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# SENATE COMMITTEE ON EDUCATION

Senator Benjamin Allen, Chair

2017 - 2018 Regular

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| <b>Bill No:</b>    | AB 2109      | <b>Hearing Date:</b> | June 6, 2018 |
| <b>Author:</b>     | O'Donnell    |                      |              |
| <b>Version:</b>    | May 25, 2018 |                      |              |
| <b>Urgency:</b>    | No           | <b>Fiscal:</b>       | Yes          |
| <b>Consultant:</b> | Lynn Lorber  |                      |              |

**Subject:** Pupils: pupils with a temporary disability: individual instruction: pupils who are terminally ill: honorary diplomas.

## SUMMARY

This bill authorizes a student with a temporary disability to remain enrolled in a school district or charter school while receiving individual instruction in a hospital or other residential health facility, and requires such student to be allowed to return to same school that the student attended immediately prior to receiving individual instruction or to a school in the district of residence, as specified.

## BACKGROUND

Existing law:

- 1) Requires that a student with a temporary disability which makes attendance in the regular day classes or alternative education program impossible or inadvisable receive individual instruction provided by the district in which the student is deemed to reside. (Education Code § 48206.3)
- 2) Provides that, for purposes of computing average daily attendance, each clock hour of teaching time devoted to individual instruction counts as one day of attendance. (EC § 48206.3)
- 3) Deems a student with a temporary disability who is in a hospital or other residential health facility, excluding a state hospital, which is located outside of the school district in which the student resides as having complied with the residency requirements for school attendance in the school district in which the hospital is located. (EC § 48207)
- 4) Requires a school district, upon notification of the student's presence in a qualifying hospital, do all of the following:
  - a) Within five working days of receipt of the notification, determine whether the student will be able to receive individualized instruction, and, if the determination is positive, when the individualized instruction may begin. Existing law requires individualized instruction to begin no later than five working days after the positive determination has been rendered.
  - b) Provide the student with individualized instruction. Existing law authorizes the school district to enter into an agreement with the school district in which the student previously attended regular day classes or an

alternative education program, to have the prior school district provide the individualized instruction.

- c) Within five working days of the beginning of individualized instruction, provide the prior school district with written notice that the student is not to be counted by that district for purposes of average daily attendance, effective the date on which individualized instruction began. (EC § 48208)
- 5) Provides the following definitions:
- a) “Individual instruction” means instruction provided to an individual student in the student’s home, in a hospital or other residential health facility, excluding state hospitals, or under other circumstances prescribed by regulations adopted for that purpose by the State Board of Education.
  - b) “Temporary disability” means a physical, mental, or emotional disability incurred while a student is enrolled in regular day classes or an alternative education program, and after which the student can reasonably be expected to return to regular day classes or the alternative education program without special intervention. Existing law provides that a temporary disability does not include a disability for which a student is identified as an individual with exceptional needs. (EC § 48206.3)
- 6) Authorizes the governing board of any school district maintaining a high school to confer honorary high school diplomas upon foreign exchange students from other countries who have not completed the course of study ordinarily required for graduation, and who are returning to their home countries following the completion of one academic school year in a school district in the state. Existing law requires honorary high school diplomas to be clearly distinguishable from the regular diplomas of graduation awarded by the district. (EC § 51225.5)

## ANALYSIS

This bill:

### *General*

- 1) Authorizes a school district or charter school to continue to enroll a student with a temporary disability who is receiving individual instruction in a hospital or other residential health facility in order to facilitate the timely reentry of the student in his/her prior school after the hospitalization has ended, or in order to provide a partial week of instruction to a student who is receiving individual instruction for fewer than five days per week.
- 2) Requires that a student who received individual instruction and who is well enough to return to a school to be allowed to return to the school (including a charter school) that the student attended immediately before receiving individual instruction, if the student returns during the same school year in which the individual instruction was initiated.

- 3) Requires that a student who is enrolled in individual instruction in a hospital or other residential health facility for a partial week to be entitled to attend school in the district of residence (or receive individual instruction at home from the district of residence) on days in which the student is not receiving instruction in a hospital or other facility.
- 4) Clarifies that a student with a temporary disability is to receive individual instruction at home provided by the school district in which the student is a resident, or individual instruction in a hospital or other residential health facility (except a state hospital) provided by the school district in which the facility is located.
- 5) Clarifies that individual instruction *in a student's home* is to begin no later than five working days after the school district has determined that the student is to receive individual instruction (current law does not clearly include in-home instruction in this timeline).
- 6) Clarifies that nothing in this bill is to be construed to limit any rights accruing to a student with a temporary disability who is also identified as an individual with exceptional needs.
- 7) Requires the supervisor of attendance to ensure that absences from a student's regular school program are excused until the student is able to return to the regular school program.

#### *Average Daily Attendance (ADA)*

- 8) Specifies that, for purposes of calculating ADA, a student may only be counted:
  - a) By the school district of residence or charter school for days on which the student is in attendance in that school district or charter school.
  - b) By the school district in which the hospital or other facility is located for days on which the student is receiving instruction in the hospital or facility.
- 9) Prohibits the total attendance counted for purposes of calculating ADA, including days of attendance in a hospital or other facility, from exceeding five days per week.

#### *Honorary high school diploma*

- 10) Authorizes the governing board of a school district or county office of education, and the governing body of a charter school maintaining a high school to confer an honorary high school diploma upon a student who is terminally ill.

#### *Miscellaneous*

- 11) Requires the currently-required notice of the availability of individual instruction to include information regarding a student's eligibility for, and the duration of,

individual instruction.

- 12) Changes references to “individualized instruction” to “individual instruction.”
- 13) Deletes an obsolete section that authorizes school districts that had a program of individual instruction prior to 1986, to continue to operate such program.

### STAFF COMMENTS

- 1) ***Need for the bill.*** According to the author, “Unfortunately, unclear statutes have led some school districts to disenroll students once they become students of a hospital school. This means that parents have to re-enroll their students, which can lead to delays in students attending school, or students being unable to return to their prior school, particularly if the school or program is in high demand. The practice of disenrolling hospital students has led to situations where students who require a partial week of instruction (e.g. two days per week of kidney dialysis) are unable to attend school in their home districts for the remaining days of the week. When a student remains enrolled during hospital instruction, they are sometimes marked absent by their home school district.”
- 2) ***Number of students accessing home and hospital instruction.*** According to the California Department of Education, for the 2016-17 school year, there were a total of 99,681 distinct students who were reported as either enrolled in a home/hospital school or taking courses with a home/hospital instructional strategy.
- 3) ***Fiscal impact.*** According to the Assembly Appropriations Committee, this bill would impose potentially reimbursable ongoing mandate costs, likely in the thousands of dollars annually, for schools to inform parents about policies regarding home and hospital instruction and grant honorary diplomas to terminally ill students.

### SUPPORT

American Academy of Pediatrics  
 American Kidney Fund  
 America’s Physician Groups  
 Association of California School Administrators  
 Bay Area Student Activists  
 California Action Link for Rare Diseases (Cal Rare)  
 California Federation of Teachers  
 California Hospital Association  
 California Immigrant Policy Center  
 California School Boards Association  
 California School Employees Association  
 California School Nurses Organization  
 California Teachers Association  
 Los Angeles Unified School District  
 Lucile Packard Children’s Hospital Stanford  
 San Bernardino County District Advocates for Better Schools  
 UCSF Benioff Children’s Hospital Oakland  
 Numerous individuals

**OPPOSITION**

None received

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