

Date of Hearing: July 16, 2025

ASSEMBLY COMMITTEE ON EDUCATION

Al Muratsuchi, Chair

SB 373 (Grove) – As Amended March 26, 2025

SENATE VOTE: 38-0

SUBJECT: Special education: nonpublic, nonsectarian schools or agencies.

SUMMARY: Expands certification requirements for nonpublic, nonsectarian schools (NPSs) serving students with disabilities, requires local educational agencies (LEAs) which have placed students at NPSs to conduct annual in-person interviews with students to evaluate their health and safety, and requires the California Department of Education (CDE) to develop an interview tool for this purpose. Specifically, **this bill:**

- 1) Requires the CDE, commencing in the 2026-27 school year, do all of the following prior to certifying an NPS:
 - a) Review policies on restraint and seclusion to evaluate consistency with California laws;
 - b) Ensure that students have been provided a copy of their rights and procedural safeguards upon admission to the NPS and that this information is accessible, and require the telephone number for the CDE's Equitable Services Ombudsman to be prominently displayed at the NPS;
 - c) Review policies, procedures, and practices of the NPS to determine if there is a clear and confidential process for residents to report grievances without fear of retaliation, and review the process for investigating and reporting internal and external resident complaints;
 - d) Interview students with individualized education programs (IEPs) to discuss their progress and address any concerns respecting any limitations due to the student's disability at the following times:
 - i) If the NPS is the subject of an investigation;
 - ii) If there is a change in certification status or during the year three monitoring follow-up visit; and
 - iii) The NPS has student-level findings from year two.
 - e) Examine the use of positive behavioral reinforcement systems, including if the NPS correctly implements behavior intervention and manifestation determinations, and provide a copy of the NPS's policies on behavior intervention to parents of students enrolled in the NPS; and

- f) Review protocols for identifying signs of abuse or neglect, both physical and psychological, ensure that all staff are trained to recognize these signs, and review any behavior emergency reports required to ensure compliance with existing law.
- 2) Requires the Superintendent of Public Instruction (SPI), by July 1, 2026, to develop an interview tool to be used for interviews with students to assess their perceptions of the NPS and the services provided, discuss progress, and address any concerns. Requires the interview tool to include, at minimum, the student's perceptions of being treated with respect and dignity, and whether the staff maintain appropriate professional boundaries. Requires that this tool be made available to LEAs upon request to conduct interviews.
 - 3) Requires LEAs which have placed a students at an NPS and with which they maintain a master contract, as part of their annual onsite visit, to include an in-person interview with the student, in a manner consistent with their IEP, to evaluate their health and safety, and to report the findings using the LEA Onsite Visit for NPS form developed by the CDE.
 - 4) Requires the CDE to update this form by July 1, 2026, to require that it include the following new findings:
 - a) A summary of the perception of respect for student dignity, collected during the LEA interview of students, respecting any limitations caused by the student's disability to assess their perceptions of the NPS and the services provided, including their perceptions of being treated with respect and dignity, and appropriate professional boundaries from staff at the NPS. States that the LEA may also use the tool used by the SPI to conduct interviews or develop their own interview tool;
 - b) Positive behavioral support, for which the LEA would be required to examine the use of positive behavioral reinforcement systems, including whether the NPS correctly implements behavior intervention and manifestation determinations pursuant to existing law;
 - c) Screening for abuse and neglect, for which the LEA would be required to review the protocols for identifying signs of abuse or neglect, both physical and psychological, and ensure that all staff are trained to recognize these signs through a review of any behavior emergency reports; and
 - d) A quarterly check-in with a student attending the NPS through an unmonitored telephone call, in a manner consistent with the student's IEP.
 - 5) Commencing with the 2026–27 school year, once the SPI has made a determination on an NPS application, requires the SPI to make available, upon request from an LEA or a Special Education Local Plan Area (SELPA), the following information:
 - a) The certification status of the NPS or agency, including whether certification was granted, denied, revoked, suspended, or granted with conditions;
 - b) A summary of the findings supporting the SPI's determination, including any corrective actions or areas of noncompliance identified; and

- c) Access to relevant documentation used to support the determination, including compliance review reports and any findings resulting from onsite monitoring visits.
- 6) Requires an LEA, with respect to this information, to:
 - a) Disclose the information to the parent or guardian at the time the IEP team considers placement of the student in a NPS or NPA (NPS/A); and
 - b) Document in the student's IEP that the information was provided to the parent or guardian, and that the parent or guardian was given an opportunity to review and discuss the information as part of the placement decision.
- 7) States that this provision does not authorize the disclosure of any personally identifiable information and shall be consistent with applicable state and federal student privacy laws.
- 8) Requires that parents and students be given information on how to contact the CDE's Equitable Services Ombudsman when they are provided a copy of their procedural rights and safeguards, and requires that NPSs ensure private and confidential communication between the student and the CDE's Equitable Services Ombudsman.
- 9) Requires that the CDE's application form for certification of NPSs require assurances that they will comply with prohibitions on the use of corporal punishment and applicable law regarding the use of seclusion and restraint.
- 10) Specifies that, among the reasons for suspension or revocation of certification of an NPS, conduct that is harmful to students includes the use of prohibited methods of seclusion and restraint.
- 11) Clarifies that NPSs, charter schools, and the State Special Schools for the blind and deaf are prohibited from inflicting, or causing to be inflicted, corporal punishment upon a student.

