

**Introduced by Senators Hill and Yee**  
(Coauthor: Assembly Member Mullin)

January 27, 2014

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An act to amend Section 99160 of the Education Code, relating to standardized testing.

LEGISLATIVE COUNSEL'S DIGEST

**SB 915, as introduced, Hill. Standardized testing: cancellation or invalidation of 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 provides that a test sponsor that intentionally violates these provisions is liable for a civil penalty not to exceed \$750 for each violation. Existing law provides that these requirements do not apply to instances where the cancellation of all test scores results from the complete disruption of the administration of the test, such as by natural disasters, national emergencies, inadequate or improper test conditions, answer sheet printing errors, or testing agency errors.

This bill would instead require, where there has been a complaint or a notice of testing irregularity, for reasons including inadequate or improper test conditions, answer sheet printing errors, or testing agency errors, the testing agency to conduct an immediate investigation. If the testing agency determines that the testing irregularity is a sufficient cause for the cancellation of the test scores, the bill would require the testing agency to provide all affected test subjects with at least 5 business days' prior notice of an opportunity to retest. The bill would require such a retest to be administered within 30 calendar days of the original test date.

The bill would require a testing agency to require test proctors to create a seating chart, including the seat location of each test subject, for each test administered by the testing agency. The bill would further require a testing agency to retain and preserve each such seating chart for at least 2 years after the administration of the test to which that seating chart applies.

A violation of these requirements would subject a test sponsor to the civil penalty referenced above.

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 99160 of the Education Code is amended  
2 to read:

3 99160. (a) Whenever the test agency determines that  
4 substantial evidence exists to support cancellation or invalidation  
5 of a test score, the test agency shall provide the test subject with  
6 a choice of the following options:

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

9 (2) Opportunity to take the test again privately and without  
10 charge.

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

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

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

18 (1) If the test subject requests cancellation of the test scores, a  
19 full refund of all test fees will be provided within a reasonable  
20 period.

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

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

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

7       (e) The test agency shall immediately release the test score to  
8 the test subject and the test score recipients where no substantial  
9 evidence exists to render the inauthenticity or—irregularity  
10 *irregularity* of the test score.

11      (f) The procedures prescribed in Section 99159 and this section  
12 do not apply to instances where the cancellation of all test scores  
13 results from the complete disruption of the administration of the  
14 test, such as by ~~natural disasters, national emergencies, inadequate~~  
~~or improper test conditions, answer sheet printing errors, or testing~~  
~~agency errors~~ *a natural disaster, national emergency, school fire,*  
17 *or fire alarm.*

18      (g) *Where there has been a complaint or a notice of testing*  
19 *irregularity, for reasons including, but not necessarily limited to,*  
20 *inadequate or improper test conditions, answer sheet printing*  
21 *errors, or testing agency errors, the testing agency shall conduct*  
22 *an immediate investigation. If the testing agency determines that*  
23 *the testing irregularity is a sufficient cause for the cancellation of*  
24 *the test scores, the testing agency shall provide all affected test*  
25 *subjects with at least five business days' prior notice of an*  
26 *opportunity to retest, and that retest shall be administered within*  
27 *30 calendar days of the original test date. If a retest is not*  
28 *administered within 30 calendar days of the original test date as*  
29 *required by this subdivision, the procedures prescribed in Section*  
30 *99159 and this section shall apply.*

31      (h) *The testing agency shall require test proctors to create a*  
32 *seating chart, including the seat location of each test subject, for*  
33 *each test administered by the testing agency. The testing agency*  
34 *shall provide an appropriate seating chart template to each test*  
35 *site and each test proctor. The testing agency shall retain and*  
36 *preserve each seating chart created pursuant to this subdivision*  
37 *for at least two years after the administration of the test to which*  
38 *that seating chart applies.*

39      (g)

1       (i) Time procedures described in Section 99159 and this section  
2 shall not apply in those instances where test scores have already  
3 been reported to test score recipients.