INDEPENDENT STUDY LEGAL REQUIREMENTS

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| **LEGAL REQUIREMENT[[1]](#footnote-1)** | **CITATION** |
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| **Board Policy:**A local education agency shall not be eligible to receive apportionments for independent study by pupils, regardless of age, unless it has adopted written policies, and has implemented those policies, pursuant to rules and regulations adopted by the Superintendent, that include, but are not limited to, all of the following:1. The maximum length of time, by grade level and type of program, that may elapse between the time an independent study assignment is made and the date by which the pupil must complete the assigned work.
2. (1) The level of satisfactory educational progress and the number of missed assignments[[2]](#footnote-2) that will be allowed before an evaluation is conducted to determine whether it is in the best interests of the pupil to remain in independent study, or whether the pupil should return to the regular school program. A written record of the findings of any evaluation made pursuant to this subdivision shall be treated as a mandatory interim pupil record. The record shall be maintained for a period of three years from the date of the evaluation and, if the pupil transfers to another California public school, the record shall be forwarded to that school.

(2) Satisfactory educational progress shall be determined based on all of the following indicators:1. The pupil’s achievement and engagement in the independent study program, as indicated by the pupil’s performance on applicable pupil- level measures of pupil achievement and pupil engagement set forth in paragraphs (4) and (5) of subdivision (d) of Section 52060.
2. The completion of assignments, assessments, or other indicators that evidence that the pupil is working on assignments.
3. Learning required concepts, as determined by the supervising teacher.
4. Progressing toward successful completion of the course of study or individual course, as determined by the supervising teacher.
5. The provision of content aligned to grade level standards that is substantially equivalent to in-person instruction. For high schools, this shall include access to all courses offered by the local education agency for graduation and approved by the University of California or the California State University as creditable under the A–G admissions criteria.
 | Education Code Section 51747(a)-(g) |

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| 1. [[3]](#footnote-3)Procedures for tiered reengagement strategies for all pupils who are not generating attendance for more than 10 percent of required minimum instructional time over four continuous weeks of a local educational agency’s approved instructional calendar, pupils found not participatory in synchronous instructional offerings pursuant to Section 51747.5 for more than 50 percent of the scheduled days of synchronous instruction in a school month as applicable by grade span, or pupils who are in violation of the written agreement pursuant to subdivision (g). These procedures shall include local programs intended to address chronic absenteeism, as applicable, with at least all of the following:
	1. Verification of current contact information for each enrolled pupil.
	2. Notification to parents or guardians of lack of participation within one school day of the recording of a non-attendance day or lack of participation.
	3. A plan for outreach from the school to determine pupil needs, including connection with health and social services as necessary.

