

# California State Auditor

B U R E A U O F S T A T E A U D I T S

## **Standardized Tests:**

*Although Some Students May Receive Extra Time on Standardized Tests That Is Not Deserved, Others May Not Be Getting the Assistance They Need*



November 2000  
2000-108

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# CALIFORNIA STATE AUDITOR

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November 30, 2000

2000-108

The Governor of California  
President pro Tempore of the Senate  
Speaker of the Assembly  
State Capitol  
Sacramento, California 95814

Dear Governor and Legislative Leaders:

As requested by the Joint Legislative Audit Committee, the Bureau of State Audits presents its audit report concerning the process for granting accommodations to students with disabilities when taking college admissions tests, such as the Scholastic Aptitude Test (SAT), and other standardized exams like those administered under the Standardized Testing and Reporting program.

This report concludes that although few students receive extra time on standardized tests, some may not deserve it while other students may not be getting the assistance they need. Less than 1.2 percent of California seniors graduating in 1999 who took the SAT received extra time. However, these students were disproportionately white, or were more likely to come from an affluent family or to attend a private school. We also found that some students may not be getting the assistance they need because of a lack of awareness of Section 504 of the Rehabilitation Act of 1973 and weaknesses in district processes for identifying students with suspected disabilities. Finally, some students may have received unwarranted extra time on standardized tests, possibly giving them an unfair advantage over other students taking the same tests.

Respectfully submitted,

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# SUMMARY

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## Audit Highlights . . .

*Our review of the process for granting extra time on standardized tests to students with learning disabilities revealed that:*

- ☑ *Very few students receive extra time on standardized tests such as the Scholastic Aptitude Test (SAT), ACT, and the Standardized Testing and Reporting exam.*
  - ☑ *Wide demographic disparities existed between those 1999 graduating seniors who received extra time on the SAT and those who did not.*
  - ☑ *Some deserving students may not be receiving the accommodations they need on standardized tests because schools and parents are not aware of Section 504 of the Rehabilitation Act of 1973.*
  - ☑ *Some undeserving students may be receiving extra time on standardized tests; however, the potential magnitude of this problem is limited.*
- 

## RESULTS IN BRIEF

Students with disabilities are entitled by law to the same educational opportunities provided to students without disabilities. To help compensate for their disabilities and provide a level playing field, disabled students often need accommodations on school work and standardized tests, such as extended time, scribes, or large-print formats. Two federal laws, the Individuals With Disabilities Education Act (IDEA) and Section 504 of the Rehabilitation Act of 1973 (Section 504), ensure that disabled students receive the educational services they need and are not subject to discriminatory practices. Students eligible for accommodations on standardized tests typically qualify for special education under IDEA and have individualized education programs (IEPs) or have Section 504 plans. IEPs and Section 504 plans are tailored to meet the individual needs of students with disabilities and serve as agreements outlining the services schools will provide.

We found that the population of students receiving accommodations depended on the type of test. The mix of students receiving extra time on the State's Standardized Testing and Reporting (STAR) exam in 1999 generally mirrored that of the public school population as a whole. However, wide demographic disparities existed between those 1999 graduating seniors who received extra time on the Scholastic Aptitude Test (SAT) and those who did not. For example, a disproportionate share of students receiving accommodations on the SAT were white. In addition, California seniors graduating in 1999 from private schools who took the SAT received accommodations at a rate four times higher than that of their public school counterparts.

To keep these disparities in perspective, it is important to note that very few students receive extra time on standardized tests, such as the SAT; ACT, formerly known as the American College Testing Program; and tests administered under the STAR program. Less than 2 percent of the 1999 graduating seniors nationwide who took the SAT received extra time, and in California, the rate was less than 1.2 percent. Likewise, less than 2 percent of the 4.2 million California students in grades 2 through 11 who took the STAR exam during the 1998-99 school year received extra time.

Because so few students receive accommodations on standardized tests, it appears that some students might not be getting the assistance they need. In fact, among 1,012 public schools and 584 private schools with seniors who took the exam, not one 1999 graduating senior received extra time on the SAT. This represents 70 percent and 73 percent, respectively, of all such public and private schools in California. While the cause of this problem may vary from district to district, a lack of staff and parent awareness of Section 504 and its implications for education would seem to be contributing factors. Weaknesses in district processes for identifying and screening students with suspected disabilities may be another causal factor.

