

SPECIAL EDUCATION STUDENTS AND THE CAHSEE EXAM

In July the legislature passed and the Governor signed a series of bills that amended the 2009-10 state budget. One of these bills, AB 4x 2 (Evans), included language that altered the requirement that special education students pass the California High School Exit Examination (CAHSEE). This section included at the bottom of this document.

Background

Passing the California High School Exit Exam (CAHSEE) has been part of the states graduation requirements beginning with the Graduation Class of 2006. The issue of a pupil with disabilities passing the CAHSEE has always been a sensitive one. Pupils with disabilities have been able to request a waiver of the requirement of passing the CAHSEE if they meet specific requirements (Education Code Section 60851 (c)).

Often, pupils with disabilities have not been able to receive a waiver from taking the CAHSEE; as a result, the legislature enacted a provision of law (Education Code 60852.4) that allowed certain pupils with disabilities who were unable to receive a waiver, to meet a series of seven criteria to receive an exemption of the CAHSEE requirement. This exemption sunset on December 31, 2007. Effective in January 2008, pupils with disabilities, who did not seek a waiver from taking a CAHSEE, were required to pass the CAHSEE graduation requirement in order to receive a high school diploma.

2009 Changes to CAHSEE & Special Education Students

As part of the 2009-10 Budget deal, AB 4x 2, section 30, was included to exempt eligible pupils with disabilities from having to pass the CAHSEE graduation requirement in order to receive a high school diploma.

An eligible pupil with a disability is defined as a pupil with an individualized education program (IEP) or a 504 Section plan that indicates the pupil is scheduled to receive a high school diploma, and that the pupil has satisfied or will satisfy all other state and local requirements for the receipt of a high school diploma, on or after July 1, 2009.

Beginning with the 2009-10 school year, an eligible pupil with a disability is not required to pass the high school exit exam as a condition of receiving a diploma of graduation or as a condition of graduation from high school. This exemption will remain in effect until the State Board of Education (pursuant to Section 60852.1) makes a determination that the "alternative means" by which an eligible pupil with disabilities may demonstrate the same level of academic achievement in the content standards in English language arts or mathematics portions of, or those content standards required for passage of, the high school exit exam are: 1) not feasible or 2) alternative means have been implemented.

SPI & SBE Panel Required to Present Recommendations

The evaluation of "alternative means" was a provision that was placed into law via AB 2040 (Nunez, Chapter 666, Statutes of 2008) which required the Superintendent of Public Instruction

to convene an advisory panel to look at "alternative means" by which an eligible pupil with disabilities may demonstrate the same level of academic achievement in the content standards in English language arts or mathematics portions of, or those content standards required for passage of, the high school exit exam are: 1) not feasible or 2) alternative means have been implemented.

The panel is required to present its options and make its findings to the Superintendent of Public Instruction and the State Board of Education by October 1, 2009. The State Board of Education (SBE) would then have until October 1, 2010, to assess these proposed alternatives and then if feasible present them in the form of Title 5 Regulations.

Pupils with Disabilities from the Classes of 2008 & 2009

Unfortunately, there was a year and half window between the 2009-10 Budget language and the expiration of "Education Code Section 60852.4" when an eligible pupil with a disability was required to pass CAHSEE in order to receive a high school diploma.

So, what happens to the eligible pupil with a disability who was on track to graduate in 2008 or 2009 but failed to pass the CAHSEE? These pupils did not receive a high school diploma. In light of the 2009-10 Budget trailer bill language, would this student then become eligible to receive a diploma under this new provision of law?

The Legislative staff member who worked on AB 2040 (requiring an evaluation of alternative means) and also crafted the 2009-10 Budget language, strongly believes that the 2009-10 Budget language permits a school district to award a diploma to students who have completed the non-CAHSEE graduation requirements prior to July 1, 2009.

What Should Districts Do Now?

There appear to be a number of logistical issues that need to be clarified based on the new CAHSEE exemption and whether the CAHSEE exemption applies retroactively to cover the graduating class of 2008 and 2009.

While we wait for clarification on these important issues, school districts may want to consult with legal staff and reexamine your 2008 and 2009 graduating class to determine if you have any eligible pupils with a disability who "have satisfied" all other graduation requirements as of July 1, 2009, but did not pass CASHEE. As we get additional information we will keep you informed.

AB 4x 2 (Evans), Section 30

Section 60852.3 is added to the Education Code

60852.3. (a) Notwithstanding any other provision of law, commencing with the 2009-10 school year, an eligible pupil with a disability is not required to pass the high school exit examination established pursuant to Section 60850 as a condition of receiving a diploma of graduation or as a condition of graduation from high school.

(b) This exemption shall last until the state board, pursuant to Section 60852.1, makes a determination that the alternative means by which an eligible pupil with disabilities may demonstrate the same level of academic achievement in the portions of, or those content standards required for passage of, the high school exit examination are not feasible or that the alternative means are implemented.

(c) For the purposes of this section, an eligible pupil with a disability is a pupil with an individualized education program adopted pursuant to the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.) or a plan adopted pursuant to Section 504 of the federal Rehabilitation Act of 1972 (29 U.S.C. Sec. 794(a)) that indicates the pupil is scheduled to receive a high school diploma, and that the pupil has satisfied or will satisfy all other state and local requirements for the receipt of a high school diploma, on or after July 1, 2009.

(d) A local educational agency, as defined in Section 56026.3, shall not adopt an individualized education program pursuant to the federal Individuals with Disabilities Education Act or a plan pursuant to Section 504 of the federal Rehabilitation Act of 1972 for a pupil for the sole purpose of exempting the pupil from the requirement to pass the high school exit examination as a condition or receiving a high school diploma, unless that adoption is consistent with federal law.

(e) Pursuant to subdivision (b) of Section 60851, pupils with exceptional needs shall take the high school exit examination in grade 10 for purposes of fulfilling the requirements of the federal No Child Left Behind Act of 2001 (20 U.S.C. Sec. 7114).