(4) A clear standard for requiring a pupil-parent-educator conference to review a pupil’s written agreement, and reconsider the independent study program’s impact on the pupil’s achievement and well-being, consistent with the policies adopted pursuant to paragraph (4) of subdivision (g).e) (1) For pupils in transitional kindergarten and grades 1 to 3, inclusive, a plan to provide opportunities for daily synchronous instruction for all pupils throughout the school year.1. For pupils in grades 4 to 8, inclusive, a plan to provide opportunities for both daily live interaction and at least weekly synchronous instruction for all pupils throughout the school year.
2. For pupils in grades 9 to 12, inclusive, a plan to provide opportunities for at least weekly synchronous instruction for all pupils throughout the school year.
3. A plan to transition pupils whose families wish to return to in-person instruction from independent study expeditiously, and, in no case, later than five instructional days.
4. A requirement that a current written agreement for each independent study pupil shall be maintained on file, including, but not limited to, all legal requirements. (See **Master Agreement** below.)
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| **Public Hearing:**In setting the policy (described above), the local governing board must consider in a public hearing the scope of its existing or prospective use of independent study as an instructional strategy, its purposes in authorizing independent study, and factors bearing specifically on the maximum realistic lengths of assignments and acceptable number of missed assignments for specific populations of pupils. Adopted policies shall reflect an awareness that excessive leniency in their terms can result in pupils falling so far behind their peers as to increase, rather than decrease, the risk of their dropping out of school. | Title 5 California Code of Regulations Section 11701 |
| **Master Agreement:**A requirement that a current written agreement for each independent study pupil shall be maintained on file including, but not limited to, all of the following:1. The manner, time, frequency, and place for submitting a pupil’s assignments, for reporting the pupil’s academic progress, and for communicating with a pupil’s parent or guardian regarding a pupil’s academic progress.
2. The objectives and methods of study for the pupil’s work, and the methods used to evaluate that work.
3. The specific resources, including materials and personnel, that will be made available to the pupil. These resources shall include confirming or providing access to all pupils to the connectivity and devices adequate to participate in the educational program and complete assigned work.
4. A statement of the policies adopted pursuant to subdivisions (a) and (b) regarding the maximum length of time allowed between the assignment and the completion of a pupil’s assigned work, the level of satisfactory educational progress, and the number of missed assignments allowed before an evaluation of whether or not the pupil should be allowed to continue in independent study.
5. The duration of the independent study agreement, including the beginning and ending dates for the pupil’s participation in independent study under the agreement. No independent study agreement shall be valid for any period longer than one school year.
6. A statement of the number of course credits or, for the elementary grades, other measures of academic accomplishment appropriate to the agreement, to be earned by the pupil upon completion.
7. A statement detailing the academic and other supports that will be provided to address the needs of pupils who are not performing at grade level, or need support in other areas, such as English learners, individuals with exceptional needs in order to be consistent with the pupil’s individualized education program or plan pursuant to Section 504 of the federal Rehabilitation Act of 1973 (29 U.S.C. Sec. 794), pupils in foster care or experiencing homelessness, and pupils requiring mental health supports.
8. The inclusion of a statement in each independent study agreement that independent study is an optional educational alternative in which no pupil may be required to participate. In the case of a pupil who is referred or assigned to any school, class, or program pursuant to Section 48915 or 48917, the agreement also shall include the statement that instruction may be provided to the pupil through independent study only if the pupil is offered the alternative of classroom instruction.
9. (A) For a pupil participating in an independent study program that is scheduled for more than 14 school days, each written agreement shall be signed, before the commencement of independent study, by the pupil, the pupil’s parent, legal guardian, or caregiver, if the pupil is less than 18 years of age, the certificated employee who has been designated as having responsibility for the general supervision of independent study, and the certificated employee designated as having responsibility for the special education programming of the pupil, as applicable. Beginning in the 2022–23 school year, for a pupil participating in an independent study program that is scheduled for less than 15 school days, each
 | Education Code Section 51747(g)(1)- (9) |

