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Exemption for Eligible Students with Disabilities

Questions and Answers regarding the California High School Exit Examination Exemption for Eligible Students with Disabilities: California Education Code Section 60852.3 (ABX4 2).

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12. Is there any required notification to the parent, local board of education, State Board of Education (SBE), or California Department of Education (CDE) regarding which students are eligible for the exemption?
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15. Are students with significant cognitive disabilities who participate in the California Alternate Performance Assessment (CAPA) eligible for the exemption?
16. Does this exemption affect instructional practices or intensive intervention courses?

1. What is *EC* Section 60852.3?

Beginning in the 2009–10 school year, California Education Code Section 60852.3 provides an exemption from meeting the CAHSEE requirement as a condition of receiving a diploma of graduation for eligible students with disabilities who have an individualized education program (IEP) or a Section 504 plan. The IEP or Section 504 plans must state that the student is scheduled to receive a high school diploma, and has satisfied or will satisfy all other state and local requirements for high school graduation, on or after July 1, 2009.

2. Should students with disabilities be encouraged to continue to attempt to pass the CAHSEE despite the change in the law?

Yes, the CAHSEE represents academic standards which all students should be encouraged to meet. Students should continue to take the CAHSEE, and to receive appropriate remedial instruction, as it is not prohibited by the new law. However, as described below, a student who is eligible for the exemption allowed by California Education Code Section 60852.3 may not be required to pass the CAHSEE in order to receive a diploma. Furthermore, local educational agencies are strongly encouraged to continue to offer remedial instruction and access to the CAHSEE.

3. Do students need to have a specific disability to be eligible for the exemption?

California Education Code Section 60852.3 states that any student with disabilities (any type of disability, for any duration)

who has an individualized education program (IEP) or Section 504 plan, and has satisfied or will satisfy all other state and local requirements for receipt of a high school diploma, is exempt from meeting the CAHSEE requirement as a condition of graduation.

4. How long will this exemption be in effect?

California Education Code Section 60852.3(b) states that this exemption will last until the State Board of Education (SBE) makes either a determination that alternative means to the CAHSEE for students with disabilities are not feasible or such alternative means have been implemented. At the July 14, 2010 SBE meeting, the SBE determined that an alternative means to the CAHSEE for eligible students with disabilities is feasible. Accordingly, the SBE is scheduled to commence the rulemaking process at its September 2010 meeting by which it will extend the implementation date from January 1, 2011, to July 1, 2012.

5. May a student with a disability who left high school between January 1, 2008 and July 1, 2009 without a diploma (because he or she did not pass CAHSEE) be allowed to re-enroll in high school and receive a diploma under the new law?

Under the Individuals with Disabilities Education Act (IDEA), students are entitled to special education services until age twenty-two or until they receive a diploma. Thus, a local educational agency (LEA) may be required to reopen and revise an individualized education program (IEP) for a student who left high school without receiving a diploma, if the student has not reached age twenty-two. If appropriate, the IEP team may revise the IEP of an eligible student. Such appropriate revisions should include additional quality instruction to help the student pass the CAHSEE and may include receiving a diploma without passing the CAHSEE. If the revised IEP calls for receipt of a diploma after July 1, 2009, and the student has satisfied or will satisfy all other graduation requirements, then the student may be exempted from the CAHSEE requirement under the new statute. It is within the discretion of the IEP team to determine what revisions to the IEP, including further instruction, are appropriate for a particular student. A dispute over that determination would be subject to due process.

Students with only Section 504 plans do not have the same procedural protections as students with IEPs. Federal regulations indicate that one way to guarantee Free Appropriate Public Education (FAPE) under Section 504 is to provide the same procedural protections as required under the IDEA. However, since the rules are not identical, LEA personnel should consult with local counsel when adopting or applying policies regarding re-enrolling students with only Section 504 plans for purposes of receiving a diploma under the new exemption statute.

6. Does this exemption apply to students with disabilities with IEPs or 504 plans who completed all graduation requirements, except passing the CAHSEE, and received a certificate of completion in 2008 or 2009?

Yes, students with IEPs or Section 504 plans who completed all graduation requirements, except passing the CAHSEE, and received a certificate of completion in 2008 or 2009, are eligible for this exemption as described in question 5 above.

