

**Valenzuela/CAHSEE Intensive Instruction and Services Program
Lawsuit Settlement**

FREQUENTLY ASKED QUESTIONS (Revised April 4, 2008)

1.0 Student Eligibility

1.1. Q. If a student spent part of their 12th grade year at a comprehensive high school in a school district, transferred to another school district (or was transferred to a community school operated by the county superintendent), and finished the year but had not passed the CAHSEE, which local educational agency (LEA) is responsible for notifying and serving the student?

A. To ensure all eligible students receive notice and services, both LEAs should notify the student if they are participating in the CAHSEE Intensive Instruction and Services Program. If the student elects to be served by one of the LEAs, that LEA will be responsible for serving the student.

1.2. Q. If a student resides within the boundaries of a district or county which is participating in the CAHSEE Intensive Instruction and Services Program and requests services to pass the CAHSEE but did not attend a school operated by that district or county superintendent in grade 12, is the district or county superintendent obligated to provide services?

A. Yes, pursuant to direction from the California Department of Education. For example, if a student moved from Fresno to San Bernardino, the participating LEA in which the student now resides would provide services to the best of their ability.

1.3 Q. How is a student identified as being in grade 12 – by age or by credits earned?

A. The definition of grade 12 is determined by the LEA and students are classified accordingly.

1.4. Q. Are we required to track data and notify students who are not on track to graduate and have not passed the CAHSEE?

A. Yes, students who have not passed the CAHSEE by the end of grade 12 are to be notified and served if they elect to be served, whether or not they have completed all other graduation requirements. If a student is also deficient in credits to graduate, the LEA may follow existing statute for reenrolling students or may make arrangements with an adult education program or community college to enable the student to attain credits and complete graduation requirements. LEAs participating in the program may contract for services with a public or non-public entity.

(Revised) 1.5. Q. Will students with disabilities (e.g. students with an individualized education program (IEP) or Section 504 plan, including students with placements in non-public schools) be eligible for intensive instruction and services beginning with the class of 2008 and notified before the end of the school year?

A. The CAHSEE exemption under Education Code section 60852.4 applied to students with disabilities with a graduation date on or before December 31, 2007. For students who graduated in 2006, a similar exemption was established in Education Code section 60852.3. Therefore, the notification and provision of intensive instruction and services to special education students are not applicable to the classes of 2006 and 2007, and graduation dates through December 31, 2007.

All students with graduation dates on or after January 1, 2008 are required to take and pass the CAHSEE in order to receive a diploma. If a student with disabilities will not take the CAHSEE and receive a diploma based on their IEP or 504 plan, the student is not eligible to receive intensive instruction and services. Students with disabilities who will take the CAHSEE based on their IEP or 504 plan, and who do not pass one or both parts of the examination by the end of grade 12, are eligible for services. Intensive instruction and services must be provided in accordance with a student's IEP or 504 plan.

1.6. Q. If a student passes the GED or the California High School Proficiency Exam (CHSPE) does that end their eligibility for services under the CAHSEE Intensive Instruction and Services Program?

A. No, completing either of these alternatives does not preclude students from accessing services under the CAHSEE Intensive Instruction and Services Program.

2.0 Student Eligibility Letter

2.1. Q. What is the definition of academic "term"?

A. The definition of "term" is locally defined depending on whether a course of study is a semester, quarter, trimester or some other configuration.

2.2. Q. Can we create a form letter to be signed by the student indicating that they are declining services and, therefore, eliminate the need to further notify the student each term?

A. Yes, a separate letter can be created and provided to the student to sign as evidence that the student does not wish to be notified any further. CCSESA has created an alternate sample Student Eligibility Letter (posted on the CCSESA website) with a section for releasing the LEA from providing notification of eligibility for services in the future. However, although a student may decline notification, a student would remain eligible for services for up to two years after the end of grade 12 and would need to be served by the LEA if he or she sought services within the two-year period after grade 12.

2.3. Q. If the Student Eligibility Letter is returned and no forwarding address is provided, is the LEA obligated to continue to send a letter each term for the student's period of eligibility?

A. No, if the letter is returned with no forwarding address, the LEA does not need to continue sending letters to the address.

2.4. Q. Does the Student Eligibility Letter need to be sent certified or registered mail?

A. No, the statute does not require an acknowledgement of delivery.

(Revised) 2.5. Q. Are translations of templates available, such as the Student Eligibility Letter, Student Eligibility Notice, which are required to be translated per *Education Code* section 48985?

A. Translations of the student eligibility letter, student eligibility notice, and uniform complaint notice are available in Spanish and Vietnamese on the CCSESA website. These translations were provided by individual county offices. As additional translations become available they will be posted.