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| written agreement shall be signed within 10 school days of the commencement of the first day of the pupil’s enrollment in independent study, by the pupil, the pupil’s parent, legal guardian, or caregiver, if the pupil is less than 18 years of age, the certificated employee who has been designated as having responsibility for the general supervision of independent study, and the certificated employee designated as having responsibility for the special education programming of the pupil, as applicable. For purposes of this paragraph “caregiver” means a person who has met the requirements of Part 1.5 (commencing with Section 6550) of Division 11 of the Family Code. |  |
| **Pupil-Parent-Educator Conference:**Before signing a written agreement pursuant to this section, the parent or guardian of a pupil may request that the local education agency conduct a telephone, videoconference, or in-person pupil-parent-educator conference or other school meeting during which the pupil, parent or guardian, and, if requested by the pupil or parent, an education advocate, may ask questions about the educational options, including which curriculum offerings and nonacademic supports will be available to the pupil in independent study, before making the decision about enrollment or disenrollment in the various options for learning. | Education Code Section 51747(h)(2)  |
| **Master Agreement Signatures:**Written agreements may be signed using an electronic signature that complies with state and federal standards, as determined by the department, that may be a marking that is either computer generated or produced by electronic means and is intended by the signatory to have the same effect as a handwritten signature. The use of an electronic signature shall have the same force and effect as the use of a manual signature if the requirements for digital signatures and their acceptable technology, as provided in Section 16.5 of the Government Code and in Chapter 10 (commencing with Section 22000) of Division 7 of Title 2 of the California Code of Regulations, are satisfied. | Education Code Section 51747(g)(9)(E) |
| **Signature & Date & Curriculum Requirements for Master Agreement:** Each signature required for an independent study agreement shall be dated. An agreement is not in effect until it is complete as to all terms, signed and dated. | Title 5 California Code of Regulations Section 11702(a) |
| **Funds or Things of Value:**(a) Notwithstanding any other law, a local education agency, including, but not limited to, a charter school, may not claim state funding for the independent study of a pupil, whether characterized as home study or otherwise, if the local education agency has provided any funds or other thing of value to the pupil or the pupil’s parent or guardian that the local education agency does not provide to pupils who attend regular classes or to their parents or guardians. A charter school may not claim state funding for the independent study of a pupil, whether characterized as home study or otherwise, if the charter school has provided any funds or other thing of value to the pupil or the pupil’s parent or guardian that a school district could not legally provide to a similarly situated pupil of the school district, or to the pupil’s parent or guardian.(b) Providing access to connectivity and local education agency-owned devices adequate to participate in an independent study program and complete assigned work, consistent with paragraph (3) of subdivision (g) of Section 51747, or to participate in an independent study course, as authorized in Section 51749.5, shall not be considered funds or other things of value for purposes of subdivision (a).(c) Notwithstanding paragraph (1) of subdivision (e) of Section 47605 or any other law, community school and independent study average daily attendance shall be claimed by school districts, county superintendents of schools, and charter schools only for pupils who are residents of the county in which the apportionment claim is reported, or who are residents of a county immediately adjacent to the county in which the apportionment claim is reported.(d) The Superintendent shall not apportion funds for reported average daily attendance, through full-time independent study, of pupils who are enrolled in school pursuant to subdivision (b) of Section 48204. | Education Code Section 51747.3(a)-(d) |

