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AB-2109 Pupils: pupils with a temporary disability: individual instruction: pupils who are terminally ill: honorary diplomas. (2017-2018)

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Assembly Bill No. 2109

CHAPTER 167

An act to amend Sections 48206.3, 48207, 48208, 48240, and 51225.5 of, to add Sections 48207.3 and 48207.5 to, and to repeal Section 48206.5 of, the Education Code, relating to pupils.

[Approved by Governor August 20, 2018. Filed with Secretary of State August 20, 2018.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2109, O'Donnell. Pupils: pupils with a temporary disability: individual instruction: pupils who are terminally ill: honorary diplomas.

(1) Existing law requires 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 to receive individual instruction provided by the school district in which the pupil is deemed to reside. Existing law requires a pupil with a temporary disability, who is in a hospital or other residential health facility, excluding a state hospital, located outside of the school district in which the pupil's parent or guardian resides, to be deemed to have complied with the residency requirements for school attendance in the school district in which the hospital is located.

This bill would instead require a pupil with a temporary disability to receive either individual instruction at home provided by the school district in which the pupil is deemed to reside, or individual instruction in a hospital or other residential health facility, excluding state hospitals, provided by the school district in which the hospital or other residential health facility is located. The bill would authorize 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, or in order to provide a partial week of instruction to the pupil, as provided.

The bill would require a school district or charter school to allow a pupil receiving individual instruction who is well enough to return to a school to be allowed to return to the school that he or she attended immediately before receiving individual instruction, if the pupil returns during the school year in which the individual instruction was initiated. The bill would also entitle a pupil who is enrolled in individual instruction in a hospital or other residential health facility for a partial week to attend school in his or her school district of residence, or receive individual instruction provided by the school district of residence in the pupil's home, on days in which he or she is not receiving individual instruction in a hospital or other residential health facility, if he or she is well enough to do so. The bill would require 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 absences from the pupil's regular school program are excused until the pupil is able to return to the regular school program. To the extent this bill would impose additional requirements on school districts and charter schools, the bill would impose a state-mandated local program.

(2) Existing law 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 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.

This bill would also authorize the governing board of a school district, a 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 pupil who is terminally ill.

(3) This bill would also delete obsolete provisions and make clarifying and conforming changes.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 48206.3 of the Education Code is amended to read:

48206.3. (a) 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 shall receive either individual instruction at home provided by the school district in which the pupil is deemed to reside, or individual instruction in a hospital or other residential health facility, excluding state hospitals, provided by the school district in which the hospital or other residential health facility is located.

(b) For purposes of this section and Sections 48207, 48207.3, 48207.5, and 48208, the following terms have the following meanings:

(1) "Individual instruction" means instruction provided to an individual pupil in the pupil'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.

(2) "Temporary disability" means 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 regular day classes or the alternative education program. A temporary disability shall not include a disability for which a pupil is identified as an individual with exceptional needs pursuant to Section 56026.

(c) (1) For purposes of computing average daily attendance pursuant to Section 42238.05, each clock hour of teaching time devoted to individual instruction shall count as one day of attendance.

(2) No pupil shall be credited with more than five days of attendance per calendar week, or more than the total number of calendar days that regular classes are maintained by the school district in any fiscal year.

(d) Notice of the availability of individual instruction shall be given pursuant to Section 48980, and shall include information regarding a pupil's eligibility for, and the duration of, individual instruction.

(e) Nothing in this section shall be construed to limit any rights accruing to a pupil with a temporary disability who is also identified as an individual with exceptional needs, as defined in Section 56026.

SEC. 2. Section 48206.5 of the Education Code is repealed.

SEC. 3. Section 48207 of the Education Code is amended to read:

48207. (a) Notwithstanding Section 48200, a pupil with a temporary disability, who is in a hospital or other residential health facility, excluding a state hospital, located outside of the school district in which the pupil's parent or guardian resides, shall be deemed to have complied with the residency requirements for school attendance in the school district in which the hospital is located.

(b) Notwithstanding any other law, a school district or charter school may 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, or in order to provide a partial week of instruction to a pupil who is receiving individual instruction in a hospital or other residential health facility, for fewer than five days of instruction per week, or the equivalent, as described in subdivision (c) of Section 48206.3.

(c) (1) A pupil with a temporary disability who remains enrolled in a school district of residence or a charter school pursuant to subdivision (b) while also receiving individual instruction in a hospital or other residential health facility may only be counted by the school district of residence or charter school for purposes of computing average daily attendance pursuant to Section 42238.05 for days on which the pupil is in attendance in that school district or charter school.

(2) A pupil with a temporary disability who remains enrolled in a school district of residence or a charter school pursuant to subdivision (b) while also receiving individual instruction in a hospital or other residential health facility may only be counted by the school district in which the hospital or other residential health facility is located for purposes of computing average daily attendance pursuant to Section 42238.05 for days on which the pupil is receiving individual instruction in a hospital or other residential health facility.

(d) The total attendance counted for purposes of computing average daily attendance pursuant to Section 42238.05 for a pupil with a temporary disability, including days of attendance in a hospital or other residential health facility, shall not exceed five days per week, or the equivalent, as described in subdivision (c) of Section 48206.3.

SEC. 4. Section 48207.3 is added to the Education Code, to read:

48207.3. (a) A pupil receiving individual instruction who is well enough to return to a school shall be allowed to return to the school, including a charter school, that he or she attended immediately before receiving individual instruction, if the pupil returns during the school year in which the individual instruction was initiated.