3.0 Student Eligibility Notice

3.1. Q. Where is the Student Eligibility Notice required to be posted?

A. In the school office of schools serving grades 10-12, the LEA office, and on the LEA Internet website.

3.2. Q. Are all high schools receiving CAHSEE Intensive Instruction and Services Program funding and therefore required to post information on eligibility for services and the right to complain if services are not provided?

A. No, only LEAs that applied for funding are required to send letters to eligible students, post eligibility and revised Uniform Complaint Procedures (UCP) notices in schools and classrooms serving students in grades 10-12, and provide services to students. (Note: List of school districts receiving funds is available at http://www.ccsesa.org/index/documents/5.4_CAHSEE_Intensive_Instruction_and_Services_Program_Funded_LEAs_000.pdf) All other schools are required to post *Williams* UCP notices that do not include the new CAHSEE provision.

4.0 Services to Students

4.1. Q. Does the two year period beyond the academic school year end in June or in August?

A. We recommend August. To maximize the opportunity for students, we recommend that the window of services include summer school, if offered, of the final academic year of eligibility. For students in the class of 2006, that would be August 2008. For the class of 2007, that would be August 2009.

4.2. Q. Can the intensive instruction and services provided to students after grade 12 be the same intensive instruction and services provided to 11th and 12th grade students with similar needs?

A. Yes, so long as the LEA is employing strategies for intensive instruction and services that are: (1) most likely to result in the pupils passing the parts of the CAHSEE they have not yet passed, and (2) based on the results of the pupil's diagnostic assessment and prior results on the CAHSEE. Also, if a pupil is an English learner, the LEA must provide services to improve English proficiency as needed based on the diagnostic assessment and prior CAHSEE results. Post-12th grade students are likely to have unique needs and circumstances as compared to students in grades 11 and 12 in a comprehensive high school program. Therefore, strategies most likely to result in these pupils passing the CAHSEE may need to differ from those employed for 11th and 12th graders. For example, students may receive services on Saturdays, evenings, or at a time and location deemed appropriate by the LEA to meet the needs of these pupils.

4.3. Q. Do the services to improve English proficiency as needed for English learners to pass the CAHSEE have to be in a separate and distinct class?

A. No, the services must be provided but can be part of one or more services provided to students to pass the CAHSEE. The provision of such services must be tracked and reported for monitoring purposes. However, services for English learners to improve English proficiency must be tailored to the needs of English learners and would not be simply the same language arts instruction provided to students who are proficient in English.

4.4. Q. Can a student enroll in a couple of periods to complete classes for graduation credits while taking intervention courses to pass the CAHSEE?

A. Yes, if the student is credit deficient. In order to qualify for apportionment funding, the student will need to follow the existing requirements for enrolling, and attend classes for a minimum day.

4.5. Q. Will making adult education programs available to eligible students be sufficient? If the LEA doesn't offer adult education, can the LEA contract with another LEA to provide those services?

A. Yes, if the intensive instruction and services are tailored to helping each individual pupil attain the knowledge and skills necessary for him or her to pass the CAHSEE and if the requirements for diagnostic assessment and services to improve English proficiency as needed for English learners to pass the CAHSEE are met. It is allowable to contract with another entity that may offer adult programs to provide the services needed to pass the CAHSEE.

4.6. Q. If an eligible student is enrolled in a community college can the community college also provide the services under the CAHSEE Intensive Instruction and Services Program?

A. Yes, a LEA responsible for providing services can coordinate and contract with the community college as an outside entity to provide those services.

4.7. Q. Can LEAs work with community colleges to provide specific courses?

A. Yes, LEAs can contract with an outside public or non-public organization to provide services.

4.8. Q. How can LEAs coordinate student notification and services across agencies including notifying other LEAs that a student is receiving services?

A. There is no requirement to coordinate, however, this is a good idea that deserves some thoughtful discussion among LEAs within communities (see questions 1.1 and 1.2 for information on eligibility for services)

4.9. Q. If a LEA applied for and received funding under the CAHSEE Intensive Instruction and Services Program for 2007-08 and decides not to apply for funding in 2008-09, is the LEA still required to provide services in 2008-09 to students in the classes of 2007 and 2008 who were notified before the end of the academic year in 2007-08?

A. Yes, the assurances for funding in 2007-08 included a requirement to provide students with services for up to two academic years after the end of grade 12 or passage of the CAHSEE, whichever comes first. According to the California Department of Education, if a LEA that has previously accepted funding refuses funding for the 2008-09 school year they are still responsible to provide instruction to those students in the classes of 2007 and 2008 for up to two years.