EXISTING LAW:

- 1) Requires an NPS or a nonpublic agency (NPS/A) that seeks certification to file an application with the SPI on forms provided by the CDE, with specified information. Requires applicant NPSs and NPAs to notify the SELPA in which they are located. (Education Code (EC) 56366.1)
- 2) Requires the SPI to conduct an onsite review of the facility and program for which the applicant seeks certification, and within three years of the effective date of the certification. (EC 56366.1)
- 3) Requires the SPI to annually review the certification of each NPS/A. (EC 56366.1)
- 4) Requires the SPI to conduct an investigation of a NPS/A onsite at any time without prior notice if there is substantial reason to believe that there is an immediate danger to the health, safety, or welfare of a child. (EC 56366.1)

- 5) Requires the SPI to monitor the facilities, the educational environment, and the quality of the educational program, including the teaching staff, the credentials authorizing service, the standards-based core curriculum being employed, and the standards-focused instructional materials used, of an existing certified NPS/A on a three-year cycle. (EC 56366.1)
- 6) Authorizes the SPI to suspend or revoke the certification of a NPS/A for specified reasons, including:
 - a) Violation of an applicable state or federal rule or regulation, or aiding, abetting, or permitting the violation of an applicable state or federal rule or regulation;
 - b) Falsification or intentional misrepresentation of an element of the application, student records, or program presented for certification purposes;
 - c) Conduct in the operation or maintenance of the NPS/A that is harmful to the health, welfare, or safety of an individual with exceptional needs;
 - d) Failure to comply with a provision in the master contract with the LEA;
 - e) Failure to notify the CDE in writing of any of the following within 45 days of the occurrence of:
 - i) Changes in credentialed, licensed, or registered staff who render special education and related services, ownership, management, or control of the NPS/A;
 - ii) Major modification or relocation of facilities; or
 - iii) Significant modification of the NPS/A program.
 - f) Failure to implement recommendations and compliance requirements following an onsite review of the NPS/A;
 - g) Failure to provide appropriate services, supplies, equipment, or facilities for a student as required in the student's IEP;
 - h) Failure to notify the SPI in writing within 10 days of the revocation or suspension of a license or permit, including, but not limited to, a residential care license, business license, or other required license or permit; or
 - i) Failure to implement a student's IEP. (EC 56366.4)
- 7) Permits an educational provider from using seclusion or behavioral restraint only to control behavior that poses a clear and present danger of serious physical harm to the student or others that cannot be immediately prevented by a response that is less restrictive. (EC 49005.4)
- 8) Requires educational providers to avoid, whenever possible, the use of seclusion or behavioral restraint techniques. (EC 49005.6)

- 9) Requires LEAs, as specified, to collect and, no later than three months after the end of a school year, report to the CDE annually on the use of behavioral restraints and seclusion for students enrolled in or served by the LEA for all or part of the prior school year. (EC) 49006)
- 10) Requires that, no later than three months after the report is due to the CDE, the CDE post the data from the report annually on its website. (EC 49006)
- 11) Require LEAs to annually post on their websites the data on seclusions and restraints of students which is currently reported to the CDE.
- 12) States that the data collection and reporting is in compliance with federal data reporting requirements and that it shall not be construed to impose a new program or higher level of service on LEAs or NPS/As. (EC 49006.2)
- 13) Prohibits an educational provider, including NPSs, from doing any of the following:
 - a) Using seclusion or a behavioral restraint for the purpose of coercion, discipline, convenience, or retaliation;
 - b) Using locked seclusion, unless it is in a facility otherwise licensed or permitted by state law to use a locked room;
 - c) Use a physical restraint technique that obstructs a student's respiratory airway or impairs the student's breathing or respiratory capacity, including techniques in which a staff member places pressure on a student's back or places his or her body weight against the student's torso or back;
 - d) Use a behavioral restraint technique that restricts breathing, including, but not limited to, using a pillow, blanket, carpet, mat, or other item to cover a student's face;
 - e) Use prone restraint, as defined;
 - f) Place a student in a facedown position with the student's hands held or restrained behind the student's back; and
 - g) Use a behavioral restraint for longer than is necessary to contain the behavior that poses a clear and present danger of serious physical harm to the student or others. (EC 49005.8)
- 14) Requires an educational provider to:
 - a) Keep constant, direct observation of a student who is in seclusion, which may be through observation of the student through a window or another barrier, through which the educational provider is able to make direct eye contact with the student. Prohibits observation through indirect means, including through a security camera or a closed-circuit television;
 - b) Afford to students who are restrained the least restrictive alternative and the maximum freedom of movement, and shall use the least number of restraint points, while ensuring the physical safety of the student and others; and