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|  **Live Interaction:**Live interaction means interaction between the pupil and local education agency classified or certificated staff, and may include peers, provided for the purpose of maintaining school connectedness, including, but not limited to, wellness checks, progress monitoring, provision of services, and instruction. This interaction may take place in person, or in the form of internet or telephonic communication. | Education Code Section 51745.5(a) |
| **Synchronous instruction**:Synchronous instruction means classroom-style instruction or designated small group or one-on-one instruction delivered in person, or in the form of internet or telephonic communications, and involving live two-way communication between the teacher and pupil. Synchronous instruction shall be provided by a teacher or teachers of record for that pupil pursuant to Section 51747.5 or the certificated employee of the local educational agency providing instruction for course-based independent study. | Education Code Section 51745.5(d) |
| **Daily Engagement:**Attendance means the attendance of charter school pupils while engaged in educational activities required of them by their charter schools on days when school is actually taught in their charter schools. | Title 5 California Code of Regulations Section 11960(a) |
| **Time Value:**A local education agency may claim apportionment credit for independent study only to the extent of the time value of pupil work products, as personally judged in each instance by a **certificated** teacher employed by the local education agency or the combined time value of pupil work product and pupil participation in synchronous instruction pursuant to paragraph (2).[[4]](#footnote-4) It is the intent of the Legislature that teachers be given access to digital assignment tracking systems to reduce workload associated with evaluating and accounting for pupil work and synchronous instruction participation.For purposes of computing average daily attendance for each pupil enrolled in independent study pursuant to Section 51747, the following computations shall apply:(A) For each schoolday, add the combined equivalent daily time value of pupil work products, as personally judged by a certificated employee of the local educational agency.(B) (i) For each schoolday, add the combined daily instructional minutes a pupil participated in synchronous instruction, as defined by subdivision (d) of Section 51745.5 and offered pursuant to subdivision (e) of Section 51747, for which evidence of pupil participation is furnished and maintained. Evidence of pupil participation may include, but is not limited to, pupil work produced or performed, as verified by a certificated employee and maintained by the local educational agency for each hour or fraction thereof of the synchronous instructional offering.(ii) Pursuant to paragraph (1), a local educational agency may claim apportionment credit in this paragraph insofar as a pupil’s participation in a synchronous instructional offering augments the time value of pupil work product.(C) For each schoolday, add the sum of subparagraphs (A) and (B). (d) A local educational agency shall maintain written or computer-based evidence of pupil engagement that includes, but is not limited to, a grade book or summary document that, for each class, lists all assignments, assessments, and associated grades.(e) For purposes of this section, a local educational agency shall not be required to sign and date pupil work products when assessing the time value of pupil work products for apportionment purposes. | Education Code Section 51747.5(b) |
| **Enrollment Restrictions:**Independent study average daily attendance shall be claimed by school districts, county superintendents of schools, and charter schools only for pupils who are residents of the county in which the apportionment claim is reported, or who are residents of a county immediately adjacent to the county in which the apportionment claim is reported. | Education Code Section 51747.3(c) |
| **Supervising Teacher:**The independent study by each pupil shall be coordinated, evaluated, and, notwithstanding subdivision (a) of Section 46300, shall be under the general supervision of an employee of the local education agency who possesses a valid certification document pursuant to Section 44865 or an emergency credential pursuant to Section 44300, registered as required by law. | Education Code Section 51747.5 |
| **Supervising Teacher:**“General supervision” means the supervising teacher's1. continuing oversight of the study design, implementation plan, allocation of resources, and evaluation of pupil or adult education student progress for any pupil’s or adult education student's independent study; and
2. personal determination or personal review of the determination made by another certificated teacher of the time values for apportionment purposes of each pupil's or adult education student's work products.
 | Title 5 California Code of Regulations Section 11700(b) |
| **Student with Exceptional Needs:** An individual with exceptional needs, as defined in Section 56026, may participate in independent study, if the pupil’s individualized education program developed pursuant to Article 3 (Commencing with Section 56340) of Chapter 4 of Part 30 specifically provides for that participation. If a parent or guardian of an individual with exceptional needs requests independent study pursuant to paragraph (5) of subdivision (a), the pupil’s individualized education program team shall make an individualized determination as to whether the pupil can receive a free appropriate public education in an independent study placement. A pupil’s inability to work independently, the pupil’s need for adult support, or the pupil’s need for special education or related services shall not preclude the individualized education program team from determining that the pupil can receive a free appropriate education in an independent study placement  | Education Code Section 51745(c) |
| **Temporary Disability:**A pupil with a temporary disability that makes attendance in the regular day classes or alternative education program in which the pupil is enrolled impossible or inadvisable shall receive either individual instruction at home provided by the school district in which the pupil is deemed to reside, or individual instruction in a hospital or other residential health facility, excluding state hospitals, provided by the school district in which the hospital or other residential health facility is located. | Education Code 48206.3 |
| **School Closure or Material Decrease in Attendance:**For affidavits submitted to the Superintendent for events occurring after September 1, 2021, that resulted in a school closure or material decrease in attendance, [a] charter school that provides an affidavit to the Superintendent pursuant to Section 41422 or 46392, shall certify that it has a plan for which pursuant to Article 5.5 (commencing with Section 51745) of Chapter 5 of Part 28 of Division 4. The plan shall comply with all of the following:(1) Independent study is offered to any pupil impacted by any of the conditions listed in Section 46392 within 10 days of the first day of a school closure or material decrease in attendance. Pupils who are individuals with exceptional needs shall receive the services identified in their individualized education programs pursuant to paragraph (9) of subdivision (a) of Section 56345 and may participate in an independent study program.(2) Require reopening for in-person instruction as soon as possible unless prohibited under the direction of the local or state health officer.(3) Notwithstanding subdivision (c) of Section 51745 or subparagraph (F) of paragraph (9) of subdivision (g) of Section 51747, include information regarding establishing independent study master agreements in a reasonable amount of time.(b) (1) Notwithstanding subdivision (a), the plan is not required to comply with subdivision (d), (e), or (f) of Section 51747 for school closures or a material decrease in attendance for 15 days or less for affected pupils.(2) Notwithstanding subdivision (a), the plan is not required to comply with subdivision (d), (e), or (f) of Section 51747 if the school district or county office of education has a waiver of the requirement to offer independent study pursuant to subdivision (g) of Section 51745.(c) A copy of the plan and, if applicable, the state or local public health or public safety order that required school closure shall accompany the affidavit provided to the Superintendent described in subdivision (a). | Education Code Section 46393(a) |