(New) 4.10. Q. Must a LEA enroll a student to take the CAHSEE?

A. Yes. A student must be enrolled to take the CAHSEE per Title 5 of the *California Code of Regulations*, sections 1200(c), 1200(d), and 1211. The LEA can enroll a post-12th grade student as a 12th grader or adult student as they see fit for testing purposes and may enroll the student just for the day of the examination. Enrollment or re-enrollment for purposes of supplementary services and/or course credit is determined by LEA policy.

(New) 4.11. Q. How many times each year will post-12th grade students (e.g. students in the classes of 2006 and 2007) be allowed to take the CAHSEE?

A. A post-12th grade student may take the CAHSEE up to 3 times or up to 5 times in 2007-08 depending on how the LEA enrolls the student to take the exam. The Budget Act (Chapter 171, Statutes of 2007, Item 6110-113-0001, Provision 5) provides funding for annual administrations of the CAHSEE as follows:

- Grade 12 students – may take up to five administrations of the CAHSEE
- Grade 11 students – may take up to two administrations
- Grade 10 students – are required to take one administration

Adult students may take the CAHSEE up to three times per school year per section 1204.5 of Title 5 of the *California Code of Regulations*.

Please note that the LEA may choose to enroll a post-12th grade student as a 12th grader in 2007-08 to maximize the number of test opportunities available to that student, e.g. the student may take the CAHSEE up to five times, rather than limit the student to three times as an adult student due to the particular budget language of this year.

(New) 4.12. Q. Must intensive instruction and services be provided by the LEA before a student can take the CAHSEE again?

A. No, however, section 1204.5(d) of Title 5 of the *California Code of Regulations*, states that students “should be offered appropriate remediation or supplemental instruction before being retested.”

5.0 County Superintendent Monitoring Responsibilities

5.1. Q. How will County Superintendents, in monitoring implementation of the *Valenzuela* settlement, verify data from LEAs on eligible students? Is verifying a sampling of students allowable?

A. The Educational Testing Service (ETS) provides reports on students who have passed and not passed one or both parts of the CAHSEE to LEAs who administer the examination to their students. LEAs will be requested to provide those reports to County Superintendents who will use these reports to independently verify the list of eligible students provided by the LEA. A county superintendent can conduct a sampling for the verification of the list of students notified. We recommend that the county superintendent review a minimum of 50 students or 10% of the LEA’s list of students from the ETS data who have not passed the CAHSEE, whichever is more, to verify that those students are included in the LEA’s Table A of students who were notified. If omissions are found, the sample should be expanded to determine if the problem is more pervasive and then noted in the reports and letters sent regarding the results of the documentation review.

5.2. Q. If a LEA had all of the students in the class of 2006 pass the CAHSEE but some in the class of 2007 who did not pass, is there different documentation required for the class of 2006?

A. No, but we would suggest that the district provide a statement on the LEA Assurances and Checklist for Documentation Verification that all students in that class passed the CAHSEE.

5.3. Q. Are County Superintendents required to report information on the CAHSEE Intensive Instruction and Services Program for every participating LEA or only those with schools ranked in Deciles 1-3 on the 2006 Base API?

A. County superintendents are required to report CAHSEE Intensive Instruction and Services Program information quarterly and annually on the CAHSEE Intensive Instruction and Services Program for participating school districts with schools serving grades 10-12 that were ranked in Deciles 1-3 on the 2006 Base API for the purpose of *Williams* reviews. No quarterly or annual reports are required for LEAs that do not have schools on the California Department of Education's *Williams* Deciles 1-3 list (this includes all county-operated programs and charter schools). However, all LEAs on the funded list are required to submit information regarding compliance with the Intensive Instruction and Services Program to their County Superintendent. Therefore, we recommend that you send a letter to the superintendent for all other LEAs informing them of the results of your documentation verification of their programs.

5.4. Q. In 2008-09, will there be visits to all schools that are funded through the CAHSEE Intensive Instruction and Services Program or only those schools ranked in Deciles 1-3 on the 2006 Base API used for *Williams* visits?

A. In late Spring 2008, CCSESA will create a blended review process for *Williams*, *Valenzuela*, and Quality Education Investment Act (QEIA) monitoring responsibilities of County Superintendents. Visits required under the *Valenzuela* settlement will only be to those participating schools that are ranked in Deciles 1-3 on the 2006 Base API serving grades 10-12. CCSESA will look at the possibility of producing a list that cross references schools subject to visits under the three monitoring requirements for the Spring 2008 training.

