

To: County and District Superintendents
Child Development Executive Directors and Program Directors
Attendance Accounting Staff

From: Robert W. Agee
Deputy Superintendent for Field Services

Subject: Changes in the law (Chapter 1256, Statutes of 1989, effective October 1, 1989) concerning (a) eligibility for admission to kindergarten and (b) requirements applying to districts whenever they retain children in kindergarten beyond one year of attendance.

Summary and Background

The Legislature amended the Education Code last fall to make clear that the standard way for children to begin school in California is by entering kindergarten during the first month of classes in the school year. Such first-month entry requires that a child be old enough that his or her fifth birthday will occur not later than December 2nd of the same year. The law also gives local school boards discretionary authority to permit later entry by (a) children of the proper age, when presented for admission sometime after the first month, and (b) children who, though not old enough to have entered in the first month, have since actually turned five (Education Code Section 48000).

The Education Code formerly provided in part that if there were "two terms" in a district's school year, a child too young to begin school in the first month could instead start kindergarten at the beginning of the "second term" if his or her birthday fell on or before May 2nd. This provision was intended to accommodate the "mid-term" system that was an innovation more than 50 years ago, in which some children entered kindergarten in January or February and ultimately completed the 12th grade in January or February 13 years later, having begun each new grade level at mid-year. Because it has been many years since any California school district has had a true mid-term system, and because some school officials were misreading the word "term" to mean "semester" (see below), the Legislature amended the Education Code to eliminate all references to two-term school years.

The recent amendments also included language setting out specific requirements that must be met before the Department of Education may grant continued apportionment credit for children who are not immediately promoted to first grade after lawfully attending a year of kindergarten. Districts claiming such credit must now have on file for each such child a Department of Education-approved consent-to-retain form, signed by the pupil's parent/guardian, approving not more than one additional year of kindergarten attendance (Education Code Section 46300(g)).

(The full text of the amended Education Code Sections is attached, along with an approved form and instructions for its use in compliance with the new requirement.)

Discussion

In a recent practice by some school districts, known as early entry or early admission kindergarten, children whose birthdays fell after December 2nd but before May 2nd (or, in some programs, before a specified date in early April), were allowed to start kindergarten as a group at the beginning of the spring semester. These children then attended kindergarten the whole next school year as well, for a total of 1 1/2 years of kindergarten. To the extent that any of these children began actually attending kindergarten before they reached age five, however, their attendance was unlawful (Education Code Section 48210). And because most of these children attended kindergarten longer than one year after becoming eligible, they were "retained" under the meaning of that term in Education Code Section 48011--but districts have often not advised parents/guardians of their right to have such children immediately promoted to first grade instead.

Some districts' early admission programs have functioned as preschools while receiving ADA funding. The Department of Education recognizes the need for quality preschool and child development programs for children younger than kindergarten age. It is not department policy, however, to encourage districts to circumvent state law. If schools admit children to kindergarten as they turn five after the December 2nd cutoff (or, more commonly, allow them to enter as a group at the beginning of the second semester), they are required by the law to explain the advantages and disadvantages to parents/guardians and to promote the children to first grade after each has completed a year of attendance--or formally retain them with written parent/guardian permission.

Current research on retention shows its potential for negative effects on retained pupils. In addition, districts that have a policy of enrolling children as they turn five after the December 2nd cut-off date must be mindful of determining non-discriminatory criteria for admission. For example, the use of "readiness" tests for enrollment purposes is not recommended in light of those tests' lack of reliability.

Public and private preschool and child development programs funded through the California Department of Education, Child Development Division, provide necessary care, education, health, nutrition, and referral services to low income, high-risk children. Typically, enrollment in early admission kindergartens has not provided this head start for at-risk children in particular, because admission has been based solely on the arbitrary factor of date of birth. Rather than focusing a program for high-risk preschool-age children, districts have provided academic enrichment for enrolled children who were at the older end of the age range of the next year's kindergarten class, a situation that could exacerbate some inappropriate curricular practices.