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| **Pupil to Teacher Ratio:**The applicable average-daily-attendance-to-certificated-employee ratios described in subdivision (a) may, in a charter school, be calculated by using a fixed average-daily-attendance-to-certificated-employee ratio of 25 to 1, or by using a ratio of less than 25 pupils per certificated employee. A new higher or lower ratio for all other educational programs offered by a charter school may be negotiated in a collective bargaining agreement, or a memorandum of understanding indicating that an existing collective bargaining agreement contains an alternative average daily attendance ratio may be entered into by a charter school. All charter school pupils, regardless of age, shall be included in the applicable average-daily-attendance-to- certificated-employeeratio calculations. | Education Code Section 51745.6(d) |
| **Pupil to Teacher Ratio:**In a charter school, for the purposes of [Education Code Section 51745.6,](https://www.lexis.com/research/buttonTFLink?_m=8e7d335306009d5e37b8c944493fb989&_xfercite=%3ccite%20cc%3d%22USA%22%3e%3c%21%5bCDATA%5b5%20CCR%2011704%5d%5d%3e%3c%2fcite%3e&_butType=4&_butStat=0&_butNum=1&_butInline=1&_butinfo=CA%20ED%2051745.6&_fmtstr=FULL&docnum=1&_startdoc=1&wchp=dGLbVzB-zSkAA&_md5=49fa7830003cd8201af03d49a4ffc89c) the ratio of average daily attendance for independent study pupils to full-time equivalent (FTE) certificated employees responsible for independent study shall not exceed a pupil-teacher ratio of 25:1 or the ratio of pupils to full- time equivalent certificated employees for all other educational programs operated by the largest unified school district, as measured by average daily attendance, as reported at the second principal apportionment in the prior year, in the county or counties in which the charter school operates. For purposes of this section, a “full-time certificated employee" means an employee who is required to work a minimum six-hour day and 175 days perfiscal year. Part-time positions shall generate a partial FTE on a proportional basis. | Title 5 California Code of Regulations Section 11704 |
| **Maintenance of Independent Study Records:**Master Agreement: 3 yearsDaily Attendance Credit Register: 3 years Representative Work Samples: 3 years Regular work assignments: 3 years Student work records: 3 yearsTeacher records: 3 years Transcript: permanentSchool apportionment records: 3 yearsA Class 3 - Disposable record shall not be destroyed until after the third July1 succeeding the completion of the audit required by Education Code Section 41020 or of any other legally required audit, or after the ending date of any retention period required by any agency other than the State of California, whichever date is later. A continuing record shall not be destroyed until the fourth year after it has been classified as Class 3 - Disposable. | Title 5 California Code of Regulations Section 16023 and 16026 and 11703 |
| **Work Samples:**Must maintain representative work samples of each pupil’s work product bearing signed or initialed and dated notations by the supervising teacher indicating that he or she has personally evaluated the work or that he or she has personally reviewed the evaluations made by another certificated teacher.[[5]](#footnote-5)  | Title 5 California Code of Regulations Section 11703 |

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| **Electronic File Storage**Signed written agreements, supplemental agreements, assignment records, work samples, and attendance records assessing time value of work or evidence that an instructional activity occurred may be maintained as an electronic file.* For purposes of this section, an electronic file includes a computer or electronic stored image of an original document, including, but not limited to, portable document format (PDF), JPEG, or other digital image file type, that may be sent via fax machine, email, or other electronic means.
* Either an original document or an electronic file of the original document is allowable documentation for auditing purposes.
 | Education Code Section 51747(g)(9)(B) |
| **Equitable Provision of Resources:**The independent study option is to be substantially equivalent in quality and in quantity to classroom instruction. | Title 5 California Code of Regulations Section 11701.5(a) |
| **Over Nineteen:**To remain eligible for generating apportionment, a pupil over 19 years of age shall be continuously enrolled in public school in pursuit of a high school diploma while 19 years of age and without a break in public school enrollment since that time, is enrolled in the charter school and is making satisfactory progress toward award of a high school diploma and the pupil is not over the age of 22 years.[[6]](#footnote-6) | Education Code Section 47612Title 5 California Code of Regulations 11960(c) |
| **Funding Determination:**All non-classroom based charter schools must receive a funding determination from the State Board of Education in order to receive apportionment. | Education Code Section 47612.5; Title 5 California Code of Regulations Section 11963.2 – 11963.7 |