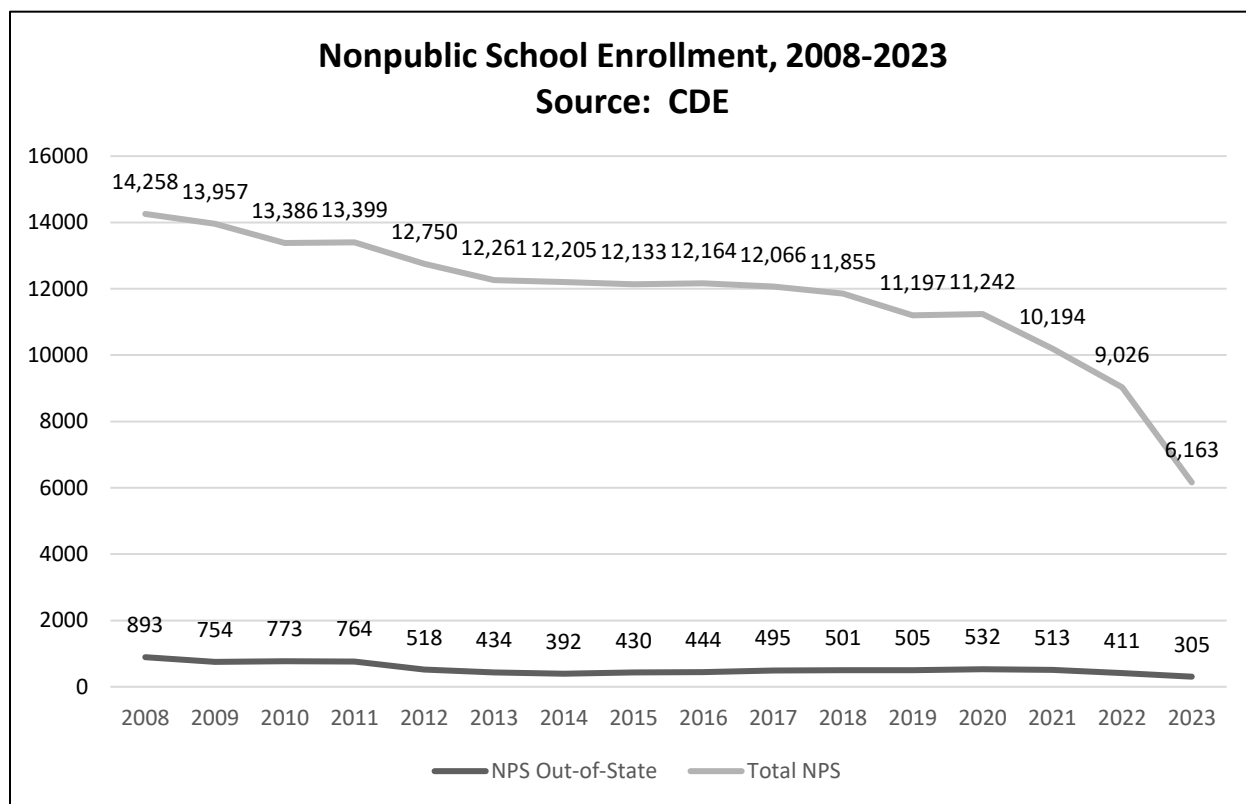
- c) Ensure that, if prone restraint techniques are used, a staff member observes the student for any signs of physical distress throughout the use of prone restraint. States that, whenever possible, the staff member monitoring the student shall not be involved in restraining the student. (EC 49005.8)
- 15) Prohibits an LEA or an NPS/A from serving students with disabilities from authorizing, ordering, consenting to, or paying for the following interventions, or any other interventions similar to or like the following:
- a) Any intervention that is designed to, or likely to, cause physical pain, including, but not limited to, electric shock;
 - b) An intervention that involves the release of noxious, toxic, or otherwise unpleasant sprays, mists, or substances in proximity to the face of the individual;
 - c) An intervention that denies adequate sleep, food, water, shelter, bedding, physical comfort, or access to bathroom facilities;
 - d) An intervention that is designed to subject, used to subject, or likely to subject the individual to verbal abuse, ridicule, or humiliation, or that can be expected to cause excessive emotional trauma;
 - e) Restrictive interventions that employ a device, material, or objects that simultaneously immobilize all four extremities;
 - f) Prone restraint;
 - g) Locked seclusion, unless it is in a facility otherwise licensed or permitted by state law to use a locked room;
 - h) An intervention that precludes adequate supervision of the individual; and
 - i) An intervention that deprives the individual of one or more of the individual's senses. (EC 56521.2)
- 16) In regulations, requires that applications for certification as an NPS to include a signed assurance that the school will maintain compliance with the prohibition on the use of corporal punishment and prohibited behavioral interventions. (California Code of Regulations (CCR) Title V, Section 3060.)
- 17) Requires the California Department of Social Services (CDSS) to decertify all out-of-state residential facilities for placement by county child welfare agencies or probation departments by January 1, 2023, and by that date to ensure that all children and youth in these placements have been returned to California. (Family Code (FC) 7901)
- 18) Prohibits, on and after July 1, 2022, county child welfare agencies or probation departments from making new placements in out-of-state residential facilities, except for specified circumstances. (FC 7901)