On the other hand, some undeserving students may be receiving extra time on standardized tests. We identified questionable cases at six of the seven districts we reviewed. Our review of the files of 330 California students from 18 public schools, most of whom obtained extra time on standardized tests, found that the basis for their accommodations was questionable in 60 instances, or 18.2 percent. The frequency and seriousness of questionable cases varied substantially from district to district. In fact, only one district exhibited significant problems. However, because less than 2 percent of total SAT and STAR test takers receive extra time, the potential magnitude of undeserving students receiving extra time is limited.

Our audit work revealed that six districts did not have adequate records to support the accommodations some students received. However, only one of these districts, San Dieguito Union High School District, displayed significant, widespread problems. For example, its incorrect interpretation of Section 504 allowed potentially ineligible students to obtain extra time on college entrance exams. At this district, Section 504 eligibility decisions are also often inappropriately made by one person, rather than by a qualified team. The threat of litigation also caused one district to provide an unwarranted Section 504 plan that was used by a student to obtain questionable accommodations on a college entrance exam.

Finally, vague instructions on the College Board's eligibility form and weaknesses in its own approval process may have allowed some undeserving students to receive extra time on the SAT. As a result, these students may have had an unfair advantage over other students taking college admissions tests.

## RECOMMENDATIONS

To ensure that students with learning disabilities are identified and receive the services they need, we recommend the following:

- All California school districts should ensure compliance with the requirements of Section 504. Specifically, procedures should exist to identify and evaluate students with disabilities and to ensure that all eligible students receive the accommodations they need. Additionally, districts should ensure that staff, parents, and students are aware of services available to eligible students under Section 504.

To ensure that ineligible students do not gain an unfair advantage on standardized tests, we recommend the following:

- San Dieguito Union High School District should revise its policies to ensure that it provides Section 504 plans only to students whose impairment substantially limits a major life activity. Decisions regarding eligibility, placement, and services to be provided should be made only by a team qualified to make such decisions and should be based on the district's own evaluation of disabilities and their impact on learning.
- Acalanes Union High School District, Beverly Hills Unified School District, Palo Alto Unified School District, and San Francisco Unified School District should provide or request extra time on standardized tests only when such an accommodation is warranted and documented in the student's IEP or Section 504 plan.

## AGENCY COMMENTS

Los Angeles Unified School District states that it will continue to increase Section 504 awareness by providing teacher and staff development training. San Dieguito Union High School District has contracted with legal counsel to review and, if appropriate, revise its policies and procedures regarding Section 504. The other five districts did not provide formal comments. ■

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# INTRODUCTION

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## SERVICES FOR STUDENTS WITH DISABILITIES

Students with disabilities are entitled to the same educational opportunities provided to students without disabilities. To help compensate for their disabilities, disabled students often need accommodations on school work and standardized tests, such as extended time, scribes, or large-print formats. Two federal laws, the Individuals With Disabilities Education Act (IDEA) and Section 504 of the Rehabilitation Act of 1973 (Section 504), ensure that disabled students receive the educational services they need and are not subject to discriminatory practices. This section discusses each of these laws in turn. Table 1 highlights their differences and similarities.

**TABLE 1**

**IDEA Versus Section 504**

Characteristics of IDEA	Characteristics of Section 504
<b>Intent</b> IDEA ensures that disabled children receive an appropriate public education that emphasizes special education and related services designed to meet their unique needs and prepare them for employment and independent living.	<b>Intent</b> Section 504 ensures that handicapped children are not denied educational benefits due to discrimination.
<b>Services</b> Special education programs include modified curriculum; assistance from therapists, special education teachers, and counselors; and various accommodations such as Braille, large-print text, and extra time.	<b>Services</b> Services are generally provided within regular education. These services can include classroom accommodations such as extra time on tests and special seating arrangements.
<b>Eligibility Criteria</b> The student must have 1 of 13 qualifying disabling conditions, which include specific learning disabilities, and require special education.	<b>Eligibility Criteria</b> The student must have a physical or mental impairment that substantially limits a major life activity, such as learning.
<b>Evaluation and Placement Requirements</b> <ul style="list-style-type: none"><li>• The student must be evaluated prior to placement into special education.</li><li>• An IEP team must interpret the evaluation data and develop an IEP for the disabled student.</li><li>• IDEA spells out specific content standards for IEPs, as well as IEP implementation timelines and required personnel for IEP teams.</li></ul>	<b>Evaluation and Placement Requirements</b> <ul style="list-style-type: none"><li>• The student must be evaluated prior to placement and receipt of aids and services.</li><li>• A group of people must interpret the evaluation data and determine the services required.</li><li>• Section 504 does not specify any content standards or even require a "504 plan" to be documented.</li></ul>
<b>Funding</b> Under IDEA, the federal government provides funding to schools for special education. The State also funds special education.	<b>Funding</b> There is no funding associated with Section 504. However, recipients of federal education funds must certify compliance with Section 504 as a condition of receiving assistance.

