

Date of Hearing: May 6, 2014

ASSEMBLY COMMITTEE ON HIGHER EDUCATION
Das Williams, Chair
AB 1548 (Mullin) – As Introduced: January 27, 2014

SUBJECT: Standardized tests: withholding test scores.

SUMMARY: Would prohibit a test agency from withholding a test subject's test score for irregular test administration, irregular statistical data, or any reason unrelated to misconduct by the test subject; requires a test agency that invalidates a test score for any reason other than misconduct to release the score to the test subject and any authorized test score recipients with an explanation of why the test score was invalidated and a statement that the decision was not based on misconduct; and, provides that a postsecondary educational institution may accept an invalidated test score released pursuant to the aforementioned.

EXISTING LAW imposes a number of requirements on test sponsors that develop, sponsor or administer standardized tests including, requiring the test agency to have substantial evidence from an investigation that supports the decision to cancel or invalidate a score; and, requiring, upon a cancellation or invalidation of a test score, the test agency to provide the test subject with the option of a refund of all test fees, the opportunity to take the test again privately and without charge, and the opportunity to seek judicial review of the matter. However, these options are not applicable in instances of complete disruption of a test due to, among other exceptions, inadequate or improper test conditions. A test sponsor who violates provisions of law is liable for a civil penalty not to exceed \$750 per violation (Education Code §99150-§99164.)

FISCAL EFFECT: Unknown. This bill has been keyed non-fiscal by Legislative Counsel.

COMMENTS: Purpose of this bill. In May of 2013, 259 Mills High School students had 641 of their Advanced Placement (AP) test scores cancelled by the College Board and Educational Testing Service (ETS) because of seating irregularities – some students were seated at round tables and not facing the same direction – in violation of testing protocols. The author notes that no evidence of student misconduct was identified. Students were provided an opportunity to retest, however due to a number of factors, the retest did not occur until August, long after the school year had concluded and some students had already left for college. This bill, according to the author, "would provide equity to the students whom, through no fault of their own, had their test scores invalidated."

Background. The College Board AP Program provides AP courses in 34 subjects, culminating in an exam which College Board recommends that colleges use to award credit to students who score three or higher. However, the college ultimately makes the decision of whether to confer credit. According to College Board, most four-year colleges and universities in the United States grant credit, advanced placement or both on the basis of successful AP Exam scores.

ETS is responsible for test security with respect to a variety of College Board tests, including the AP exams. In that capacity, ETS develops test administration procedures for AP exams; conducts security investigations where appropriate (i.e., cases where the high school failed to comply with test administration procedures); makes recommendations to the College Board as to

how cases should be resolved. The College Board makes the final decision about what action, if any, should be taken in the event of testing irregularities.

All administrators of AP exams are required to comply with test administration requirements, as set forth in the AP Coordinator's Manual. Explicitly outlined in the AP Coordinator's Manual, among several other seating requirements, students must face in the same direction and round tables are prohibited for testing. The AP Coordinator's Manual notes that failure to follow seating requirements could result in cancellation of exam scores.

Court decision on AP tests. In August 2013, the US District Court for Northern California denied an application for a temporary restraining order and a motion for a preliminary injunction seeking the reinstatement of the invalidated AP test scores. Among other things, court documents indicate the San Mateo Union High School District failed to administer some of the AP exams in a manner consistent with the seating requirements specified in the AP Coordinator's Manual.

Requiring colleges to determine test reliability. This bill would require test agencies to release test scores invalidated for irregular test administration, irregular statistical data, or any reason unrelated to misconduct by students. Postsecondary educational institutions would be authorized to accept the invalidated test scores. Opponents have raised concerns that releasing invalidated test scores (1) undermines the reliability of testing, and (2) inappropriately places college personnel in a position to determine whether an invalidated test is reliable.

To address these concerns, the author has proposed amendments to delete the current contents of the bill and instead require test agencies to report regarding testing cancellations. If the Committee chooses to approve the author's amendments, committee staff also suggests an amendment to ensure reporting is consistent with student privacy rights and to sunset the reporting requirement after two years.

Related legislation. SB 915 (Hill) was recently approved by the Senate Education Committee, and would require a test agency to initiate an investigation upon learning of a complaint or a notice of inadequate or improper test conditions relating to the administration of the Advanced Placement test. In addition, the bill would require the creation and preserving of seating charts.

REGISTERED SUPPORT / OPPOSITION:

Support

Several Individuals

Opposition

Association of American Medical Colleges
College Board
Education Testing Services

Analysis Prepared by: Laura Metune / HIGHER ED. / (916) 319-3960