7. Is a student enrolled in an adult school eligible for the exemption?

A student enrolled in an adult school offered by a kindergarten through grade twelve (K-12) public school district, who left high school without receiving a diploma, should be treated the same as any other student described in questions 5 and 6 above.

8. May a district adopt an IEP or 504 plan for the sole purpose of exempting the student from the CAHSEE requirement?

No, the new law expressly prohibits adopting an IEP or Section 504 plan for that purpose if the student is or was not previously eligible for special education and related services.

9. Does the IEP or 504 plan need to document whether or not the student is exempt from passing the CAHSEE?

The Individuals with Disabilities Education Act (IDEA) and the Elementary and Secondary Education Act (ESEA) require that the IEP and Section 504 plan address how the student will participate in statewide assessments. If a student with disabilities will not be taking the CAHSEE this year, that should be noted in the IEP or Section 504 plan and should state that the

student will meet the CAHSEE requirement through the exemption.

10. May students with an IEP or 504 plan continue to take the CAHSEE or request a local waiver or must they be exempt from taking the CAHSEE?

The Individuals with Disabilities Education Act (IDEA) and Section 504 plan state that students with disabilities should participate in all state and district wide assessments with any accommodations or modifications that are documented in their IEP or Section 504 plan. Since the waiver provisions of California Education Code Section 60851(c) are still in effect, students with IEPs or Section 504 plans may agree to continue to take the CAHSEE or request a local waiver.

11. May districts require students with disabilities to take CAHSEE beyond grade ten until they pass or score at least 350 with modifications and qualify for a waiver?

No, the student's right to an exemption is state law and LEAs do not have authority to impose the requirement locally. However, as discussed above, a student should be encouraged to continue to take the CAHSEE with appropriate instructional support as addressed in a revised individual education program (IEP) or Section 504 plan.

12. Is there any required notification to the parent, local board of education, State Board of Education or California Department of Education (CDE) regarding which students are eligible for the exemption?

California Education Code Section 60852.3 does not require that parents, local boards of education, the SBE, or the CDE be notified regarding which students are eligible for the exemption. Eligibility is determined by the individual education program or Section 504 plan team of which the parent is a member. Local educational agencies may develop their own forms for internal purposes. Parent notification with regard to this exemption should be treated like any other issue affecting eligibility for special education.

13. Must students with disabilities currently in grade ten take the CAHSEE?

All grade ten students must participate in the CAHSEE to satisfy Adequate Yearly Progress (AYP) requirements. The exemption from passing the CAHSEE for purposes of receiving a diploma of graduation does not affect the requirement of taking the CAHSEE in grade ten.

Note: Students with significant cognitive disabilities who participate in the California Alternate Performance Assessment (CAPA) satisfy participation in AYP and do not take the CAHSEE in grade ten.

14. Does the exemption apply to students with disabilities currently in grades eleven and twelve?

The exemption applies to students with disabilities currently in grades eleven and twelve who have individual education programs (IEPs) or Section 504 plans that indicate the student is scheduled to receive a high school diploma, and that the student 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. Students are not required to pass the CAHSEE, but are not precluded from taking the examination. This should be determined by the IEP and Section 504 plan teams.

15. Are students with significant cognitive disabilities who participate in the CAPA eligible for the exemption?

Students with significant cognitive disabilities that have an individual education program (IEP) or Section 504 plan generally participate in an alternative curriculum that has significantly modified grade-level standards. These students are not typically scheduled to receive a high school diploma. However, if the student has satisfied or will satisfy all other state and local graduation requirements on or after July 1, 2009, then the student would be exempt from passing the CAHSEE in order to earn a high school diploma. The student would then be awarded a diploma.

Note: Students who earn a high school diploma or reach age twenty-two are no longer eligible to receive special education support and services.

16. Does this exemption affect instructional practices or intensive intervention courses?

The Individuals with Disabilities Education Act (IDEA) and Section 504 require access to grade-level curriculum. Therefore, the exemption of the requirement to pass the CAHSEE should not limit students' access to the general curriculum.

Local educational agencies (LEAs) are encouraged to continue providing intensive instruction even though California Education Code Section 42605 authorizes categorical program flexibility. LEAs have flexibility in the use of the identified categorical program funds for 2008–09 through 2012–13. Program or funding requirements, as otherwise provided in statute, are not in effect.

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