## **Individuals With Disabilities Education Act**

Enacted in 1970 and amended in 1997, IDEA ensures that all children with disabilities have available to them a free and appropriate public education, one that is designed to meet their unique needs and that adequately prepares them for future employment and independent living. This legislation serves as the basis for special education programs in this country.

To qualify for special education under IDEA, a student must have at least 1 of 13 qualifying disabling conditions that results in the need for special education and related services. One of these qualifying conditions is a category known as specific learning disabilities, defined as disorders in one or more of the basic psychological processes involved in understanding or using language. These disorders manifest themselves in a variety of ways, including an inability to listen, read, or perform mathematical calculations. This category also includes perceptual disabilities such as dyslexia.

To evaluate a student for placement in special education, public agencies, which for the purposes of this report are schools, use a variety of assessment tools and strategies to gather relevant information. IDEA requires that evaluation material be tailored to assess specific areas of educational need and be administered by trained and knowledgeable personnel.

Upon completing the administration of tests and other evaluation materials, the student's parents and a group of qualified professionals determine whether the child is eligible. If the child is eligible for services under IDEA, this group develops an individualized education program (IEP) for the student. An IEP is a written statement of the special education and related services that will be provided to the student to ensure his or her inclusion and progress in the general curriculum. An IEP also includes detailed information on the frequency and duration of special education services, as well as measurable annual educational goals for the student. Services provided under an IEP may include, but are not limited to, modifications to curriculum, assistance from speech and physical therapists, access to teachers trained in providing instruction to the disabled, and special assistance getting to and from school.

The federal government allocates funding under IDEA to help schools provide special education and related services. During the 1999-2000 school year, California schools received

\$430.4 million from the federal government to partially fund services provided to approximately 620,000 students enrolled in special education. The State contributed an additional \$2.2 billion during the same period.

### **Section 504 of the Rehabilitation Act of 1973**

Section 504 is designed to eliminate discrimination on the basis of disability in any program or activity receiving federal financial assistance. Students with physical or mental impairments that substantially limit a major life activity, such as learning, qualify for protection under Section 504. Like IDEA, Section 504 requires schools to evaluate students who are suspected of having a disability. The law allows schools to institute their own evaluation standards and procedures to determine eligibility; however, federal regulations provide guidelines on evaluation requirements. These federal guidelines mirror those under IDEA in many ways. Like IDEA, Section 504 requires that evaluations be tailored to assess the student's specific areas of educational need and that they be administered by trained personnel. Furthermore, the provisions of Section 504 require that a group of individuals interpret and document the evaluation data used to determine whether the student requires Section 504 services.

Under Section 504, schools must provide disabled students special education and related services to ensure that their unique needs are met as adequately as the needs of the nondisabled students. Although Section 504 calls for the provision of special education services, as a practical matter students requiring these services are already covered under IDEA. As a result, services under Section 504 generally take place within the confines of general education. These services typically include accommodations such as extra time on tests and on homework assignments and special seating arrangements in class. Although Section 504 does not require schools to write a formal plan as they would an IEP, some schools take this step to document the services they will provide to the student.

Section 504 does not provide any funding to help schools meet its requirements. However, for education programs to receive federal financial assistance, schools must certify that they comply with Section 504.

## **COLLEGE ENTRANCE EXAMS**

Most colleges and universities in the country, especially those for which the admissions process is highly competitive, require prospective students to take entrance exams. Colleges and universities use the exam results, along with high school transcripts and teacher recommendations, to compare prospective students and make admissions decisions. In California, the two primary college entrance exams are the Scholastic Aptitude Test (SAT) and the ACT, formerly known as the American College Testing Program.

