



November 29, 2021

Hon. Rob Bonta
Attorney General
1300 I Street, 17th Floor
Sacramento, California 95814

Attention: Ms. Anabel Renteria
Initiative Coordinator

Dear Attorney General Bonta:

Pursuant to Elections Code Section 9005, we have reviewed the proposed constitutional initiative (A.G. File No. 21-0033, Amendment No. 1) related to a student's right to a high-quality public education.

Background

State Required to Provide a Public School System. The California Constitution requires the state to organize and fund a system of public schools that operates at least six months per year. Children in California currently may enroll in free public schools in kindergarten and grades 1 through 12 (K-12). The state also provides public preschool to three- and four-year olds from low-income families, though funding is not sufficient to serve all eligible children. The public school system consists primarily of school districts and charter schools, as well as a small number of schools operated by county offices of education and a few schools operated directly by the state.

State Is the Primary Source of Funding for Schools. Over 70 percent of the total funding for K-12 education comes from an allotment of state General Fund and local property tax revenue that the Constitution requires to be set aside for public schools and community colleges. The state allocates nearly all of the constitutional allotment to public schools through a per-pupil formula. The other roughly 30 percent is from a combination of local property taxes and federal funding.

State Law Regulates School Operations in Many Areas. For example, the law requires school district students to take standardized tests in several subjects, specifies the courses that students must complete to earn a high school diploma, and specifies the reasons a district may suspend or expel a student. State law also sets requirements related to school employees. For example, the law requires districts to hire teachers with state teaching credentials, establishes a number of steps districts must follow before dismissing or laying off employees, and sets forth many rules for negotiating over pay and job responsibilities. The state exempts charter schools from many laws pertaining to school districts, in exchange for following the terms of their

charters. For example, charter schools decide locally on their governance structure and have more flexibility in developing their budgets. On the other hand, charter schools remain subject to a number of state requirements. For example, charter school students take the same standardized tests as school district students.

Local Governing Boards Have Autonomy Over Key Implementation Details. Although state law sets requirements for various aspects of how schools should operate, local governing bodies of school districts, charter schools, and county offices of education have discretion over how to implement their educational programs. For example, local governing boards decide on the number of credentialed or classified staff to hire and determine class sizes at each of their school sites. Local governing boards also generally have discretion (within state requirements) over the operation of the schools in their boundaries (including school site location), equipment purchases, extracurricular activities, and other functions essential to the day-to-day operation of schools within the entities' boundaries.

Proposal

Establishes the Right to a “High-Quality” Public Education. This measure amends the California Constitution to establish the right to a high-quality public education that provides students with the “skills necessary to fully participate in the economy, our democracy, and our society.” This right would apply to all public school students attending preschool or enrolled in an elementary or secondary school. The measure also specifies that any state or local law, regulation, policy, or official action affecting students generally that does not “put the interests of students first” shall be deemed to deny the right to a high-quality education. Under the measure, an action to enforce the right to a high-quality public education may be brought by any parent or guardian of a public school student or a nonprofit organization representing public school students.

Specifies the Types of Remedies That Can Be Ordered by the Courts. The measure limits the types of remedies that can be ordered by the court in the event that it deems a law, regulation, policy, or official action as denying students' rights to a high-quality public education. Specifically, a court may invalidate or enjoin a law, regulation, policy, or official action that violates the new provisions. A court would be unable to implement other remedies, such as awarding damages to a defendant or ordering the state or local governing boards to take specific actions.

Fiscal Effects

To the extent lawsuits are filed to challenge the validity of laws, regulations, policies, or official actions adopted by the state or local governing boards in providing students the right to a high-quality education, the measure would increase litigation and court-related costs for the state and local governing boards. The magnitude of the increased costs is unknown and would depend significantly on the number of lawsuits that are filed on behalf of public school students. A court ruling to invalidate or enjoin a state or local law, regulation, policy, or official action may result in changes to state or local spending on educational programs if the state or local governing boards independently decide to take such actions.

Summary of Fiscal Effects. This measure would have the following major fiscal effect:

- Unknown litigation and court-related costs for the state and schools that would depend significantly on the number of lawsuits filed on behalf of public school students.

Sincerely,

for Gabriel Petek
Legislative Analyst

for Keely Martin Bosler
Director of Finance