The School Readiness Task Force studied California educational conditions for children ages four through six. Its report, "Here They Come: Ready or Not!", called for a re-evaluation of curriculum and teaching practices for young children. The Department emphasizes changing school programs to fit the needs of pupils rather than continuing to try to fit the children to programs which are inappropriate. Early-admission-to-kindergarten or three-semester kindergarten programs may inadvertently result in some districts' continuance of inappropriate kindergarten curricula while offering a program for children who will be among the oldest in the next year's kindergarten class. The Department encourages positive experiences for four-year-old children and articulation of child development centers and day care homes with kindergarten and first grade programs. In some cases, ungraded classes may facilitate this goal in an exemplary manner.

The Department's October 1989 teleconference on early primary education and November 1989 teleconference on restructuring education presented numerous examples of locally developed programs for young children. Educators may choose to offer preschool programs in conjunction with their school-age programs. There are numerous avenues for local educators to explore concerning funding sources for the preschool component, rather than using ADA funds as early-admission-to-kindergarten or three-semester kindergarten programs have.

Action

Attendance officials and administrators of county offices, school districts, and public and private child development programs should be cognizant of the changes in the law and should review current enrollment and retention practices in light of them.

Any questions on attendance accounting, ADA, or interpretation of the Education Code regarding eligibility for school attendance should be addressed to John Gilroy, Local Assistance Bureau, (916) 323-8478. Questions on programmatic issues may be addressed to Ada Hand, Field Services Branch Administration, (916) 324-5923.

To the extent that this Management Advisory contains guidelines in addition to recitation of the law, the guidelines are exemplary only and compliance with them is not mandatory.

Amended Education Code sections cited in this Advisory

Section 46300: (g) In computing the average daily attendance of a school district, there shall be included the attendance of pupils in kindergarten after they have completed one school year in kindergarten only if the school district has on file for each of those pupils an agreement made pursuant to Section 48011, approved in form and content by the State Department of Education and signed by the pupil's parent or guardian, that the pupil shall be retained in kindergarten for not more than an additional school year.

Section 48000: (a) A child shall be admitted to a kindergarten during the first school month of a school year if the child will have his or her fifth birthday on or before December 2nd of that school year. For good cause the governing board of a school district may permit a child of proper age to be admitted to a class after the first school month of the school term.

A child who will have his or her fifth birthday on or before December 2nd may be admitted to the prekindergarten summer program maintained by the school district for pupils who will be enrolling in kindergarten in September.

(b) The governing board of any school district maintaining one or more kindergartens may admit to a kindergarten a child having attained the age of five years at any time during the school year with the approval of the parent or guardian. The governing board shall provide the parent or guardian with information as to the advantages and disadvantages and any other explanatory information as to the effects of this early admittance.

Section 48011: A child who, consistent with Section 48000, has been admitted to the kindergarten maintained by a private or a public school in California or any other state¹, and who has completed one school year therein, shall be admitted to the first grade of an elementary school unless the parent or guardian of the child and the school district agree that the child may be retained in kindergarten for not more than an additional school year.

A child who has been lawfully admitted to a public school kindergarten or a private school kindergarten in California and who is judged by the administration² of the school district, in accordance with rules and regulations adopted by the State Board of Education, to be ready for first-grade work may be admitted to the first grade at the discretion of the school administration of the district and with the consent of the child's parent or guardian if the child is at least five years of age. When a child has been legally enrolled in the public schools of another district within or out of the state, he or she may be admitted to school and placed in the grade of enrollment in the district of former attendance, at the discretion of the school administration of the district entered.

1. Note that a year of attendance in kindergarten does not in itself qualify a child for admission to the first grade, unless the child was properly eligible under Section 48000's age requirements at the time he or she began the year of kindergarten.
2. See California Code of Regulations, Title 5, Section 200.

The following parent/guardian agreement-to-retain form is preapproved by the California Department of Education for use by school districts in compliance with the requirements of Education Code Section 46300(g). Signed forms for all retained children must be kept on file for three years as part of a school district's "audit trail" for state apportionments (California Code of Regulations, Title 5, Section 16075). Note that the Department recommends against obtaining consent to retain until near the anniversary date of a pupil's kindergarten admittance and that permission obtained unreasonably far in advance could be found invalid.