



**LEGISLATION & PUBLIC
INFORMATION UNIT**

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April 6, 2018

Honorable Patrick O'Donnell
Chair, Assembly Education Committee
California State Assembly
Capitol Building, Room 2196
Sacramento, CA 95814

RE: AB 2109 (O'DONNELL) – SUPPORT IF AMENDED

Dear Assembly Member O'Donnell:

Disability Rights California (DRC), a non-profit advocacy organization that advances and protects the rights of Californians with disabilities, **supports AB 2109 if it is amended.** The measure will be heard in the Assembly Education Committee on April 11, 2018.

Among other provisions, AB 2109:

- 1) Authorizes 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 in his or her prior school after the hospitalization has ended, or to provide a partial week of instruction;
- 2) Requires 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;
- 3) Entitles 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, and;

- 4) Ensures that students enrolled in hospital programs do not receive truancy notices.

Disability Rights California is pleased that this measure imposes much-needed timelines and maintains enrollment in home school districts so that students with temporary health needs do not lose their spots in their schools, including charter schools. However, we do think that the bill language needs clarification as to the interplay between temporary disabilities and the right to Free and Appropriate Education (FAPE) for students who have an individualized education plan (IEP) and also acquire a temporary disability.

More specifically, there are two likely problematic scenarios: 1) students who have IEPs or 504 Plans (and thus the right to receive FAPE) but develop additional temporary disabilities that are covered by this bill; and 2) students who are not eligible under the Individuals with Disabilities Education Act (IDEA), but whose temporary disabilities under this bill (i.e., psychiatric hospitalizations) really should be triggering child find requirements under the IDEA.

To address these concerns, Disability Rights California believes that the measure should be amended to include a provision, which states that the bill must be implemented in a manner consistent with existing disability laws such as the IDEA and Section 504. We would be happy to work with the author's office on language to address our concerns. Please contact me if you have any questions about our position or if I can provide any further information.

Sincerely,

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

Evelyn Abouhassan
Senior Legislative Advocate
Disability Rights California

cc: Honorable Members, Assembly Education Committee
Debbie Look, Senior Consultant, Assembly Education Committee
Honorable Patrick O'Donnell, California State Assembly
Tanya Lieberman, Deputy Chief Consultant, Assembly Education
Committee