(b) A pupil who attends a school operated by a school district or a charter school, who is subsequently enrolled in individual instruction in a hospital or other residential health facility for a partial week, shall be entitled to attend school in his or her school district of residence, or receive individual instruction provided by the school district of residence in the pupil's home, on days in which he or she is not receiving individual instruction in a hospital or other residential health facility, if he or she is well enough to do so.

SEC. 5. Section 48207.5 is added to the Education Code, to read:

48207.5. Individual instruction in a pupil's home pursuant to Section 48206.3 shall commence no later than five working days after a school district has determined that the pupil shall receive this instruction.

SEC. 6. Section 48208 of the Education Code is amended to read:

48208. (a) It shall be the primary responsibility of the parent or guardian of a pupil with a temporary disability to notify the school district in which the pupil is deemed to reside pursuant to Section 48207 of the pupil's presence in a qualifying hospital.

(b) Upon receipt of notification pursuant to subdivision (a), a school district shall do all of the following:

(1) Within five working days of receipt of the notification, determine whether the pupil will be able to receive individual instruction, and, if the determination is positive, when the individual instruction may commence. Individual instruction shall commence no later than five working days after a positive determination has been rendered.

(2) Provide the pupil with individual instruction pursuant to Section 48206.3. The school district may enter into an agreement with the school district in which the pupil previously attended regular day classes or an alternative education program to have the school district the pupil previously attended provide the pupil with individual instruction pursuant to Section 48206.3.

(3) Within five working days of the commencement of individual instruction, provide the school district in which the pupil previously attended regular day classes or an alternative education program with written notice that the pupil shall not be counted by that school district for purposes of computing average daily attendance pursuant to Section 42238.05, effective the date on which individual instruction commenced, except as provided in Section 48207.

SEC. 7. Section 48240 of the Education Code is amended to read:

48240. (a) The governing board of each school district and each county superintendent of schools shall appoint a supervisor of attendance and any assistant supervisors of attendance as may be necessary to supervise the attendance of pupils in the school district or county. The governing board of the school district or county superintendent of schools shall prescribe the duties of the supervisor of attendance and assistant supervisors of attendance to include, among other duties that may be required, those specific duties related to compulsory full-time education, truancy, work permits, compulsory continuation education, and opportunity schools, classes, and programs, now required of the attendance supervisors by this chapter and Article 4 (commencing with Section 48450) of Chapter 3 and Article 2 (commencing with Section 48640) of Chapter 4.

(b) It is the intent of the Legislature that in performing his or her duties, the supervisor of attendance promote a culture of attendance and establish a system to accurately track pupil attendance in order to achieve all of the following:

- (1) Raise the awareness of school personnel, parents, guardians, caregivers, community partners, and local businesses of the effects of chronic absenteeism and truancy and other challenges associated with poor attendance.
- (2) Identify and respond to grade level or pupil subgroup patterns of chronic absenteeism or truancy.
- (3) Identify and address factors contributing to chronic absenteeism and habitual truancy, including suspension and expulsion.
- (4) Ensure that pupils with attendance problems are identified as early as possible to provide applicable support services and interventions.
- (5) Evaluate the effectiveness of strategies implemented to reduce chronic absenteeism rates and truancy rates.

(c) When a pupil with a temporary disability, as defined in Section 48206.3, is receiving individual instruction in the home or a hospital or other residential health facility, the supervisor of attendance shall ensure that absences from the pupil's regular school program are excused until the pupil is able to return to the regular school program.

(d) The supervisor of attendance may provide support services and interventions, which may include, but are not limited to, any or all of the following:

- (1) A conference between school personnel, the pupil's parent or guardian, and the pupil.
- (2) Promoting cocurricular and extracurricular activities that increase pupil connectedness to school, such as tutoring, mentoring, the arts, service learning, or athletics.
- (3) Recognizing pupils who achieve excellent attendance or demonstrate significant improvement in attendance.
- (4) Referral to a school nurse, school counselor, school psychologist, school social worker, and other pupil support personnel for case management and counseling.
- (5) Collaboration with child welfare services, law enforcement, courts, public health care agencies, or government agencies, or medical, mental health, and oral health care providers to receive necessary services.
- (6) Collaborating with school study teams, guidance teams, school attendance review teams, or other intervention-related teams to assess the attendance or behavior problem in partnership with the pupil and his or her parents, guardians, or caregivers.
- (7) In schools with significantly higher rates of chronic absenteeism, identify barriers to attendance that may require schoolwide strategies rather than case management.
- (8) Referral for a comprehensive psychosocial or psychoeducational assessment, including for purposes of creating an individualized education program for an individual with exceptional needs, as that term is defined in Section 56026, or plan adopted for a qualified handicapped person, as that term is defined in regulations promulgated by the United States Department of Education pursuant to Section 504 of the federal Rehabilitation Act of 1973 (29 U.S.C. Sec. 794).
- (9) Referral to a school attendance review board established by the county or by a school district pursuant to Section 48321 or to the probation department pursuant to Section 48263.
- (10) Referral to a truancy mediation program operated by the county's district attorney or probation officer pursuant to Section 48260.6.

SEC. 8. Section 51225.5 of the Education Code is amended to read:

51225.5. (a) (1) The governing board of a school district maintaining a high school may 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.

- (2) The governing board of a school district, a county office of education, and the governing body of a charter school maintaining a high school may confer an honorary high school diploma upon a pupil who is terminally ill.

(b) An honorary high school diploma awarded pursuant to this section shall be clearly distinguishable from the regular diploma of graduation awarded by the school district, county office of education, or charter school.

SEC. 9. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.