FISCAL EFFECT: According to the Senate Appropriations Committee, the CDE estimates General Fund costs of \$863,000 each year and 5.0 positions to comply with the bill's requirements. This estimate includes additional travel expenses resulting from increased monitoring requirements, and a new integrated data system in the NPS unit.

COMMENTS:

Need for the bill. According to the author, "California has long been a leader in safeguarding our children, yet many vulnerable students in out-of-state placements lack the protections they need. I am dedicated to ensuring that every child in a special education program receives top-quality care and oversight. SB 373 will deliver the transparency and accountability our children deserve."

Nonpublic schools (NPSs). California's NPSs are specialized private schools that provide services to public school students with disabilities. They are defined in statute as private, non-sectarian schools that enroll individuals with exceptional needs pursuant to an IEP. The tuition of a student in a non-public school is paid by the public LEA that places the student in the school. Each NPS is certified by the CDE.



According to the CDE, 202 in-state and 47 out-of-state NPSs served 5,858 and 305 students, respectively, during the 2022-23 school year. As shown in the table below, as of 2018, 40% of students served by NPSs were identified as on the Autism spectrum. The next largest group by disability are the students who are identified as having emotional disability, at 31%.

In recent years, there has been a dramatic decline in both in-state and out-of-state NPS enrollment. According to the CDE, and as illustrated in the graph above, enrollment in NPS has

been declining precipitously. Enrollment declined from 14,258 in 2008 to 6,163 in 2023. Out-of-state enrollment has declined significantly, from 893 in 2008 to 294 in fall of 2024.

Out-of-state NPS enrollment. Under current law, LEAs may place students in certified NPSs outside of California, pursuant to their IEPs. If they do so, they must document their efforts to utilize public schools or to locate an appropriate NPS within the state. Out-of-state NPSs must be certified by the CDE.

According to materials provided by the author, as of fall 2024, there were 294 California students attending out-of-state NPSs, of whom 228 were attending schools in Utah, and 11 were attending schools in Missouri. Students were also attending schools in Arizona, Florida, Georgia, Idaho, Kansas, Massachusetts, Montana, New York, Ohio, Tennessee, Texas, and Wisconsin, but the numbers were too small to report publicly for privacy reasons.

What role does the state currently have in maintaining student health and safety at NPSs?

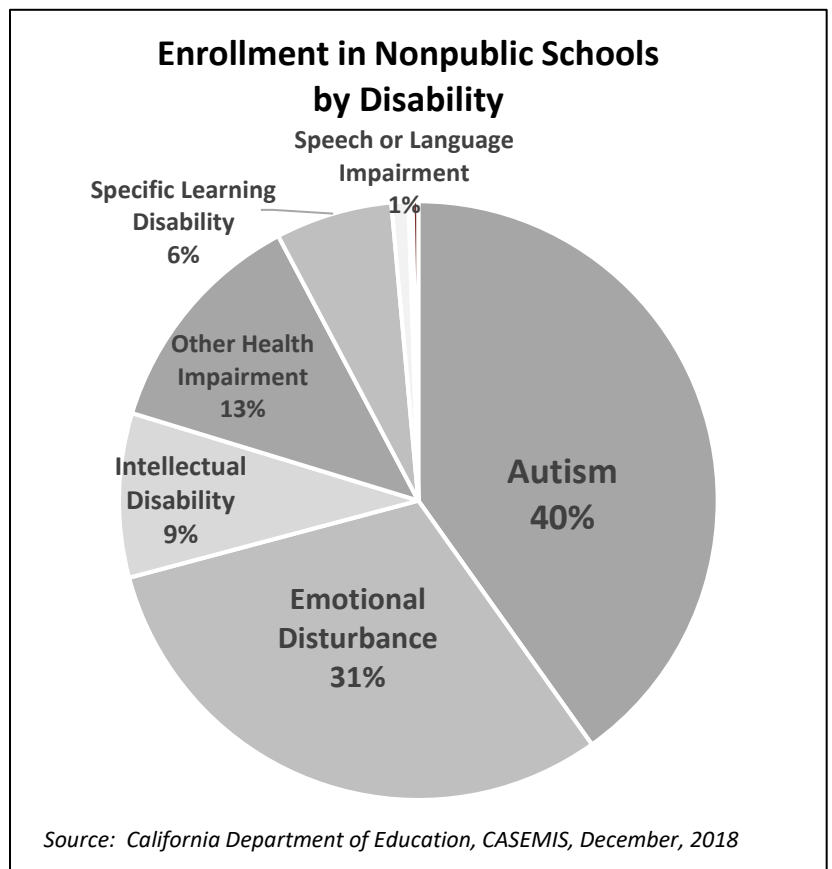
Current law requires the following oversight of NPSs by the CDE, by requiring the SPI to:

- Annually review the certification of each NPS or NPA, and authorizes the SPI to conduct an onsite review as part of the annual review.

- Conduct an onsite investigation of an NPS or an NPA at any time without prior notice if there is substantial reason to believe that there is an immediate danger to the health, safety, or welfare of a child.

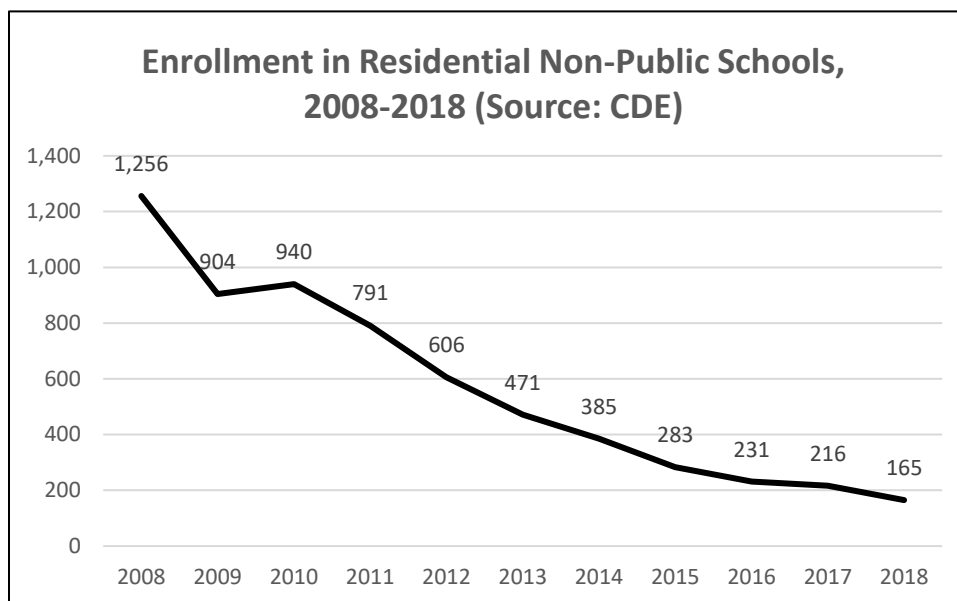
- Conduct an investigation, which may include an unannounced onsite visit, if the SPI receives evidence of a significant deficiency in the quality of educational services provided, making enrollment in an NPS a condition of placement in a licensed children's institution, among other requirements.

- Reflect violations or noncompliance in the certification status of the NPS or NPA, at the discretion of the SPI, pending an approved plan of correction by the NPS or NPA. Requires the CDE to retain records of all violations for a period of 10 years.



- Monitor the facilities, the educational environment, and the quality of the educational program, including the teaching staff, the credentials authorizing service, the standards-based

core curriculum being employed, and the standards-focused instructional materials used, of an existing certified NPS or NPA on a three-year cycle.



- Ensure that only those NPSs and NPAs that provide special education and designated instruction and services using 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.

- Authorizes the SPI to revoke or suspend the certification of an NPS or an NPA for specified reasons, including failure to notify the CDE in writing of any of the following within 45 days of specified occurrences, including failure to notify the SPI in writing within 10 days of the death of a student or any other individual of unnatural causes within the school or agency, and including the circumstances surrounding the death and appropriate preventative measures being taken or recommended.

NPS report finds a “patchwork of state laws” creating “duplication, gaps, and confusion about state and local entity roles and responsibilities.” The Budget Act of 2021, AB 180 (Committee on Budget), Chapter 44, Statutes of 2021, required the CDE to contract for a study that examines NPS/As. The CDE contracted with WestEd to conduct the study, which was required to examine:

- How California compares to other states in serving students through nonpublic schools and nonpublic agencies;
- Both in-state and out-of-state nonpublic school placements of California students;
- The process used by IEP teams in determining placements;
- Student outcomes in nonpublic school placements;
- The education certification, monitoring, and oversight activities at both the state and local levels; and
- How to improve coordination between the CDE and the CDSS.

