



October 7, 2025

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Oct 07 2025

Attention: Ms. Anabel Renteria
Initiative Coordinator

INITIATIVE COORDINATOR
ATTORNEY GENERAL'S OFFICE

Dear Attorney General Bonta:

Pursuant to Elections Code Section 9005, we have reviewed the proposed constitutional and statutory initiative related to funding for students who attend private schools or are educated at home (A.G. File No. 25-0014).

BACKGROUND

California Has 6.6 Million Students Receiving a Preschool, Elementary, or Secondary Education. Most children in California receive their education at their local public school, but some families choose private schools or homeschooling instead. For four-year old children, parents can choose among several preschool programs in addition to regular public and private schools. California currently has more than 6.6 million children receiving some form of preschool, elementary, or secondary education—5.8 million in public schools, 494,000 in private schools, 175,000 in homeschool settings, and 165,000 in various preschool programs.

Public Schools

State Required to Provide a Public School System. The California Constitution requires the state to organize and fund a free system of public schools. This system consists primarily of school districts and charter schools. The state has 937 school districts operating 8,500 individual schools and enrolling nearly 5.1 million students. School districts are responsible for educating all students living within their attendance areas, except for students who have chosen another public or private school option. Charter schools are an alternative to schools operated by districts. The state has 1,259 charter schools enrolling more than 700,000 students. Charter schools are responsible for enrolling all interested students up to their maximum capacity. Charter schools operate under locally developed agreements (“charters”) that define their


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educational goals, services, and programs. Charter schools are typically monitored by the school districts in which they are located.

State Law Regulates Public School Operations. For example, the law requires school district students to take standardized tests in several subjects, determines 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 and federal laws also require districts to provide various services to students with disabilities. Charter schools are subject to some state requirements that apply to other public schools, such as standardized testing for students. However, the state exempts charter schools from many other laws pertaining to school districts. For example, charter schools decide locally on their governance structure and have more flexibility in developing their budgets.

Public Schools Primarily Funded Through Proposition 98. Funding for public schools currently totals \$139.5 billion (\$24,045 per student) annually. The largest source of funding—about \$102 billion (\$17,594 per student)—is an allotment of state General Fund and local property revenue set aside for schools under a minimum funding requirement established by Proposition 98 (1988). The state calculates this minimum requirement each year using formulas in the California Constitution. In most years, the state must allocate nearly 40 percent of General Fund revenue to meet this requirement. Schools pay for most of their general operating expenses (including teacher salaries, books, and supplies) using these funds.

Other School Funding Comes From Federal, State, and Local Sources. The remaining public school funding—totaling about \$37 billion in 2025-26—comes from various federal, state, and local sources. This money includes federal funds to support students with disabilities, state funds to help pay for teacher pensions, and state and local funds for building and updating school facilities.

Private Schools

Private Schools Educate Approximately 494,000 Students. The latest available data show that California has 2,958 private schools enrolling about 494,000 elementary and secondary school students. Most private schools are located in urban areas, but nearly all counties in the state have at least one private school. Approximately 70 percent of private school students attend religiously affiliated schools and 30 percent attend nonreligious schools. Most private school students attend schools that are incorporated as nonprofit organizations, but some schools are unincorporated or organized on a for-profit basis.

Private Schools Operate With Minimal State Regulation. In contrast to the public school system, the state has relatively few laws governing private schools. With one exception, the state does not certify or monitor private schools. (The state does oversee private schools with contracts to educate public school students with disabilities.) Private schools have much more autonomy than school districts or charter schools, and they can generally operate as long as they can attract students willing to pay tuition. For example, private schools develop their own curriculum and goals for student learning, including graduation requirements and any required testing.

State Has a Few Basic Requirements for Private Schools. Most notably, the law requires private schools to provide instruction in the same general areas as public schools; keep records of

student attendance; and file affidavits identifying their address, contact information, and enrollment. State law also establishes a few rules related to health and safety. For example, private schools must (1) conduct background checks on employees who will interact with students, (2) meet fire and earthquake safety requirements for their buildings, and (3) ensure students are immunized against certain diseases. (The law waives some rules for smaller schools.)

Private Schools Generate Most of Their Revenue From Tuition. Available data suggest that private school tuition in California averages roughly \$17,000 per year for elementary schools and \$23,000 per year for high schools. Tuition varies widely, however, with many schools charging much less than average and a small number charging more than twice the average. Available data also suggest that roughly one in three students attending a private school receives some type of tuition discount, generally based on financial need or having a sibling enrolled at the same school. In addition to tuition, many private schools ask students to pay for books and supplies. Many private schools supplement their tuition revenue with fundraising and donations.

California Constitution Prohibits State Funding for Private Schools. The Constitution prohibits the state from funding schools that are outside of the public school system. It also prohibits funding for religious organizations, including religiously affiliated schools. The state, however, does exempt nonprofit private schools from income taxes and local property taxes.

