

Senate Bill 607 statutory changes for ability-to-benefit students

The Legislature recently enacted legislation that will repeal Education Code section 94904, which required students without a high school diploma or the equivalent to successfully complete an examination prior to executing an enrollment agreement, and will amend section 94909 to eliminate the need to include specific admissions requirements for these students in school catalogs. The legislation will also repeal section 94811, which defined these students as “ability-to-benefit” (ATB) students.

These changes will permit students without a high school diploma or the equivalent to enroll in private postsecondary institutions without having to complete the admissions prerequisite of passing an alternate entrance examination. As a result of the changes, **which will go into effect on January 1, 2022**, a student who is otherwise qualified and has a reasonable prospect of completing an instructional program, but lacks a high school diploma or the equivalent, will no longer have to pass an “ability-to-benefit” examination in order to enroll in the program. However, schools must still establish general student admission standards for *all* students enrolling in each program, as provided in California Code of Regulations, title 5, section 71770(a), which states that, “[t]he institution shall establish specific written standards for student admissions for each educational program. These standards shall be related to the particular educational program. An institution shall not admit any student who is obviously unqualified or who does not appear to have a reasonable prospect of completing the program.”

The statutory amendments will also require the Bureau to amend certain regulations establishing admission standards for students, including ability-to-benefit students, as they conflict with the statutory repeal and will be unenforceable as written beginning January 1, 2022. Specifically, California Code of Regulations, title 5, section 71770(a)(1), which requires undergraduate degree or diploma program students to possess a high school diploma, its equivalent, or pass an ability-to-benefit examination, and section 71920(b)(1)(A), which requires institutions to maintain records verifying completion of high school, its equivalent, or other evidence of a student’s ability to perform at a college level, including successful completion of an ability-to-benefit examination. These provisions cannot be enforced as written after January 1, 2022. Accordingly, the Bureau will not enforce the provisions affected by the statutory repeal and will revise the regulations in light of the statutory changes.

Please note that the California law changes do not affect any applicable federal requirements for institutions offering federal financial aid under Title IV of the Higher Education Act.