The report noted the following key consideration for California:

The State of California’s patchwork of state laws to cover the certification and oversight of both nonpublic schools and agencies, which in many instances have created duplication, gaps, and confusion about state and local entity roles and responsibilities with respect to the

oversight of the process of student placement as well as the quality of the educational experience for those students who attend a nonpublic school or receive services from a nonpublic agency.

In general, the authors concluded that the most significant improvement to nonpublic school and agency effectiveness would come from updating the California Education Code and its supporting regulations to clarify the expected outcomes, certification and monitoring processes, the roles and responsibilities, the placement process and the requirement for data collection and reporting.

The report made numerous recommendations to improve this system. Recommendations related to the monitoring and oversight of NPSs, the topic of this bill, included:

- To meet the state obligations under the Individuals with Disabilities Education Act (IDEA), the focus of the CDE's monitoring and oversight should be examining data related to student placement in nonpublic schools and the outcomes for those students;
- Continue to investigate complaints regarding placement in or the implementation of a student's IEP by nonpublic schools, in coordination with a student's LEA of accountability, through the existing dispute resolution mechanisms;
- Consider updating the focus of oversight and monitoring, especially site visits, to monitor LEAs and nonpublic schools together. Monitoring would be focused on the nonpublic school placement process, how LEAs work with nonpublic schools to ensure implementation of student's IEPs, and how each LEA oversees the provision of services and evaluates whether students are making educational progress;
- Consider monitoring the use of nonpublic schools to provide services and ensure access to the general education curriculum as part of the CDE's monitoring of how LEAs implement all students' IEPs in cases where the data indicates the LEA may be placing more students in separate settings; and
- Clarify the shared nature of monitoring and oversight responsibility between CDE and each LEA placing a student in a nonpublic school.

The report concluded that "there is confusion among both LEAs and nonpublic schools about the roles and responsibilities of CDE and LEAs in monitoring and overseeing nonpublic schools." It noted that "in some instances, there is duplication between the CDE and LEA oversight activities and in other instances, the LEA is not conducting any oversight activities. Regardless, the CDE is not holding LEAs accountable for conducting required oversight activities and is not required to do so under the Education Code." The report made the following recommendations to clarify roles and responsibilities:

- Revise and update Education Code to require the CDE to oversee LEA implementation of the procedural oversight and monitoring activities rather than duplicating that oversight;
- Leverage the relationships SELPAs have with LEAs and nonpublic schools toward more efficient and effective monitoring and oversight; and

- Implement a monitoring system by which it monitors LEA oversight, jointly monitors nonpublic schools together with LEAs, and retains the authority to monitor nonpublic schools directly.

The report also discussed the use of waivers to permit placement of students in non-certified private schools, and recommended:

- Should the Legislature continue to permit LEAs to apply for [waivers to allow the LEA to use federal and state special education funds for the placement of the student in nonpublic schools that are not certified by the CDE] under the Education Code, clarification should be made either through process, regulation, and/or statute to clearly delineate the ability of an LEA and the CDE to impose requirements on uncertified nonpublic schools to allow an LEA to use state and federal funding for uncertified nonpublic school placements.

The report noted that “However, questions have been raised about the CDE’s ability to monitor these conditions, including the ability of LEAs and the CDE to impose requirements upon nonpublic schools that are not certified by the CDE.”

Who is responsible for monitoring residential placements for students attending out-of-state NPSs? According to the WestEd report, in 2020, the CDSS determined that all out-of-state residential programs for youth in foster care had violated the state’s licensing standards, decertified all of the out-of-state facilities for failure to meet licensing standards, and required that all youth placed in those facilities by CCDSS agencies be returned to California, effectively ending, or placing a permanent moratorium on out-of-state placements for students who are wards of the state. AB 153 (Committee on Budget), Chapter 86, Statutes of 2021 required the CDSS to decertify all out-of-state residential facilities for placement by county child welfare agencies or probation departments by January 1, 2023, and by that date to ensure that all children and youth had been returned to California. The change in out-of-state residential certification requirements did not apply to placements of students with disabilities at out-of-state NPS, pursuant to their IEPs.

The WestEd report noted that, prior to 2020, the CDE and the CDSS collaborated on certifying the residential components of out-of-state NPSs where students were placed by an LEA, but that currently:

With the elimination of out-of-state residential certification by the CDSS, it is now unclear which entity is responsible for certifying and monitoring the residential program at out-of-state nonpublic school facilities where students with IEPs may be placed to ensure that the facilities meet licensing, health, and safety standards...The CDE certification process is limited to the educational portion of the program. The CDE does not have authority nor the agency expertise to make any findings about the appropriateness of the residential program, which is not within the purview of the CDE.

The report recommended that the state “clarify agency oversight and monitoring responsibilities with regard to certification and monitoring of residential programs at out-of-state nonpublic schools that serve students with disabilities.”

