



California State Board of Education Policy

POLICY #
01-07
DATE
December 2001

WAIVER GUIDELINES

California High School Exit Examination: Waiver of Test Passage for Specific Special Education Students

REFERENCES

Education Code Section 60850 et seq. and implementing regulations 5 CCR 1215 et seq.
Education Code Section 56101 (Authority for Waiver)

HISTORICAL NOTES

None

Statutory Provisions/Regulations Involved

Education Code Section 60851(a) provides that “[c]ommencing with the 2003-04 school year and each school year thereafter, each pupil completing grade 12 shall successfully pass the exit examination as a condition of receiving a diploma of graduation or a condition of graduation from high school.” To implement this statutory requirement, the State Board of Education (SBE) has adopted regulations. Specifically, Section 1217 of Title 5 of the California Code of Regulations, lists the accommodations that may be used in the administration of the California High School Exit Examination (CAHSEE).

Education Code Section 56101

(a) Any district, special education local plan area, county office, or public education agency, as defined in Section 56500, may request the board to grant a waiver of any provision of this code or regulations adopted pursuant to that provision if the waiver is necessary or beneficial to the content and implementation of the pupil’s individualized education program and does not abrogate any right provided individuals with exceptional needs and their parents or guardians under the Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.), or to the compliance of a district, special education local plan area, or county office with the Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.), Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. Sec. 794), and federal regulations relating thereto.

(b) The board may grant, in whole or in part, any request pursuant to subdivision (a) when the facts indicate that failure to do so would hinder implementation of the pupil’s individualized education program or compliance by a district, special education local plan area, or county office with federal mandates for a free, appropriate education for children or youth with disabilities.

Background

Passing the CAHSEE is a requirement for all students to get a high school diploma. The law requires that students be given the CAHSEE with accommodations that are appropriate and necessary. The SBE recognizes that accommodations are to compensate for extraneous factors unrelated to the academic skills being assessed. The SBE has through regulations provided for accommodations as well as a process by which additional accommodations may be permitted. Modifications on the other hand that fundamentally alter what the test seeks to measure are not permitted. The SBE, with the advice of the test developer, has determined that reading (decoding

California State Board of Education

721 Capitol Mall, Room 558
 Sacramento, California 95814
 (916) 657-5478
 (916) 653-7016 (fax)



and comprehension) and mathematical computational skills are not extraneous factors but are fundamental and integral to the academic skills expected for high school graduation and are assessed by the CAHSEE. Specifically, the SBE has stated that:

- 1) Students must be able to decode fluently in order to "read to learn"; and
- 2) Students must be able to compute automatically in order to do higher-level mathematical problems.

Therefore, there are test modifications that are not allowed, because they have been determined by the SBE to fundamentally alter what the test measures. These modifications include, but are not necessarily limited to:

- 1) Oral or audio presentation of the English/language arts section (5 CCR 1217(c)); and
- 2) Calculators on the mathematics section of the test.

There is also recognition that some students have specific disabilities that affect their ability to learn to read, but who otherwise are able to progress through high school level standards with the use of a reader or with oral or audio presentations. Likewise, there are students, whose disabilities affect their ability to do basic computation and yet they otherwise are able to master high school level mathematics standards with the use of a calculator. These students cannot reasonably be taught to read or calculate because of their specific disability. There may be disabled students who require accommodations that are denied pursuant to 5 CCR 1218 because the requested accommodations are determined to be modifications that would fundamentally alter what the test measures. Waivers may be sought for these students under this process as well.

