

**ASSEMBLY BILL**

**No. 1548**

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**Introduced by Assembly Member Mullin**  
(Coauthor: Senator Hill)

January 27, 2014

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An act to amend Sections 99159 and 99160 of the Education Code, relating to standardized tests.

LEGISLATIVE COUNSEL'S DIGEST

AB 1548, as introduced, Mullin. Standardized tests: withholding test scores.

Existing law imposes various requirements on a test sponsor or test agency with respect to the administration of standardized tests for purposes of postsecondary education. Existing law authorizes a test agency to withhold a test subject's score for specified reasons, including collusion or cheating, irregular test administration, or irregular statistical data, and further authorizes a test agency to cancel or invalidate a test score where substantial evidence exists to support cancellation or invalidation of the test score.

This bill would prohibit a test agency from withholding a test subject's score for any reason other than a test subject's misconduct. The bill would require a test agency that cancels or invalidates a test subject's test score for any reason other than the test subject's misconduct to release the test score to the test subject and any authorized test score recipients with an explanation of why the test agency invalidated the test score and a statement that the decision to invalidate the test score was not based on misconduct by the test subject. The bill would specify that a postsecondary educational institution may accept an invalidated test score released pursuant to those provisions.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 99159 of the Education Code is amended  
2 to read:  
3 99159. (a) Whenever a test agency is presented with  
4 information ~~which~~ *that* renders the test subject’s test score suspect,  
5 whether that information is in the form of allegations of collusion  
6 or, cheating, ~~or irregular test administration, or irregular statistical~~  
7 ~~data,~~ or any other ~~form,~~ *information relating to misconduct by the*  
8 *test subject,* the test agency is responsible for reviewing the  
9 information and determining if withholding the test subject’s score  
10 is warranted.  
11 (b) If the test agency determines that withholding the test  
12 subject’s score is warranted, the test agency shall give the test  
13 subject written notice of the test agency’s decision. The notice  
14 shall be sent by registered mail not later than five working days  
15 after the test agency’s decision.  
16 (c) The notice to the test subject shall include all of the  
17 following:  
18 (1) A complete summary of the information submitted to the  
19 test agency and relied upon by the test agency to withhold the  
20 score.  
21 (2) A complete summary of the pertinent facts surrounding the  
22 investigation.  
23 (3) A statement of the test subject’s right to receive, upon  
24 request, details supporting complete summaries referred to in  
25 paragraphs (1) and (2).  
26 (4) The policies and procedures that were followed by the test  
27 agency in reviewing and rendering a decision to withhold the test  
28 score.  
29 (5) The potential consequences ~~which~~ *that* may result from the  
30 investigation, such as withholding or invalidating the test scores.  
31 (6) A summary of the information that may be submitted to the  
32 test agency by the test subject to support the authenticity of the  
33 test score.  
34 (7) A statement informing the test subject that the opportunity  
35 to respond to the notice will be afforded for not more than 15

1 working days following the date the notice was delivered. No final  
2 decision on the question of suspected irregularity or inauthenticity  
3 shall be rendered by the test agency until the test subject under  
4 investigation has responded, or the time for doing so has expired,  
5 whichever occurs first.

6 (d) After the time period specified in paragraph (7) of  
7 subdivision (c) has expired, the test agency shall review all of the  
8 evidence and shall render a decision regarding the authenticity of  
9 the score.

10 ~~No~~

11 (e) A test agency shall *not* cancel or invalidate a test subject's  
12 test scores on the basis of an alleged irregularity or inauthenticity  
13 unless, after all evidence has been considered by the test agency,  
14 substantial evidence resulting from an investigation conducted  
15 pursuant to this section supports the cancellation or invalidation.

16 (f) *A test agency shall not withhold a test subject's test score  
17 for irregular test administration, irregular statistical data, or any  
18 reason unrelated to misconduct by the test subject.*

19 SEC. 2. Section 99160 of the Education Code is amended to  
20 read:

21 99160. (a) Whenever the test agency determines that  
22 substantial evidence exists to support cancellation or invalidation  
23 of a test score, the test agency shall provide the test subject with  
24 a choice of the following options:

25 (1) A cancellation of the test scores in question, with full refund  
26 of all test fees.

27 (2) Opportunity to take the test again privately and without  
28 charge.

29 (3) Opportunity to seek judicial review of the matter.

30 (b) The test subject shall have 30 days following receipt of the  
31 notice by registered mail to respond to the notice of inauthenticity.

32 (c) If the test subject responds to the notice of inauthenticity or  
33 irregularity of test scores sent by the test agency within the time  
34 period specified by subdivision (b), the test agency shall review  
35 the contents of the response and comply with one of the following:

36 (1) If the test subject requests cancellation of the test scores, a  
37 full refund of all test fees ~~will~~ *shall* be provided within a reasonable  
38 period.

39 (2) If the test subject requests an opportunity to take the test  
40 again privately and without charge, the test agency shall make

1 appropriate accommodations that are mutually agreed upon by the  
2 test agency and test subject so that the test subject has sufficient  
3 time to prepare for the retest. The retest shall be given in a  
4 reasonable and timely manner.

5 (3) Nothing in this section precludes the parties from seeking  
6 resolution of the testing problems by either judicial review or  
7 arbitration.

8 (d) The test agency shall not release confidential information  
9 to any authorized test score recipients regarding a test subject under  
10 pending investigation, unless authorized to do so by the test subject.

11 (e) The test agency shall immediately release the test score to  
12 the test subject and the test score recipients where no substantial  
13 evidence exists to render the inauthenticity or ~~irregularity~~  
14 *irregularity* of the test score.

15 (f) The procedures prescribed in Section 99159 and this section  
16 do not apply to instances where the cancellation of all test scores  
17 results from the complete disruption of the administration of the  
18 test, such as by natural disasters, national emergencies, inadequate  
19 or improper test conditions, answer sheet printing errors, or testing  
20 agency errors.

21 (g) Time procedures described in Section 99159 and this section  
22 shall not apply in those instances where test scores have already  
23 been reported to test score recipients.

24 (h) *If a test agency invalidates a test score for a reason other*  
25 *than the test subject's misconduct, the test agency shall not*  
26 *withhold the test subject's score, and shall release the invalidated*  
27 *test score to the test subject and any authorized test score recipients*  
28 *with an explanation of why the test agency invalidated the test*  
29 *score, and a statement that the decision to invalidate the test score*  
30 *was not based on misconduct by the test subject. A postsecondary*  
31 *educational institution may accept an invalidated test score*  
32 *released pursuant to this subdivision.*