Other states' laws may provide weaker protections against seclusion and restraint, corporal punishment. This bill would require that, prior to certifying an NPS, the applicant provide assurances that its policies comply with applicable California law regarding corporal punishment, seclusion, and restraint. It would also specify that the statutory prohibitions on corporal punishment apply to NPSs.

California is regarded as having some of the strongest protections regarding the use of seclusion and restraint in schools, including a prohibition on the use of prone restraint. Some states, to which California students may be sent to attend an NPS pursuant to an IEP, do not have such prohibitions. According to the National Education Association, while corporal punishment has been banned in most states since the mid-1990s (California prohibited it in 1986), as of 2024, corporal punishment in schools is legal in 17 states and practiced in 14.

The dangers of seclusion and restraint have been known for years. This bill would require that, prior to certifying an NPS, the applicant provide assurances that its policies comply with applicable state law regarding corporal punishment, seclusion, and restraint.

In 2014, the federal Office of Civil Rights (OCR) within the U.S. Department of Education (USDOE) reported the following statistics, collected for its biennial Civil Rights Data Collection, for nationwide use of seclusion and restraint in public schools in 2011-12:

- Students with disabilities represent 12% of the national student population, but 58% of those placed in seclusion and 75% of those subjected to physical restraint. In California, 81% of students exposed to physical restraint are students with IEPs; and
- African American students represent 19% of students with disabilities served with IDEA, but 36% of those subjected to mechanical restraint, defined as the use of devices or equipment to restrict a student's movement.

In 2018, the U.S. Government Accountability Office (GAO) released a report entitled *K-12 Education: Discipline Disparities for Black Students, Boys, and Students with Disabilities*, in which it shows that in 2013-14, African American students represented 15% of the national population of public school students, but 33% of students subjected to mechanical restraint, 25% of students subjected to physical restraint, and 22% of students placed in seclusion. The GAO also found that African American boys constitute 8% of public school students, but 23% of students subjected to mechanical restraint. The GAO stated, "Teachers and staff sometimes have discretion to make case-by-case decisions about whether to discipline, and the form of discipline to impose in response to student behaviors...Studies show that these decisions can result in certain groups of students being more harshly disciplined than others."

After investigating case studies involving seclusion and restraint use in schools throughout the nation, the GAO concluded in 2009 that certain types of restraint are more dangerous than others, particularly for children. Specifically, the GAO stated that certain techniques are "dangerous because they may involve physical struggling, pressure on the chest, or other interruptions in breathing." The GAO also found that children are subjected to restraint or seclusion at higher rates than adults and are at greater risk for injury. Prone restraints, in which students are placed face-down on the ground, and restraints that impede breathing were identified as having the greatest risk of death.

In 2016, OCR issued a “Dear Colleague” letter to explain the limits that federal civil rights laws impose on the use of seclusion and restraint in public schools. OCR stated that a “school district discriminates on the basis of disability in its use of restraint or seclusion by (1) unnecessarily treating students with disabilities differently from students without disabilities; (2) implementing policies, practices, procedures, or criteria that have an effect of discriminating against students on the basis of disability or defeating or substantially impairing accomplishment of the objectives of the school district’s program or activity with respect to students with disabilities; or (3) denying the right to a free appropriate public education.”

In 2018, AB 2756 (Weber), Chapter 998, Statutes of 2018, prohibited the use of restraint or seclusion on any student in California, except in specified circumstances, established parameters and procedures for situations in which restraint or seclusion may be used, and required data collection and reporting to the CDE, and posting of the data on the CDE website. AB 1466 (Akilah Weber), Chapter 582, Statutes of 2023, requires LEAs, as defined, to annually post on their websites data on seclusions and restraints of students which is currently reported to the CDE. SB 483 (Cortese), Chapter 587, Statutes of 2024 prohibits the use of prone restraint for any period of time by LEAs, charter schools, the State Special Schools for the Blind and the Deaf, and NPS/As.

Equitable Services Ombudsman. This bill requires that parents and students be given information on how to contact the CDE’s Equitable Services Ombudsman when they are provided a copy of their procedural rights and safeguards, and requires that NPSs ensure private and confidential communication between the student and the CDE’s Equitable Services Ombudsman.

Under the federal Every Student Succeeds Act, each state must designate an Equitable Services Ombudsman to monitor and enforce provisions related to equitable services for students enrolled in private schools. In California, the Ombudsman is housed within the CDE and serves as a point of contact for private school families, educators, and LEAs regarding the implementation of equitable services. Although originally focused on Title I and Title VIII services, the Ombudsman is named in this bill to ensure that students in NPSs have an external, independent channel for confidential communication.