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| **Documentation Requirements:**A local educational agency shall document each pupil’s participation in live interaction and synchronous instruction pursuant to Section 51747 on each school day, as applicable, in whole or in part, for which independent study is provided.A pupil who does not participate in independent study on a school day shall be documented as non-participatory for that school day.A local educational agency shall maintain written **or** computer-based evidence of pupil engagement that includes, but is not limited to, a grade book or summary document that, for each class, lists all assignments, assessments, and associated grades.Maintaining records to meet audit requirements is the responsibility of the charter school. These records may be on site(s). Records shall include but not be limited to:1. A copy of adopted governing board policy and procedures.
2. A separate listing of the pupils, by grade level, program and school, who have engaged in independent study, identifying units of the curriculum undertaken and units of the curriculum completed by each of those pupils in kindergarten and grades 1 to 8, inclusive, and identifying course credits attempted by and awarded to each of those pupils in grades 9 to 12 inclusive, as specified in their written agreements.
3. A file of all agreements, including representative samples of each pupil's work products bearing signed or initialed and dated notations by the supervising teacher indicating that he or she has personally evaluated the work, or that he or she has personally reviewed the evaluations made by another certificated teacher.
4. A daily attendance credit register, as appropriate to the program in which the pupils are enrolled, separate from classroom attendance records, and maintained on a current basis as time values of pupil work products are personally judged by a certificated teacher, and reviewed by the supervising teacher if they are two different persons.
 | Education Code Section 51747.5(c) and (d)Title 5 California Code of Regulations Section 11703 |

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1. Independent study law was written with school districts and county offices in mind – the following definitions are used to apply the laws to charter schools: Title 5 California Code of Regulations Section 11700.1. Additional Definitions Applicable to Charter Schools

	1. “Certificated employees,” in charter schools, means employees meeting the requirements of subdivision (l) of Education Code Section47605.

	1. “Classroom instruction,” with reference to a charter school, means classroom instruction provided either by the charter school or by another public school that the pupil is eligible to attend.
	2. “School district” or “district,” for the purposes of this subchapter and of Article 5.5 (commencing with Section 51745) of Chapter 5 of Part 28 of the Education Code, means a school district or a charter school, unless the context clearly indicates otherwise. [↑](#footnote-ref-1)
2. "Missed assignment" means any specified independent study assignment that has not been turned in, or evidenced as completed, by a pupil by the due date for the assignment. [↑](#footnote-ref-2)
3. 51747(d)-(f) shall not apply to pupils that participate in an independent study program for fewer than 15 schooldays in a school year and pupils enrolled in a comprehensive school for classroom-based instruction who, under the care of appropriately licensed professionals, participate in independent study due to necessary medical treatments or inpatient treatment for mental health care or substance abuse. Local education agencies shall obtain evidence from appropriately licensed professionals of the need for pupils to participate in independent study pursuant to this subdivision. (51747(i)) [↑](#footnote-ref-3)
4. The CDE sent around a memo in 2005 which opined that “daily engagement” attendance accounting and time value attendance accounting to apply to charter schools. In practice, this means a charter school only collects apportionment for any daily engagement of a student on work assigned by the teacher but only on days the school is in session (not holidays or weekends). Then, the credentialed supervising teacher is obligated to also judge the time value of the work product of the pupil. [↑](#footnote-ref-4)
5. The Education Code and audit guide have removed the signature/initial/date notation on work samples. The regulation has not yet been revised to do the same. [↑](#footnote-ref-5)
6. There are exceptions for certain charter schools with exclusive partnerships with federal job corps, Conservation Corps, Workforce Innovation and Opportunity Act, Youth Build programs, and juvenile court school programs. [↑](#footnote-ref-6)