5.5. Q. Will County Superintendents be responsible for monitoring the counseling program requirements?

A. No, the statute only requires County Superintendents to monitor the CAHSEE Intensive Instruction and Services Program.

5.6. Q. Is funding provided for County Superintendents' monitoring and oversight responsibilities?

A. Yes, \$1.5 million was appropriated for monitoring in 2007-08. Pursuant to AB 347, CCSESA will recommend a funding formula, developed by the Business and Administration Steering Committee, for adoption by the Superintendent of Public Instruction for apportioning these funds to the 57 county superintendents with these responsibilities.

5.7. Q. How will the cost of monitoring be covered for County Superintendents that received funding for the CAHSEE Intensive Instruction and Services Program and must be monitored by another County Superintendent?

A. Each county will receive funding for monitoring the LEAs within the county. This will include an allocation for the county-operated programs. A County Superintendent must contract with another County Superintendent for the monitoring, or partner with another County Superintendent to develop reciprocal monitoring.

6.0 Charter Schools

6.1. Q. Are County Superintendents required to monitor charter schools that are participating in the program in the same manner as they monitor other LEAs? Are County Superintendents to work directly with the charter school or through the authorizing agency?

A. Yes, direct-funded charter schools were eligible to apply for funding, signed the same assurances, and will be monitored in the same way as other LEAs that received funding. County Superintendents will communicate directly with the participating charter schools. We encourage you as a good practice to keep the authorizing agency informed of your interaction with their charter school.

6.2. Q. Do charter schools need to follow the *Valenzuela* Uniform Complaint Procedures (UCP) set forth in *Education Code* section 35186 in terms of the process, timelines and notice?

A. Charter schools must have established a complaint process and notified students of their right to file a complaint regarding the intensive instruction and services, but they do have flexibility from complying with sections pertaining to Uniform Complaint Procedures in Title 5 of the California Code of Regulations to develop their own procedures for complaints. We recommend that they try to follow the suggested policy and required timelines as outlined in the sample provided by CSBA. CCSESA has created an alternative sample UCP classroom notice for charter schools that only covers the right to complain about CAHSEE services (posted on the CCSESA website).

(New) 6.3. Q. Are charter schools precluded from enrolling students to obtain additional credits if the students were not continuously enrolled after Age 19, per *Education Code* Section 47612? Can charter schools enroll students solely to retake the CAHSEE?

A. Education Code Section 47612(b) pertains exclusively to the claiming of students for apportionment. A charter school, like all LEAs, must enroll a student to take the CAHSEE. The charter school may enroll a student to retake the CAHSEE regardless of the student's age. Moreover, the charter school may provide intensive instruction and services for CAHSEE passage without the student being formally enrolled. In the circumstance that a charter school has a student who (1) has yet to pass one or both parts of CAHSEE, (2) also needs additional course

credit to graduate, and (3) is over age 19 when electing to receive intensive instruction and services, the school's chartering authority may submit a waiver request to the State Board of Education for the student to be eligible for regular apportionment in the charter school.

7.0 Program Funding

7.1. Q. Is the funding for the CAHSEE Intensive Instruction and Services Program an entitlement?

A. No, LEAs had to apply for the funding and as a condition of receiving funds they have to fulfill assurances that include providing information regarding what they are doing with the funds.

7.2. Q. Are individual schools funded or LEAs such as school districts?

A. The LEAs applied for funding based on the students in grades 11 and 12 in the current academic year that had not yet passed the CAHSEE. Funds are appropriated to the LEA and do not need to be allocated back to a particular school site or expended based on a per pupil or per course amount.

7.3. Q. Will the funding for services be impacted if services are not provided as required?

A. Each LEA signed assurances to participate in the program (list of assurances is posted on the CCSESA website) that as a condition of receipt of funds, they would notify eligible students and provide services for up to two academic years. The state will monitor LEAs that signed the assurances and accepted funding to provide instruction and services.

7.4. Q. What if LEAs do not expend the total funding due to the level of participation?

A. The CAHSEE Intensive Instruction and Services Program is a categorical program. Funding must be used for the purposes of the program, enabling students to pass the CAHSEE. LEAs can carry funds into successive fiscal years. No time limit exists on expenditure within the purposes of the program.

8.0 Other

8.1. Q. Will the January 15 videoconference be archived for later viewing?

A. Yes, the videoconference is archived on CCSESA website for viewing at <http://www.ccsesa.org/index/ValenzuelaTrainingMaterials.cfm> .

8.2. Q. Will the training documents be provided in Word format so they can be modified for use with LEAs?

A. Yes, they are posted on the CCSESA website as individual documents in Word format.