The SAT, a standardized test, is given seven times per year. There are two SAT tests—the SAT I and the SAT II. The SAT I measures a student’s verbal and math reasoning abilities. The SAT II consists of one-hour tests, primarily multiple choice, in specific subjects such as English, history, math, and science. In addition to the SAT I, many colleges require or recommend one or more of the SAT II “subject tests” for admission and/or placement into certain majors and programs. More than 151,000 of California’s 1999 graduating seniors took the SAT sometime during their high school years.

Like the SAT, the ACT exam is also used by colleges and universities in their admissions process. The test is designed to assess high school students’ general educational development, as well as their ability to complete college work. The ACT is a multiple-choice test focusing on four skill areas: English, math, reading, and science reasoning. It is “curriculum based,” meaning that it is directly related to material generally taught in high school courses. The exam is offered six times a year. More than 37,000 of California’s 1999 graduating seniors took the ACT college entrance exam.

## **THE STAR EXAM**

In 1997, the California Department of Education (department) instituted the Standardized Testing and Reporting (STAR) program. The purpose of the program is to assess the achievement of public school students. To allow for statewide comparisons of scores for individual students, schools, and school districts, each school district must test all students in grades 2 through 11, using the achievement test designated by the State Board of Education. In April 1999, the Legislature attached monetary and nonmonetary incentives for teachers and schools to the STAR exam scores. It

did so by passing the Public Schools Accountability Act, which creates an academic performance index (API) based in part on STAR scores for individual classrooms and schools. The State has set aside up to \$150 million for schools and teachers that show performance growth in their API score from one year to the next.

Public schools are required to administer the STAR exam before May 15 each year. After students take the exam, a private firm computes the scores and distributes the results to students, schools, and the department. More than 4.2 million California students in public schools took the STAR exam in the 1998-99 school year. Students attending private schools do not take the STAR exam.

## **RECEIVING ACCOMMODATIONS ON STANDARDIZED TESTS**

Students with learning disabilities sometimes require special accommodations when taking standardized tests. Accommodations include providing the tests in various formats, such as large print or Braille, and allowing extended time to complete tests. Such accommodations are designed to compensate for the disability by removing an extraneous source of difficulty. They are provided when a failure to adjust the test or testing conditions in some way would place the student with the disability at an unfair disadvantage.

The College Board, ACT, Inc., and the department have developed criteria that are used to decide who gets accommodations, such as extended time on the SAT, ACT, and STAR exam, respectively. Overall, the eligibility criteria are consistent and generally require that the student have a documented disability, have an IEP or Section 504 plan, and receive the same accommodations in school.

### **Receiving Extended Time on the SAT and ACT Exams**

To receive extended time on the SAT, a student and his or her school complete an eligibility form. For the 1998-99 SAT, the school had to indicate on the form the nature of the student's disability and whether the student had an active IEP, Section 504 plan, or qualified professional's evaluation on file that supported the need for the requested accommodation. The school also had to certify that the student received extended time to take school-based tests.

The school forwards the student's completed eligibility form to the College Board for its review and approval. The College Board does not require schools to submit copies of student records unless specifically requested to do so. If a student meets the College Board's eligibility criteria, it will approve extra time on the SAT. Students who have a documented disability but who are not receiving extended time on school-based tests can appeal to the College Board for an exception to this criterion.

The 1998-99 eligibility requirements for receiving extended time on the ACT exam were similar to those for the SAT. Students had to have a documented disability and had to receive the same accommodations in school. However, ACT, Inc. required accommodations to be supported with IEP or Section 504 plans only. A student had to appeal to ACT, Inc. for an exception to its criteria if an accommodation was not supported by an IEP or Section 504 plan. Additionally, ACT, Inc. required students to submit a copy of their test accommodations page from the most current IEP or Section 504 plan listing the types of accommodations given for classroom tests.

### **Receiving Extended Time on the STAR Exam**

The department has expressed its desire to have public schools administer the STAR exam to all of their students regardless of disability; however, it has recognized that accommodations, and even exemptions, are appropriate under certain circumstances. A student may receive extended time on the STAR exam if called for in the student's IEP or Section 504 plan. A student may also be excused from taking the exam if his or her IEP plan specifically exempts the student from STAR. Parents or guardians can also submit a written request to the school to exempt their child from any or all parts of the exam.

