



**LEGISLATION & PUBLIC
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June 15, 2018

Honorable Ben Allen
Chair, Education Committee
California State Senate
Capitol Building, Room 5072
Sacramento, CA 95814

RE: AB 1951 (O'DONNELL) as amended May 25, 2018 – OPPOSE

Dear Senator Allen:

Disability Rights California (DRC), a non-profit advocacy organization that advances and protects the rights of Californians with disabilities, regrets to inform you that we respectfully **oppose AB 1951**. This bill is scheduled for hearing in the Senate Education Committee on June 20, 2018.

The Every Student Succeeds Act (ESSA) requires states to assess their students' learning. ESSA provides two options to accomplish this goal: 1) mandated use of state-established test(s); or 2) state-allowed district-level choices between the state test and "nationally recognized" tests, including the SAT and ACT.

AB 1951 is another attempt to adopt the second option in California, namely to require the Superintendent of Public Instruction (SPI) to identify approved nationally recognized tests and to let districts choose between the state test and those approved nationally recognized tests.

Disability Rights California continues to have significant concerns about this measure.

The bill does not pass muster under the ESSA and its implementing regulations.

Federal regulations suggest that only students with the most significant cognitive disabilities should receive an alternate assessment in lieu of the national assessment, in an effort to ensure that students with disabilities are not held to lesser expectations or given diluted instruction or preparation. Specifically, ESSA limits the use of alternative assessments to 1% of the number of students statewide taking alternative tests. A local education agency must report to the state when it believes it will exceed 1% of its total assessed student population taking alternate assessments and provide justification for exceeding the limit.

- 1) The language in AB 1951 arguably uses language that is broader than the specific requirements under ESSA as it relates to alternative assessments.
- 2) Further, because of this requirement under ESSA, it is necessary to ensure that students with disabilities are provided the necessary preparation and instruction. While the bill generally refers to rights guaranteed under disability rights statutes, it still does not contain specific provisions or legislative language to ensure that students with disabilities are included in these tests through appropriate preparation and actual test administration. For example, the IEP planning will have to include test preparation support. AB 1951 does not contain such a mandate, and without it, students will not be prepared.

Questions about how moving to "nationally recognized" tests will work for students with disabilities, including ensuring necessary accommodations.

The language in AB 1951 states that students with disabilities will not be denied the benefits of participating in the test, and that districts shall “administer the assessment to individuals with exceptional needs... with appropriate accommodations, where necessary.” However, this language is vague with no specifics about what processes or steps will be used to ensure accommodations needs will be met.

Further, it is our understanding that the assessment vendors for the tests like ACT and the SAT retain the authority to approve the use of accessibility tools and assessment accommodations. The ACT and SAT are not school district exams. They have notoriously followed their own

interpretation of the Americans with Disabilities (ADA) and denied accommodations even if they are required per a student's IEP. Therefore, how will this provision be enforced in the state and district if a district adopts the ACT or SAT but the vendor denies accommodations requests that are in the IEP?

The lack of clarity in this measure will negatively impact students with disabilities. For these reasons, DRC opposes this bill. Please contact me if you have any questions about our position.

Sincerely,

A handwritten signature in cursive script, reading "Evelyn M. Abouhassan".

Evelyn Abouhassan
Senior Legislative Advocate
Disability Rights California

cc: Honorable Patrick O'Donnell, California State Assembly
Sophia Kwong Kim, Chief of Staff, Office of Assembly Member
O'Donnell
Honorable Members, Senate Education Committee
Brandon Darnell, Principal Consultant, Senate Education Committee
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