (b) *Any provision of this section may be waived on an individual*  
9 *basis by a vote of the local governing board of the school district*  
10 *if a parent or guardian of a pupil has been notified in writing in*  
11 *the home language of the pupil and the parent or guardian has*  
12 *approved the submission of the waiver request in writing before*  
13 *the proposed assignment.*

14     ~~SEC. 2.~~

15     SEC. 3. If the Commission on State Mandates determines that  
16 this act contains costs mandated by the state, reimbursement to  
17 local agencies and school districts for those costs shall be made  
18 pursuant to Part 7 (commencing with Section 17500) of Division  
19 4 of Title 2 of the Government Code.