These students are currently being served under an Individualized Education Program (IEP) or Section 504 plan and are successfully completing high school level coursework as required by the local educational agency (LEA). Previous to the requirement of the CAHSEE, these students would usually be expected to graduate with a high school diploma. It is anticipated that, due to their level of achievement, these students would have been able to pass the CAHSEE, however, the modification(s) they need to take the test are not allowed through current regulation, because these modifications would invalidate the test score (5 CCR 1217, 1218, and 1219.5). In these specific cases, the LEA may request a waiver under the authority of *Education Code* Section 56101, from the SBE of "successful passage of the CAHSEE," for those students who can show evidence of having completed and/or being successful in sufficient high school level coursework to complete a high school curriculum of sufficient rigor to have gained the skills and knowledge otherwise needed to pass the CAHSEE, and have also attained the equivalent of a passing score upon completing either the English/language arts and/or mathematics sections of the CAHSEE test using modifications that are not allowed because they "fundamentally alter what the test measures" (as stated in 5 CCR 1217(c) or determined under the 5 CCR 1218 request process) thereby invalidating the student's test score as provided for by 5 CCR 1219.5.



If this waiver is granted by the SBE, these students may graduate from high school and be given a diploma, even though by definition they have not “successfully passed the exit examination.”

Evaluation Guidelines

The waiver must be submitted annually by the LEA on behalf of all special education students currently enrolled in the 11th grade meeting these requirements under the waiver authority of *Education Code* Section 56101. Documentation for each student must be attached to a Specific Waiver form submitted to the California Department of Education (CDE) for SBE approval. CDE staff will review the request for each student under the guidelines, and make recommendations to the SBE. For each student for whom this waiver is requested, the LEA must submit a cover sheet with a brief description of each of the following:

- The nature of the student’s disability.
- The rationale as to why the modification used to achieve the equivalent passing score on the CAHSEE was necessary to allow the student to access the test.
- A description of the accommodations/modifications that the student regularly uses in the classroom and on other assessments.
- A summary of the student’s academic preparation and performance that demonstrates high school level achievement.
- Certification that the student attained the equivalent of a passing score upon completing the English/language arts or mathematics sections of the CAHSEE test or both using a modification that has been determined to “fundamentally alter what the test measures.” The term “equivalent of a passing score” is used, because the test score received by a student who takes the test with modifications cannot be a valid passing score.

The LEA shall attach with the cover sheet:

- 1) An IEP or 504 plan reviewed and approved by the student’s IEP team within the last 12 months that indicates all of the accommodations or modifications that the student needs in order to access and participate in statewide assessments; and
- 2) A transcript certified by the LEA as showing sufficient high school level coursework (either satisfactorily completed or in progress) in a high-school-level curriculum sufficient to have gained the skills and knowledge otherwise needed to pass the CAHSEE.

As provided by *Education Code* Section 60851, students may be given the CAHSEE from 10th grade on, however, this waiver will only be granted after the exam has been taken and the student has satisfied the above criteria. Although an LEA may submit a waiver on behalf of a student from the 11th grade on, the SBE encourages LEAs to wait to apply for the waiver until the LEA has a sufficient body of evidence to illustrate to the SBE that the student has gained the skills and knowledge otherwise required.



California State Board of Education Policy

WAIVER GUIDELINES

POLICY # 01-07

California High School Exit Examination: Waiver of Test Passage for Specific Special Education Students

DATE December 2001

The SBE recognizes that a very small number of students have physical or learning disabilities so severe that they cannot take the CAHSEE without modifications. However, the SBE encourages IEP teams to consider allowing students with less severe disabilities to attempt the exam at least once with appropriate and necessary accommodations but without modifications that are determined to alter what the test measures as stated in 5 CCR 1217(c) or as determined in response to a request for an accommodation pursuant to 5 CCR 1218.

To protect the privacy of individual students, the California Department of Education is directed to remove all references to individual student names or other identifying data from all documents submitted to the SBE as part of the public record and to take appropriate action to comply with the requirements of state and federal privacy laws relating to student information.

This policy shall remain in effect while the SBE continues to work with the Legislature and the Governor to make appropriate changes to the applicable statutes to accomplish the objectives of this waiver policy by providing a simple, streamlined process that may be appropriately implemented at the local level.