

**S.91 As Introduced**  
**&**  
**Some Potential Options to Keep, Amend, or Delete Language**  
**(02.05.14)**

*The following are the requirements per S.91 As Introduced*

**(1) Schools to which legislation would apply**

- A. if the school is primarily intended for and attended by general education students (*i.e.*, it is not a school created especially to provide SpEd) AND
- B. if more than one-third of enrolled students are funded in whole or in part by public tuition dollars

**(2) Criteria to receive publicly-funded tuition dollars**

- A. enrollment not determined or denied based on a protected class
- B. blind admission on space-available basis
- C. approved for SpEd in at least 4 categories / arrange for any others as needed
- D. state assessments for ALL enrolled students (current law requires for publicly funded)
- E. free and reduced-price meals
- F. licensed teachers and administrators

**(3) Effective date (*As Introduced in 2013*)**

Apply to tuition payments for 2014-2015 enrollments and after

Note that there could be a hybrid approach – *e.g.*:

- certain criteria (*e.g.*, SpEd, school meals, etc.) would apply if more than a certain percentage of enrolled students are publicly funded, but if a school *also* enrolled more than a certain *total number* of publicly-funded and private-pay students, then it would *also* have to comply with additional criteria (*e.g.*, blind admission, licensing, etc.)
- certain criteria would apply if more than a certain percentage of enrolled students are publicly funded and/or if the total enrollment (public and private) exceeded a certain number, and additional criteria would apply if the school was one of the “academies”
- the timeline for compliance with criteria could vary depending on the size of the school, the percentage of students who are publicly funded, whether it is an “academy, ”etc.
- the level of compliance (*e.g.*, the number or percentage of teachers who must be licensed) could vary depending on the size of the school, the percentage of students who are publicly funded, whether it is an “academy, ”etc.

Which Schools?

**(B) If more than one-third of enrolled students are funded by public tuition dollars**

1. keep as written in S.91:

(2) The provisions of subdivision (1) of this subsection shall not apply to an independent school that meets one or more of the following conditions:

(A) The school is not primarily intended for or attended by general education students.

(B) The tuition for no more than **one-third** of the total number of enrolled students, based on the average enrollment for the three prior years, is paid in whole or in part by one or more school districts.

2. amend the percentage, so that requirements apply to schools with:

- a. a larger percentage of publicly-funded students
- b. a smaller percentage of publicly-funded students

3. base applicability on number of students (EITHER instead of OR in addition to percent):

a. total number of students enrolled (both publicly-funded and private-pay):

(B) The independent school enrolls fewer than [NUMBER] students, based on the average enrollment for the three prior years.

b. number of publicly-funded students:

(B) The independent school enrolls fewer than [NUMBER] students for whom tuition is paid in whole or in part by one or more school districts, based on the average enrollment for the three prior years.

4. delete all language currently in (B) (*i.e.*, all independent schools organized to provide general education could receive publicly funded tuition only by complying with the required criteria regardless of the size of the school or the percentage or number of publicly funded students)

**What Criteria?**

**(A) Admission cannot be based on protected class**

1. keep as written in S.91:

(A) does not determine or deny enrollment on the basis of race, creed, color, national origin, marital status, sex, sexual orientation, gender identity, or disability;

2. delete any explicit statement related to protected class

**(B) Blind admission on space-available basis**

1. keep as written in S.91:

*(B) maintains a “blind admission policy” by accepting for admission on a space-available basis all publicly funded students who apply;*

2. delete any requirement related to blind admissions

3. amend the requirement in some way, e.g.:

- a. blind admission for students residing in the town in which the school is located:

*(B) maintains a “blind admission policy” by accepting for admission on a space-available basis all publicly funded students who apply and who reside in the municipality in which the school is located;*

- b. blind admission only for students within some larger geographical boundary (e.g., all towns that historically send students)

- c. blind admissions for *all* students (not just publicly funded):

*(B) maintains a “blind admission policy” by accepting for admission, on a space-available basis, all students who apply;*

**Note** that if the criterion is retained in some form, then the Committee may want to consider adding a grandfathering provision so that a currently enrolled student selected under the pre-S. 91 standards could not be displaced as a result of this S.91 criterion

**(C) Approved for SpEd in at least 4 categories / arrange for any others as needed**

1. keep as written in S.91:

*(C) is approved for special education purposes in at least four disability categories and arranges for the provision of special education services related to any other disability category if required in an enrolled student's individualized education plan;*

2. delete any requirement related to SpEd
3. amend the requirement in some way:

[several of the interested parties have been discussing alternative language – one or more suggested alternatives should be available on Thursday, Feb 6]

**(D) Free and reduced-price meals**

1. keep as written in S.91:

*(D) provides free and reduced-price meals to enrolled students pursuant to section 1264 of this title;*

2. delete any requirement related to school meals

**(E) Licensed teachers and administrators**

1. keep as written in S.91:

*(E) employs licensed teachers and administrators pursuant to section 1692 of this title.*

2. delete any requirements requiring licensed educators
3. delete any requirements requiring licensed educators except as they relate to SpEd services

[language would probably be included in any requirement to provide special education services]

4. require that a certain percentage of teachers in each grade / subject area are licensed
5. create more / other alternative paths to licensure, such as ...
6. phase in whatever requirements are chosen
7. grandfather currently employed teachers

[there may be new language / concepts available for review on Thursday]