

## SENATE THIRD READING

SB 373 (Grove)

As Amended September 2, 2025

Majority vote

**SUMMARY**

Expands certification requirements for nonpublic, nonsectarian schools (NPSs) located outside of California which serve students with disabilities, requires local educational agencies (LEAs) which have placed students at NPSs outside of California 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.

**Major Provisions**

- 1) Requires the CDE, commencing in the 2026-27 school year, do all of the following prior to certifying an NPS located outside of California:
  - a) Review assurances relating to behavioral interventions 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 are provided contact information for the CDE's Constituent Services Office, and requires this contact information 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) 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
  - e) Review protocols for identifying signs of abuse or neglect, both physical and psychological, for consistency with the mandated reporting requirements, to 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, for NPSs located outside of California, the Superintendent of Public Instruction (SPI), to 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.
- 3) Requires the 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.
  - 4) Requires LEAs which have placed a students at an NPS located outside of California 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.
  - 5) Requires the CDE to update this form by July 1, 2026, to require that, for NPSs located outside of California, 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) Evidence of 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) Evidence of 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.
  - 6) Commencing with the 2026–27 school year, once the SPI has made a determination on an NPS application for a school located outside of California, requires the SPI to make available, upon request from an LEA or a Special Education Local Plan Area (SELPA), the following information, if available:
    - 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.
- 7) 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; 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.
- 8) 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.
- 9) Requires that NPSs ensure private and confidential communication between the student and the CDE's Constituent Services Office.
- 10) 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.
- 11) 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.
- 12) 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.

## COMMENTS

*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 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. 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.

*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 examined numerous aspects of NPS/As. The CDE contracted with WestEd to conduct the study, which 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.

*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."

### **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."

### **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."

### **Arguments in Opposition**

None on file

## **FISCAL COMMENTS**

- 1) Ongoing General Fund costs of approximately \$530,000 for the CDE to hire three additional staff to perform the additional oversight and monitoring of NPSs, along with travel and technology costs to develop an integrated data system. The CDE also cites potential for significant costs, likely in the millions of dollars, associated with potential litigation, likely occurring within the first year of the bill's enactment, related to parent rights and student safety.
- 2) Ongoing Proposition 98 General Fund cost pressures of an unknown but potentially significant amount, possibly in the hundreds of thousands of dollars annually, for LEAs, collectively statewide, serving students in NPS placements to conduct the required oversight and student polling for students in out-of-state placements. These students, and therefore the cost associated, are not evenly distributed throughout the state; therefore, fulfilling these

responsibilities will cost more small LEAs without robust staff dedicated to special education student supports.

## VOTES

### SENATE FLOOR: 38-0-2

**YES:** Allen, Alvarado-Gil, Archuleta, Arreguín, Ashby, Becker, Blakespear, Cabaldon, Caballero, Cervantes, Choi, Cortese, Dahle, Durazo, Gonzalez, Grayson, Grove, Hurtado, Jones, Laird, McGuire, McNerney, Menjivar, Niello, Ochoa Bogh, Padilla, Pérez, Richardson, Rubio, Seyarto, Smallwood-Cuevas, Stern, Strickland, Umberg, Valladares, Wahab, Weber Pierson, Wiener

**ABS, ABST OR NV:** Limón, Reyes

### ASM EDUCATION: 9-0-0

**YES:** Muratsuchi, Hoover, Addis, Alvarez, Bonta, Castillo, Garcia, Lowenthal, Patel

### ASM APPROPRIATIONS: 15-0-0

**YES:** Wicks, Sanchez, Arambula, Calderon, Caloza, Dixon, Elhawary, Fong, Mark González, Ahrens, Pacheco, Pellerin, Solache, Ta, Tangipa

## UPDATED

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