

Date of Hearing: April 11, 2018

ASSEMBLY COMMITTEE ON EDUCATION
Patrick O'Donnell, Chair
AB 2109 (O'Donnell) – As Amended April 4, 2018

SUBJECT: Pupils: pupils with a temporary disability: individual instruction: pupils who are terminally ill: honorary diplomas

SUMMARY: Ensures that students who have been hospitalized or receiving instruction at home due to a serious illness are able to return to school in a timely manner or to attend school on days that they are not receiving treatment, and authorizes schools to grant honorary diplomas to students who are terminally ill, among other changes. Specifically, **this bill:**

- 1) Clarifies that a pupil with a temporary disability unable to attend regular classes, is to receive either individual instruction at home provided by their home school district or individual instruction in a hospital or other residential health facility, other than a state hospital, provided by the school district in which the hospital or health facility is located.
- 2) Requires schools, in notifying parents of the availability of individualized instruction to a child suffering from a temporary disability, to include information on the pupil's eligibility for, and the duration of, individual instruction.
- 3) Authorizes a school district or charter school to continue to enroll a pupil 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 pupil in his or her prior school after the hospitalization has ended.
- 4) Specifies that a school district or charter school may only claim average daily attendance (ADA) for a pupil who remains enrolled while receiving individual instruction in a hospital or other residential health facility on those days the student is in attendance at the school district or charter school.
- 5) Specifies that a school district providing hospital instruction for a pupil who remains enrolled in their home school district may only claim average daily attendance on those days on which the pupil is receiving individual instruction in the hospital or residential health facility.
- 6) Specifies that the total attendance counted for purposes of computing ADA for a pupil with a temporary disability, including days of attendance in a hospital or other residential health facility, must not exceed five days per week or the equivalent.
- 7) Specifies that a pupil receiving individual instruction, who is well enough to return to school, must be allowed to return to the school he or she attended immediately before receiving individual instruction, if the pupil returns during the school year in which the individual instruction was initiated.
- 8) Authorizes a pupil's home school district or charter school to continue to enroll a pupil with a temporary disability who receiving individual instruction in a hospital or other residential health facility for fewer than five days of instruction per week and specifies that the pupil is

entitled to attend school in their home district or charter school on the days the pupil is not receiving hospital instruction, if he or she is well enough to do so.

- 9) Requires that individual instruction in a pupil's home for students with a temporary disability must commence within five working days after a school district determines that the pupil is to receive this instruction.
- 10) Requires a supervisor of attendance, when a pupil with a temporary disability is receiving individual instruction in the home or a hospital or other residential health facility, to ensure that the absences from the pupil's regular school program are excused until the pupil is able to return to the regular school program.
- 11) Authorizes a school district which offers high school to confer an honorary high school diploma upon a pupil who is terminally ill and specifies that the honorary diploma be clearly distinguishable from the regular diploma of graduation awarded by the school district.

EXISTING LAW:

- 1) Specifies that a pupil with a temporary disability that makes attendance in the regular day classes or alternative education program, in which the pupil is enrolled impossible or inadvisable, is to receive individual instruction provided by the school district where the pupil resides (EC 48206.3).
- 2) Defines "individual instruction" as instruction provided to an individual pupil in the pupil's home, in a hospital or other residential health facility, other than state hospitals (EC 48206.3).
- 3) Defines "temporary disability" as a physical, mental, or emotional disability incurred while a pupil is enrolled in regular day classes or an alternative education program and after which the pupil can reasonably be expected to return to school, but does not include a disability for which a pupil would be identified as an individual with exceptional needs (EC 48206.3).
- 4) Specifies that for purposes of computing average daily attendance (ADA), each clock hour of teaching time devoted to individual instruction will count as one day of attendance (EC 48206.3).
- 5) Prohibits a school district from crediting a pupil with more than five days of attendance per week or more than the total number of school days per year (EC 48206.3).
- 6) Specifies that a pupil with a temporary disability who is in a hospital or other residential health facility located outside of the school district in which the parent resides will have complied with the residency requirement for school attendance in the school district in which the hospital is located (EC 48207).
- 7) Specifies that upon receipt of notification by a parent that a pupil has a temporary disability and is hospitalized, the school district in which the hospital is located must do all of the following: (EC 48208)

- a) Within five days, determine whether the pupil will be able to receive individual instruction and if so, that instruction must commence within five days of the positive determination.
 - b) Provide the pupil with individual instruction or enter into an agreement with the school district the pupil attended prior to the hospitalization to have that school district provide the pupil with individual instruction.
 - c) Within five working days of the commencement of individual instruction, provide the school district the pupil previously attended with written notice that the pupil must not be counted by that school district for purposes of computing ADA effective the date of commencement of the individual instruction.
- 8) Authorizes the governing board of a 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 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 (EC 51225.5).
 - 9) Specifies that the honorary high school diploma awarded must be clearly distinguishable from the regular diplomas of graduation awarded by the district (EC 51225.5).
 - 10) Specifies that pupils between the ages of 6 and 18 years, unless otherwise exempted, are subject to compulsory full-time education. Each person subject to compulsory full-time education must attend the public full-time day school or continuation school or classes and for the full time designated as the length of the schoolday by the governing board of the school district in which the residency of either the parent or legal guardian is located (EC 48200).
 - 11) Requires each school district and each county office of education to appoint a supervisor of attendance to supervise the attendance of pupils in the school district or county. The duties of the supervisor of attendance include specific duties related to compulsory full-time education, truancy, work permits, compulsory continuation education, and opportunity schools, classes, and programs (EC 48240).

