



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,

A handwritten signature in black ink that reads "Tom Torlakson". The signature is written in a cursive style with a large, sweeping initial "T".

Tom Torlakson

TT:kh

2015-04902





Amendment to California  
*Education Code (EC) 48000(c)*  
Regarding Early Admission to  
Transitional Kindergarten (TK)  
August 27, 2015

CALIFORNIA DEPARTMENT OF EDUCATION  
Tom Torlakson, State Superintendent of Public Instruction



TOM TORLAKSON  
State Superintendent  
of Public Instruction

## Presenter

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Education Programs  
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## What is TK?

TK is:

- The first year of a two-year required kindergarten program, using a modified kindergarten curriculum that is age and developmentally appropriate, and offered to all age-eligible students who are 5 between September 2, and December 2.



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## What is a TK program?

TK programs:

- Were instituted for young five year olds and gives them the opportunity of another year to develop needed social and emotional skills.
- Are part of the K-12 public school system and are required to be taught by persons meeting teacher credential requirements.
- Meet the same statutory requirements as kindergarten in terms of facilities, class size limits, instructional minutes, and immunizations.
- Adhere to *California Code of Regulations (CCR), Title 5*, sections 14001 – 14036 that relate to school facilities construction.



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## Amended EC 48000(c)

### EC 48000(c):

- A child is eligible for TK if the child will have his or her fifth birthday between September 2, and December 2. (inclusive)
- A school district or charter school **may** enroll children in TK at any time during the school year if the governing board determines that the admittance is in the best interests of the child, and the parent or guardian is given information regarding the advantages and disadvantages, and any other explanatory information about the effect of this early admittance. Average Daily Attendance (ADA) can be claimed for these students once they attain the age of five.
- "Expanded TK", coined by Early Edge California, is not in the EC, and is not a new TK program.



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## Private Programs and Schools

Private programs and schools are subject to licensure by the California Department of Social Services (DSS), California Community Care Licensing (CCCL).

Title 22 CCR, Division 12, Chapter 1, Article 2. **Section 101158**

(a) As specified in Health and Safety Code Section 1596.792, the child care center regulations contained in this division shall not apply to any of the following:

(8) Public and private schools that operate a program before and/or after school for school-age children provided all of the following conditions are met:

(A) The program offered by a school must be operated by the school and run by qualified teachers employed by the school or the school district.

(B) An outside organization or individual using a public or private school site to operate a child care program is subject to licensure, even if the program is open only to the children enrolled at that school.





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Impact of the Amendment to *EC 48000(c)* on  
Four-Year-Olds served by  
Child Development Programs

- Laws regarding the California State Preschool Program (CSPP), age eligibility have not changed.

Effective July 1, 2015 the following changed:

- A **CSPP eligible four-year-old** is a child whose fourth birthday is on or before September 1, of the fiscal year they are being served.
  - A CSPP eligible four-year-old who turns five by June 30, of the fiscal year they are being served may also be eligible for TK as follows:
    - ❖ Families of children who meet the definition of a CSPP eligible four-year-old and are eligible for both CSPP and TK may choose the most appropriate program for their child. A family may enroll their child in both programs; however, a child shall not be enrolled in both CSPP and TK programs for the same time period on the same day.



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Impact of the Amendment to *EC 48000(c)* on  
Four-Year-Olds served by  
Child Development Programs  
(Continued)

- ❖ A child who is enrolled in TK and whose family needs before or after school services can be enrolled in a child development program, for example, General Child Care and Development Programs (CCTR), and California Alternative Payment Program (CAPP). Before or after school services cannot be provided under the terms of a CSPP contract.
- **CSPP eligible five-year-olds** are children who will have their fifth birthday on or before September 1, of the fiscal year they receive services, and who were receiving full-day services as CSPP eligible four-year-olds on or before June 30, may remain in a CSPP program until they start kindergarten, but no later than September 30.





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## Resources

### Elementary Education Main Page

Resources for those interested in the academic achievement of K-6 public school students; includes transition-to-school guidance.

### State Advisory Council (SAC) Resources

Resources developed for the State Advisory Council on Early Learning and Care (SAC).

### Local Planning Council Contacts

Contact information for local child care and development planning council (LPC) representatives in each California County.

### Child Development Training Consortium

Promotes high quality early education to California's children and families by providing financial and technical assistance to child development students and professionals.

### County Offices of Education

A listing of the 58 county offices of education (COEs) in California that provide services to the state's public school districts.

### California Commission on Teacher Credentialing Child Development Permits Web site

Information for the Child Development Teacher Permit at the California Commission on Teacher Credentialing (CTC). For further information regarding appropriate assignment and authorization please contact the CTC at the following e-mail: [assignments@ctc.ca.gov](mailto:assignments@ctc.ca.gov) or at the CTC's Assignment Unit. 916-322-5038.