Homeschool

Approximately 175,000 Students Are Educated Through Homeschooling. Homeschooling refers to an arrangement in which students receive most of their education at home under the direction of their parents or other adults (such as private tutors). The parents or other adults are responsible for arranging lessons and materials for these students. We estimate that approximately 175,000 students are homeschooled in California. Similar to private schools, the state does not oversee or provide any funding for these students.

Preschool

Most Four-Year Old Children Enroll in Public Schools. Approximately 400,000 four-year old children live in California. Attending school is optional for these children, but most parents enroll them in a public program known as transitional kindergarten. Transitional kindergarten is a free program provided by school districts and charter schools to prepare four-year olds for kindergarten. The state funds these children the same way it funds other students in public schools.

Some Four-Year Old Children Participate in Other Preschool Options. Families can select among several alternatives to transitional kindergarten. For example, some low-income families choose other publicly funded programs, such as the California State Preschool Program or federally funded Head Start program. Families can also select a private preschool provider. Other families decide not to enroll their children in any formal preschool program. We estimate that roughly 160,000 four-year old children are participating in one of these alternatives to transitional kindergarten.

PROPOSAL

This measure establishes a program that would provide state funding for children age four and older who attend private schools or are educated at home. Below, we describe the main features of the program, explain how the state would administer it, and review the associated changes to the Constitution.

Proposed Program

Provides State Funding for Students in Private School or Homeschool Settings. Beginning in the 2027-28 school year, the measure allows California children age four or older who have not yet graduated from high school to open an Education Savings Account administered by the state. For each year that the student was not attending public school, the state would deposit \$17,000 in the student's account. After 2027-28, the measure requires the state to adjust the annual amount based on changes in the funding set aside for public schools under Proposition 98. The funds deposited into a student's account would be nontaxable for state income tax purposes. Students enrolled in public schools would not receive any funding through this program.

Students Could Use Funds for Private School Tuition and Other Educational Expenses. The measure allows students to use the funds in their accounts for two basic purposes. First, they could pay for the costs of attending private school, including tuition, fees, books, and supplies. Second, they could purchase goods or services from an approved educational vendor. The list of vendors would be determined after voters approve the measure, but potential examples include companies selling tutoring services, test preparation materials, and educational equipment (such as calculators or computers). The measure would prohibit schools and vendors from receiving funds from the accounts of students who were related to any of their employees or owners. For example, parents could not register as vendors to be paid for tutoring their own children.

Unused Funds Would Roll Over to Future Years. In some cases, a student would select a private school in which tuition and fees were less than the annual amount provided by the state. Similarly, a student being homeschooled might use only a small portion of their annual funding to pay an educational vendor. Under either scenario, the unused funding would remain in the student's account for future use. On the other hand, a student might enroll in a private school where tuition and fees exceed the amount provided by the state. The student would be responsible for paying the difference, but could draw upon any unused funds from previous years.

After Graduation, Remaining Funds Could Be Used for College Education. Students would not receive any additional funding after they completed their elementary and secondary school education. They could, however, use any remaining funds in their accounts to pay tuition and related expenses at an accredited college, university, or job training program located in California or another state. The measure requires the University of California, California State University, and California Community College systems to accept these funds as payments toward their eligible costs. For other institutions, accepting funds would be optional. Upon reaching adulthood, a student could transfer their unused funds to the account of a family member or spouse.

Establishes a Few Requirements for Participating Private Schools. The measure requires participating private schools to meet three basic requirements: (1) administer a nationally recognized test of student performance or measure student learning using a competency-based assessment every two years; (2) undergo an annual financial audit and submit the results to the state; and (3) periodically certify student attendance and eligible costs. The measure prohibits the state from adding any other requirements.

Prohibits State Regulation of Private School Curriculum and Academic Decisions. The measure grants participating private schools broad authority to “teach or not teach” any “subject, content, and information” as they deem appropriate. In addition, the measure prohibits the state from regulating private school decisions regarding (1) the selection of curriculum, such as the use of specific textbooks; (2) disciplinary policies for students or staff; or (3) requirements for teachers to have a state credential. The measure also allows participating private schools to maintain religious requirements for students and staff. For students educated at home, the measure prohibits the state and local governments from imposing any licensing requirements (such as child-to-adult ratios).

Administration

Establishes New Board to Administer the Program. The board would consist of nine members—five representatives of parochial (religious) schools, three representatives of nonreligious private schools, and one parent or guardian of an eligible child being educated at home. The Governor would appoint five members of the board. The Speaker of the Assembly, Senate President pro Tempore, and minority leaders of the Assembly and Senate would each appoint one member. Board members could serve two four-year terms. The board would process applications from interested students, manage student accounts, verify the eligibility of participating private schools, and determine the list of approved educational vendors. The board also would conduct random audits to verify student eligibility and investigate complaints about ineligible students or schools receiving funding.

