



YOUNG, MINNEY & CORR, LLP

LEGAL ALERT

AB 104 Effective Immediately: Important Legal Changes Regarding Student Coursework Exemptions, Grade Changes, and Requests for Retention

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On July 1, 2021, Governor Newsom signed Assembly Bill 104 to add Sections 48017, 49066.5, and 51225 to the Education Code. The new laws require local educational agencies (including charter schools) to implement several remedial provisions to mitigate the hardships of COVID-19 on students.

The following new requirements are effective immediately:

Requests for Retention

For the 2021-22 academic year, charter schools must implement a supplemental policy regarding the retention of eligible students. An eligible student is a student who received deficient grades for at least one-half of the student's coursework in the 2020-21 academic year. A deficient grade is a D, F, a No Pass, or an equivalent as determined by the charter school. Notwithstanding existing law and charter school policy, a student enrolled in grade 12 during the 2020-21 academic year is not eligible for retention under AB 104.

The supplemental policy must include the following:

- **Within 30 calendar days** of receiving a written retention consultation request from a parent, a charter school must conduct a consultation with the parent, the student, the administrator, and a teacher. The consultation shall include a discussion of all available learning recovery options, research on the effects of retention and the benefits of particular interventions and supports, and consideration of the student's academic data and any other information relevant to whether retention is in the student's best interests, academically and socially.
- **Within 10 calendar days** of the consultation, a charter school must notify the requesting parent of its retention decision. Regardless of the retention decision, a charter school must offer the student-specific interventions and supports, including access to prior semester courses in which the student received a D or F letter grade in the 2020-21 academic year, some other form of credit recovery, or other supports.

Requests for Grade Changes

The parent, guardian, or educational rights holder of any student (or a student who is 18 years of age) who was enrolled in grades 9-12 in the 2020-21 academic year may request to change a letter grade earned in a high school course in the 2020-21 school year to Pass or No Pass on their transcript. There is no discretion to limit the number or type of courses eligible for the grade change. By July 16, 2021, the California Department of Education (“CDE”) must post on its website an application template for a requested grade change. By July 21, 2021, the CDE must post a list of California postsecondary educational institutions that have indicated that they accept Pass/No Pass grades. Within fifteen (15) calendar days of the CDE posting of the template application, any charter school serving high school pupils must post a notice on its website and provide written notice to its pupils and their parents or guardians of the grade change option. The notice must include: a) the application for a grade change; b) the list of postsecondary educational institutions that have indicated that they accept Pass/No Pass grades; and a statement that some postsecondary educational institutions, including those in other states, may not accept a Pass or No Pass grade instead of a letter grade for admission purposes.

Applications for a grade change must be submitted within 15 calendar days of a charter school's written notice and website posting of the grade change option. A charter school cannot accept any applications for a grade change to pass/no pass after this date. A charter school must grant all timely applications within 15 calendar days of receipt of the application and notify the parent/guardian of the change.

Extended Opportunities for High School Coursework Completion

A charter school must exempt any student who, in the 2020–21 school year, was in their 3rd or 4th year of high school, and who is not on track to graduate in four years from all coursework and other requirements adopted by the charter school that are in addition to the minimum California graduation requirements. Additionally, a charter school must provide a pupil who was enrolled in the pupil's third or fourth year of high school during the 2020-21 school year, and who is not on track to graduate in the 2020-21 or 2021-22 school years, the opportunity to complete the minimum California graduation requirements, which opportunity might include but is not limited to the completion of coursework through a 5th year of instruction, credit recovery, or another opportunity to complete the required coursework.

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For any questions regarding AB 104, please contact Lisa Corr at lcarr@mycharterlaw.com, Jason Miller at jmiller@mycharterlaw.com, or Mariam Babayan at mbabayan@mycharterlaw.com or gives us a call at (916) 646-1400.