



CALIFORNIA  
DEPARTMENT OF  
EDUCATION

**TOM TORLAKSON**

STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

July 17, 2015

Dear County and District Superintendents and Charter School Administrators:

**AMENDMENT TO CALIFORNIA *EDUCATION CODE* 48000(c)**

I would like to inform you that the laws applicable to transitional kindergarten (TK) pupils have recently changed as a result of the enactment of Assembly Bill (AB) 104, the Education Omnibus Trailer Bill. The new law, which is effective July 1, 2015, permits local educational agencies (LEAs) and charter schools for the first time the option to grant early admission, **at the beginning of the school year**, for pupils who are otherwise too young to attend a TK program. This letter updates information I provided on this topic in a letter dated November 14, 2014.

Specifically, AB 104 amended the California *Education Code* (EC) to add subsection (B) to EC 48000(c)(3):

- (B)** (i) For the 2015–16 school year and each school year thereafter, a school district or charter school may, at any time during a school year, admit a child to a transitional kindergarten program who will have his or her fifth birthday after December 2 but during that same school year, with the approval of the parent or guardian, subject to the following conditions:
- (I) The governing board of the school district or the governing body of the charter school determines that the admittance is in the best interest of the child.
  - (II) The parent or guardian is given information regarding the advantages and disadvantages and any other explanatory information about the effect of this early admittance.
- (ii) Notwithstanding any other law, a pupil admitted to a transitional kindergarten program pursuant to clause (i) shall not generate average daily attendance for purposes of Section 46300, or be included in the enrollment or unduplicated pupil count pursuant to Section 42238.02, until the pupil has attained his or her fifth birthday, regardless of when the pupil was admitted during the school year.

Thus, pupils who will turn five years old **after** December 2 (the “cut-off” date for a child to be admitted to a TK program)—but before the end of that same school year—may be permitted to attend TK at any time during the school year, **including at the beginning of the school year**, at the discretion of the LEA or charter school that operates a TK and/or kindergarten program. As required by subsection (B) above, the governing board of the LEA and charter school that operates a TK and/or kindergarten program must make a determination that early admittance is in the best interest of the child and must provide the child’s parent or guardian with information regarding the advantages and disadvantages of early admission to TK and any other explanatory information about the effect of early admission.

TK pupils who gain early admittance pursuant to the provisions of *EC 48000(c)(3)(B)* as set forth above may not generate average daily attendance (ADA) for the purpose of Local Control Funding Formula funding (LCFF) until they attain the age of five. In addition, for the purpose of determining each LEA’s and charter school’s unduplicated percentage for the LCFF supplemental and concentration calculation, enrollment, and unduplicated pupil count (e.g., Free and Reduced Price Meal Eligible, English Learner, or Foster Youth), data for TK pupils that gain early admittance will be excluded. Once a pupil who was admitted early to TK turns five, the LEA or charter school may then, and only then, allow the pupil’s attendance to generate ADA and be included in the ADA reported to the California Department of Education (CDE) for the purpose of LCFF funding.

As an example, a child who will turn five on January 4, 2016, may be admitted by an LEA or charter school to attend TK at the beginning of the 2015–16 school year if the LEA’s, or charter school’s governing body determines that early admittance is in the best interests of that child and the parent or guardian is provided the information referenced above. However, that LEA or charter school (that operates a TK program) would not be permitted to use that pupil’s attendance to generate ADA until January 4 of 2016, the date that pupil turns five. Further, that pupil’s enrollment or unduplicated pupil count data would not be included in the LEA’s or charter school’s unduplicated percentage for the LCFF supplemental and concentration calculation as their fifth birthday occurs after the Fall Census Day for the 2015–16 fiscal year but not on or before December 2, 2015.

Whether to take advantage of this new law and allow younger-aged children (children whose fifth birthday is **not** from September 2 through December 2) to attend TK is a decision entirely left to the LEA or charter school that operates a TK program. Should an LEA or charter school that operates a TK program chooses to implement the new law, then it would be incumbent upon the LEA and charter school to ensure that it meets all legal requirements. As a reminder, all LEAs, and charter schools that operate a TK and/or a kindergarten program are required to offer a TK program for children who will

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have their fifth birthday between September 2 and December 2, but a child's attendance in a TK program is optional on the part of the child's parent or guardian.

For further information on TK, please visit the CDE's Transitional Kindergarten Frequently Asked Questions Web page at <http://www.cde.ca.gov/ci/gs/em/kinderfaq.asp>.

If you have any questions regarding TK or kindergarten, please contact Kathleen Halvorson, Education Programs Consultant, Early Education and Support Division, by phone at 916-323-4629 or by e-mail at [khalvorson@cde.ca.gov](mailto:khalvorson@cde.ca.gov).

Sincerely,



Tom Torlakson

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