Recommended Committee amendments. Staff recommends that this bill be amended as follows:

- 1) Change the requirement that the CDE review policies on restraint and seclusion to evaluate consistency with California laws as part of certification process, to instead review the assurances on those topics required by the bill; and
- 2) Clarify that, as part of the certification process, the CDE’s review protocols for identifying signs of abuse or neglect would be consistent with the requirements on mandated reporters in existing law.

Arguments in support. 11:11 Media Impact writes, “California has made commendable progress in addressing issues within the foster care system, particularly concerning the placement of children in out-of-state facilities. However, there remains a pressing need to ensure the safety and well-being of children in residential care settings. While previous measures helped return many foster youth to California, nearly 300 students with IEPs continue to be placed in out-of-state nonpublic schools.

Building on our collaboration on SB 1043, which increased transparency and oversight in residential treatment programs, SB 373 expands protections for students placed in out-of-state nonpublic schools. While California has made progress in addressing issues within the foster care system, nearly 300 students with IEPs remain in certified out-of-state nonpublic schools, where they are at risk of mistreatment. SB 373 closes this gap by requiring Local Education Agencies (LEAs) to monitor not just the physical facilities, but also the well-being of students through quarterly unmonitored phone check-ins, annual private in-person meetings during onsite visits, and standardized reporting to the California Department of Education. Additionally, the bill strengthens certification requirements for out-of-state NPSs by enforcing stricter protocols on the use of physical restraints and isolation, improving rights awareness, enhancing complaint mechanisms, and ensuring informed consent processes.

We believe that the enhanced oversight and transparency provided by SB 373 will empower families, hold facilities accountable, and ultimately ensure that our most vulnerable youth are protected.”

Related legislation. SB 483 (Cortese), Chapter 587, Statutes of 2024 prohibits the use of prone restraint for any period of time by LEAs, charter schools, the State Special Schools for the Blind and the Deaf, and NPS/As.

AB 1466 (Weber), Chapter 582, Statutes of 2024, requires LEAs and charter schools to annually post on their websites data on seclusions and restraints of students which is currently reported to the CDE.

AB 611 (Weber), Chapter 611, Statutes of 2023 requires that a contracting LEA inform parents and guardians of students who attend an NPS/A of the change in its certification status within 14 days of becoming aware of any such a change

AB 153 (Committee on Budget), Chapter 86, Statutes of 2021 required the CDSS to decertify all out-of-state residential facilities for placement by county child welfare agencies or probation departments by January 1, 2023, and by that date to ensure that all children and youth had been returned to California.

AB 1172 (Frazier), Chapter 454, Statutes of 2019, requires that LEAs that send students to NPSs conduct on-site monitoring visits; requires that NPSs notify the CDE of any student-involved incident in which law enforcement is contacted; requires the CDE, if an investigation conducted by the CDE results in a finding that student health or safety has been compromised, to immediately suspend or revoke the school’s certification; requires that an NPS serving students with significant behavioral needs to have an individual on site who is qualified to implement behavior interventions, and requires that administrators of NPSs hold or be working toward specified credentials or licenses; requires that NPSs train specified staff in evidence-based practices and interventions specific to students’ unique behavioral needs.

AB 216 (Shirley Weber) of the 2019-20 Session would have, among other things, prohibited prone restraint, chemical restraint, and mechanical restraint; permit seclusion or restraint only be used when behavior is unpredictable and spontaneous; required every school to implement a program of positive behavioral interventions and supports; prohibit the use of seclusion or restraint until school staff have received emergency behavioral intervention training from a

CDE-approved training provider; require that after the use of seclusion or restraint the student's parent be notified by the end of the schoolday and require that a school file an emergency report within 24 hours; require that a debriefing meeting be held within 2 schooldays of the use of seclusion or restraint; require that, if seclusion or restraint occurs for more than 20 minutes, a student must be provided with access to the bathroom and water every 30 minutes, and that after the first 20 minutes, every 10 minutes the administrator must provide written authorization for the continuation of the seclusion or restraint. This bill was held in the Assembly Education Committee.

AB 2756 (Shirley Weber), Chapter 998, Statutes of 2018, prohibits the use of restraint or seclusion on any student, except under specified circumstances; establishes parameters and procedures for situations in which restraint or seclusion may be used; requires data collection and reporting to the CDE.

REGISTERED SUPPORT / OPPOSITION:

Support

11:11 Media Impact
Alameda County Office of Education
Ambika Law
California State PTA
Concerned Women for America
Disability Rights California
Educate. Advocate.
emPOWERment Dess Perkins Foundation
Include CA
Institutional Child Abuse Prevention and Advocacy Network
Junior Leagues of California State Public Affairs Committee
Kern County Supervisor Jeff Flores
Kern Family Health Care
Kern Health Systems
Lives in the Balance
Mom Army
National Association of Social Workers, California
Orange County United Way
State Council on Developmental Disabilities
The Foundation United
Unsilenced

Opposition

None on file

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