

AMENDED IN ASSEMBLY MAY 12, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1548

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

January 27, 2014

An act to amend Sections 99159 and 99160 of *add and repeal Section 99160.7* of the Education Code, relating to standardized tests.

LEGISLATIVE COUNSEL'S DIGEST

AB 1548, as amended, Mullin. Standardized tests: ~~withholding canceled or invalidated test scores:~~ *scores: report.*

Existing law imposes various requirements on a ~~test sponsor or test agency agency, as defined,~~ with respect to the administration of standardized tests for purposes of postsecondary education. *A test agency that intentionally violates any of those provisions is subject to a civil penalty not to exceed \$750 for each violation.* 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: *require a test agency, on or before March 1 of each year, to submit a report to the Superintendent of Public Instruction and to the Legislature that contains specified information on test scores that were canceled or invalidated in the prior year. The bill would repeal those provisions on January 1, 2017.*

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

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

1 SECTION 1. Section 99160.7 is added to the Education Code,
2 to read:

3 99160.7. (a) On or before March 1 of each year, a test agency
4 shall submit a report to the Superintendent of Public Instruction
5 and to the Legislature that contains all of the following information
6 for the prior year:

7 (1) The number of test scores for each type of standardized test
8 that were canceled or invalidated.

9 (2) The reasons the test scores were canceled or invalidated,
10 including, but not limited to, irregular test administration, irregular
11 statistical data, or cheating.

12 (b) A report submitted pursuant to this section shall not include
13 specific or identifiable information on the test subjects.

14 (c) This section shall remain in effect only until January 1, 2017,
15 and as of that date is repealed, unless a later enacted statute, that
16 is enacted before January 1, 2017, deletes or extends that date.

17 SECTION 1. ~~Section 99159 of the Education Code is amended~~
18 ~~to read:~~

19 ~~99159. (a) Whenever a test agency is presented with~~
20 ~~information that renders the test subject's test score suspect,~~
21 ~~whether that information is in the form of allegations of collusion,~~
22 ~~cheating, or any other information relating to misconduct by the~~
23 ~~test subject, the test agency is responsible for reviewing the~~
24 ~~information and determining if withholding the test subject's score~~
25 ~~is warranted.~~

1 ~~(b) If the test agency determines that withholding the test~~
2 ~~subject's score is warranted, the test agency shall give the test~~
3 ~~subject written notice of the test agency's decision. The notice~~
4 ~~shall be sent by registered mail not later than five working days~~
5 ~~after the test agency's decision.~~

6 ~~(c) The notice to the test subject shall include all of the~~
7 ~~following:~~

8 ~~(1) A complete summary of the information submitted to the~~
9 ~~test agency and relied upon by the test agency to withhold the~~
10 ~~score.~~

11 ~~(2) A complete summary of the pertinent facts surrounding the~~
12 ~~investigation.~~

13 ~~(3) A statement of the test subject's right to receive, upon~~
14 ~~request, details supporting complete summaries referred to in~~
15 ~~paragraphs (1) and (2).~~

16 ~~(4) The policies and procedures that were followed by the test~~
17 ~~agency in reviewing and rendering a decision to withhold the test~~
18 ~~score.~~

19 ~~(5) The potential consequences that may result from the~~
20 ~~investigation, such as withholding or invalidating the test scores.~~

21 ~~(6) A summary of the information that may be submitted to the~~
22 ~~test agency by the test subject to support the authenticity of the~~
23 ~~test score.~~

24 ~~(7) A statement informing the test subject that the opportunity~~
25 ~~to respond to the notice will be afforded for not more than 15~~
26 ~~working days following the date the notice was delivered. No final~~
27 ~~decision on the question of suspected irregularity or inauthenticity~~
28 ~~shall be rendered by the test agency until the test subject under~~
29 ~~investigation has responded, or the time for doing so has expired,~~
30 ~~whichever occurs first.~~

31 ~~(d) After the time period specified in paragraph (7) of~~
32 ~~subdivision (c) has expired, the test agency shall review all of the~~
33 ~~evidence and shall render a decision regarding the authenticity of~~
34 ~~the score.~~

35 ~~(e) A test agency shall not cancel or invalidate a test subject's~~
36 ~~test scores on the basis of an alleged irregularity or inauthenticity~~
37 ~~unless, after all evidence has been considered by the test agency,~~
38 ~~substantial evidence resulting from an investigation conducted~~
39 ~~pursuant to this section supports the cancellation or invalidation.~~

1 ~~(f) A test agency shall not withhold a test subject's test score~~
2 ~~for irregular test administration, irregular statistical data, or any~~
3 ~~reason unrelated to misconduct by the test subject.~~

4 ~~SEC. 2. Section 99160 of the Education Code is amended to~~
5 ~~read:~~

6 ~~99160. (a) Whenever the test agency determines that~~
7 ~~substantial evidence exists to support cancellation or invalidation~~
8 ~~of a test score, the test agency shall provide the test subject with~~
9 ~~a choice of the following options:~~

10 ~~(1) A cancellation of the test scores in question, with full refund~~
11 ~~of all test fees.~~

12 ~~(2) Opportunity to take the test again privately and without~~
13 ~~charge.~~

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

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

17 ~~(c) If the test subject responds to the notice of inauthenticity or~~
18 ~~irregularity of test scores sent by the test agency within the time~~
19 ~~period specified by subdivision (b), the test agency shall review~~
20 ~~the contents of the response and comply with one of the following:~~

21 ~~(1) If the test subject requests cancellation of the test scores, a~~
22 ~~full refund of all test fees shall be provided within a reasonable~~
23 ~~period.~~

24 ~~(2) If the test subject requests an opportunity to take the test~~
25 ~~again privately and without charge, the test agency shall make~~
26 ~~appropriate accommodations that are mutually agreed upon by the~~
27 ~~test agency and test subject so that the test subject has sufficient~~
28 ~~time to prepare for the retest. The retest shall be given in a~~
29 ~~reasonable and timely manner.~~

30 ~~(3) Nothing in this section precludes the parties from seeking~~
31 ~~resolution of the testing problems by either judicial review or~~
32 ~~arbitration.~~

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

36 ~~(e) The test agency shall immediately release the test score to~~
37 ~~the test subject and the test score recipients where no substantial~~
38 ~~evidence exists to render the inauthenticity or irregularity of the~~
39 ~~test score.~~

1 ~~(f) The procedures prescribed in Section 99159 and this section~~
2 ~~do not apply to instances where the cancellation of all test scores~~
3 ~~results from the complete disruption of the administration of the~~
4 ~~test, such as by natural disasters, national emergencies, inadequate~~
5 ~~or improper test conditions, answer sheet printing errors, or testing~~
6 ~~agency errors.~~

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

10 ~~(h) If a test agency invalidates a test score for a reason other~~
11 ~~than the test subject's misconduct, the test agency shall not~~
12 ~~withhold the test subject's score, and shall release the invalidated~~
13 ~~test score to the test subject and any authorized test score recipients~~
14 ~~with an explanation of why the test agency invalidated the test~~
15 ~~score, and a statement that the decision to invalidate the test score~~
16 ~~was not based on misconduct by the test subject. A postsecondary~~
17 ~~educational institution may accept an invalidated test score released~~
18 ~~pursuant to this subdivision.~~