FISCAL EFFECT: The Office of Legislative Counsel has keyed this bill as a state-mandated local program.

COMMENTS: *Need for the bill.* According to the author,

“Unfortunately, unclear statutes have led some school districts to dis-enroll 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.

The practice of dis-enrolling students receiving hospital instruction 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. As a result, the parents of seriously ill students, who are in fact attending school in a hospital, may receive truancy notices.

AB 2109 will protect the education rights of seriously ill students allowing them to access instruction when they are well enough to participate.”

This bill addresses the educational needs of students experiencing serious illness by:

- Allowing students attending hospital programs to return to the schools where they were previously enrolled, in a timely manner.
- Clarifying that a student who is enrolled in a hospital program for a partial week while receiving treatment, remains eligible to attend school on days when the student is at home.
- Ensuring that students enrolled in hospital programs are not receiving truancy notices from their districts of residence.
- Informing parents about local policies regarding eligibility and duration of home and hospital instruction.
- Clarifying that home instruction is to begin within five working days after a determination that it is required.
- Authorizing school districts to issue honorary diplomas to students who are terminally ill.

Hospitalizations among children and youth. According to the Lucille Packard Foundation for Children’s Health, more than 1 million California children and youth have a need for health care services of a type or amount beyond that required by children generally. Their ongoing health problems—physical, behavioral, or developmental—can affect their ability to function and participate in important educational and social activities. In some cases their health problems can shorten their lives. Medical care for children with special health care needs is often complicated by the co-occurrence of social, emotional, and academic problems. Because of the higher caregiving burdens, families of children with special health needs tend to experience more stress and difficulties with employment and finances than other families

Nearly 234,000 California children under age 18 were discharged from hospitals in 2015, a decrease of about 20% from 2002. Among those discharged in 2015, 13% had a primary diagnosis of mental disease or disorder, followed by asthma/bronchitis (8%), pneumonia/pleurisy, and seizures/headaches (4%). Statewide, mental diseases and disorders have been the most common cause of childhood hospitalization since 2008.

Number of students accessing home and hospital instruction. According to CDE, 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.

Arguments in support. In addition to the organizations listed below, supporters of this bill include current and former patients of home/hospital programs, parents, and home/hospital teachers and volunteers.

Sample comments from current or former pupils receiving home or hospital instruction:

- *Hospital school allowed me to stay caught up with my peers academically when going through my treatments. Having both my school district and hospital school work together made it possible for me to graduate with my classmates.*
- *Being plagued with a debilitating, unknown chronic pain condition has ripped away my ability to attend school with any consistency. The hospital school allowed me to receive the instruction I needed to stay current with my grade level.*
- *I have cystic fibrosis and grew up in the hospital during my school years. The hospital school allowed me to keep up with my grades as if I never missed a day. To be marked absent or to have any educational marks against you from the school you normally attend while in hospital is absolutely absurd.*
- *While waiting for my heart transplant and for three months after the transplant, I was unable to attend school, so I attended the hospital school. This allowed me to keep up with my peers. Otherwise, I would have had to repeat my entire year of classes.*

Sample comments from home & hospital teachers:

- *Families in crisis are being intimidated by schools accusing them of truancy, worried about keeping up with academics, and concerned their children won't be able to return to the comfort and familiarity of their school once they are discharged from hospital.*
- *One of my students had suffered a series of strokes, after a ruptured AVM. In contacting his home school, I was told that as the student was an inpatient in hospital, he was truant and would be dropped from their rolls as the student could not be enrolled in two places simultaneously. After fighting to live and enduring lengthy rehabilitation therapies, the student was required to re-enroll at his home school, was given a different class schedule, and received only a quarter semester of credit.*
- *I routinely have students wait months for a teacher to begin working with them after I submit a request for home instruction. In some cases, there is no word from the district as to when a teacher will begin coming to the home.*
- *Having worked with hundreds of different school districts during my 22 years at the hospital school, I've encountered a vast range of attitudes towards working with these students. Because existing laws are vague or nonexistent, districts have interpreted the law to best fit their ability to serve, rather than offering services in the best interest of the child.*

- *Some families have struggled to find education plans that included both time on campus and time away for infusion or dialysis treatments that demanded full-day absences.*

Sample comments from parents:

- *I've had trouble getting my daughter's school to follow her accommodations correctly, which involved her being dropped from classes, being marked as unexcused absent when she was hospitalized, and giving her bad grades for being absent, and in general just not trying to help.*
- *I am the parent of a child diagnosed with a rare, life-threatening brain condition five years ago. I can't begin to describe the heartbreak it is to get a truancy notice for your child when you want nothing more than for them to be in school full-time like a "regular" kid. I try to laugh, but I cry each time I receive a truancy notice.*

REGISTERED SUPPORT / OPPOSITION:

Support

American Academy of Pediatrics
American Kidney Fund
Association of California School Administrators
California Action Link for Rare Diseases
California Hospital Association
California School Employees Association
California School Nurses Organization
Oakland Unified School District Alternative Education
UCSF Benioff Children's Hospital Oakland
65 individuals

Opposition

None on file

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