Authorizes Annual Fee for Administrative Costs. The measure allows the board to cover its expenses by deducting an administrative fee from each student’s account. Initially, this fee could be up to 3 percent of the annual program amount (up to \$510 per student in 2027-28). The allowable fee would decrease as the number of students participating in the program exceeded certain thresholds. In addition to covering ongoing costs, the fee would reimburse the state for the program’s start-up costs.

Constitutional Changes

Allows State to Use Public Funding for Private Schools. The measure amends the California Constitution to eliminate the prohibition on using public funding for private schools (including religiously affiliated schools). The measure also allows the state to pay for the new program using Proposition 98 funds that are currently reserved for public schools. As part of this change, it would modify the calculation of the Proposition 98 funding requirement to include the attendance of students participating in this program (in addition to students attending public schools).

Prohibits Restrictions on Private Schools and Home-Based Education. The measure amends the California Constitution to prohibit the state from adopting restrictions on private schools or homeschooling. It specifically bans any limits on the enrollment or total number of private schools allowed to operate in the state. Additionally, the state and any local governments could not impose any building requirements or health standards on home-based programs that exceed the requirements for private residences or businesses.

Allows Parents to Opt Out of Controversial Instruction in Public and Private Schools. An existing state law allows parents of public school students to excuse their children from sexual education, including content related to sexual development, pregnancy, contraception, and the human immunodeficiency virus (HIV). Separate from this law, the U.S. Supreme Court recently determined that public schools must allow parents to excuse their children from certain instruction that contradicts their religious beliefs. This measure amends the California Constitution to establish a broader right for parents to excuse their children from any instruction they find “morally offensive or contrary to their convictions.” This right would apply to all parents of children enrolled in public or private schools.

FISCAL EFFECTS

We describe the measure’s fiscal major fiscal effects on the state and public schools below.

State Fiscal Effects

Increased State Costs, Ranging From Several Billion Dollars to More Than \$10 Billion Per Year. This measure would affect state costs in two main ways. First, we assume that most students currently enrolled in private schools, educated at home, or attending preschool would begin receiving \$17,000 per year. Depending on the exact level of participation, the total costs for these students could range from \$8 billion to \$13 billion per year. Second, some students who currently attend public schools would switch to private schools or homeschooling. These switchers would likely generate some savings because the \$17,000 provided by the program is somewhat less than the average amount the state spends on public school students. The total savings for the state could potentially range from a few hundred million dollars to a few billion dollars per year. Accounting for both the costs and savings, the net costs likely would range from several billion dollars to more than \$10 billion per year. The state could cover these costs in several ways, including reductions in funding for public schools and/or other programs supported by the state General Fund.

Public School Fiscal Effects

Reductions in State Funds to the Extent Students Leave Public Schools. By 2027-28, the state will likely spend an average of more than \$19,000 on each student in public schools. (This estimate assumes some growth in the Proposition 98 minimum requirement over the next few years. The actual amount per student could be higher or lower and will depend on trends in state revenue and other factors.) To the extent these students leave to attend private schools, public schools would experience corresponding reductions in funding. For example, if 2 percent of public school students were to opt for private schools, the associated reduction in state funding would be around \$2 billion. If 15 percent of public school students were to opt for private

schools, the associated reduction would exceed \$16 billion. (This reduction is separate from the reduction public schools would experience if the state used existing Proposition 98 funds to cover some of the costs for students currently enrolled in private schools.)

Reductions in Costs Related to Enrolling Fewer Students. With fewer students, public schools could employ fewer teachers and instructional aides. They could also purchase fewer textbooks, serve fewer meals, and transport fewer students. These cost reductions, however, likely would not offset the entire reduction in funding—particularly over the next few years—because some school costs do not depend directly on enrollment. For example, the costs of a school include salaries for the principal and office support staff, which do not decline in tandem with enrollment reductions. For both reductions in funding and reductions in costs, the magnitude would vary significantly for individual school districts and charter schools depending on the number of students leaving in particular areas.

Summary of Fiscal Effects

We estimate the measure would have the following major fiscal effects:

- For the state: increased costs, likely ranging from several billion dollars to more than \$10 billion per year, primarily driven by payments for students enrolled in private schools (or homeschooling). The state could pay for these costs using revenues it currently spends on public schools or other state programs.
- For public schools: reductions in state funding based on the number of students leaving public schools. This reduction could range from a few billion dollars to more than \$16 billion per year and is separate from any reduction the state might make to pay for its own costs. Public schools would likely respond by spending less on staff, supplies, services, and other activities.

Sincerely,



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for Joe Stephenshaw
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