### **SCOPE AND METHODOLOGY**

The Joint Legislative Audit Committee (audit committee) requested the Bureau of State Audits to review the process for granting accommodations to students with learning disabilities when taking college admissions tests, such as the SAT, and other standardized exams, including those administered under the STAR program. The audit committee was concerned that students who are not disabled were inappropriately using the system to gain an advantage over other students and that students with eligible learning disabilities are not being identified early enough.

We reviewed the statutes and regulations pertaining to students with learning disabilities. This included an analysis of the IDEA and Section 504 legislation. To obtain further clarification of Section 504's regulations and requirements, we also contacted the United States Department of Education's Office of Civil Rights.

To determine the requirements for obtaining accommodations such as extended time on standardized tests, we reviewed the application forms for requesting extended time on the SAT and ACT exams. These forms describe their eligibility criteria. We also interviewed representatives from the College Board to clarify our understanding of the process for granting accommodations on the SAT to students with disabilities. Finally, we interviewed school counselors and special education representatives at selected districts to determine how these policies are carried out at the school level. With respect to the STAR exam, we reviewed applicable regulations and statutes to ascertain the criteria for receiving accommodations and exemptions on the exam. We also consulted special education and STAR specialists at the department to obtain further clarification.

We obtained and analyzed data from the College Board and ACT, Inc. to determine the number of students taking the SAT and ACT exams and how many of those received accommodations on the exams, as well as their ethnic, gender, and economic composition. The SAT demographic data was self-reported by students and may not be entirely correct. Additionally, both the SAT and ACT data have high nonresponse rates for certain demographic information. We have indicated the nonresponse rates in the charts and graphs contained in the report. Because of the high nonresponse rates, we supplemented our analysis of the relationship between SAT accommodation rates and family income levels by comparing the percentage of students who participated in free or reduced-price lunch programs to the percentage of students receiving accommodations on the SAT for every public school in California having at least one 1999 graduating senior who took the SAT. We focused on the data for the SAT I exam in this report because significantly fewer students took the SAT II exam and the accommodation rates and demographics were generally consistent between the SAT I and II exams.

The data we obtained from ACT, Inc. was summarized at the statewide level, and the data we received from the College Board was summarized at the school level. Consequently, our analysis was somewhat limited. For example, we could not use the ACT data to identify individual schools' accommodation rates.

Instead, we used the SAT data for this purpose. Additionally, neither the ACT data nor the SAT data included information by individual student. As a result, we could not develop profiles of the individuals receiving accommodations on the exams, nor could we use the data to determine the students' disabilities or the type of accommodations the students received. However, according to the College Board, all students receiving accommodations received extra time to take the test. Therefore, in the report, we use the terms "accommodations" and "extended time" synonymously.

We also obtained and analyzed data from the department to determine the number and the ethnic and gender composition of students enrolled in public schools, students taking the STAR exam, students receiving accommodations on the STAR exam, and students with learning disabilities receiving special education services. We limited our analysis of special education data to students with learning disabilities because the audit committee asked us to focus on students with learning disabilities and because this group represents approximately 90 percent of the students who receive accommodations on the SAT. Thus, the special education statistics presented in this report include only students with learning disabilities. The department does not maintain family income data for students in general or special education or students taking the STAR exam.

To determine whether students are inappropriately receiving extended time on standardized tests and whether students with learning disabilities are being identified early enough, we selected seven school districts for review. From these districts, we selected 14 high schools and 4 elementary schools. In selecting our sample, we looked for districts and schools with varying degrees of accommodation rates on the SAT and STAR exams. We also sought a broad geographic distribution among the school districts in our sample. In selecting our sample of schools, we also considered the number of learning-disabled students enrolled in special education compared to total enrollment. We ultimately selected the following school districts for review: Acalanes Union High; Beverly Hills Unified; Palo Alto Unified; San Dieguito Union High; Los Angeles Unified; Capistrano Unified; and San Francisco Unified. The Appendix profiles the schools in our sample.

At the schools we visited, we interviewed personnel to obtain an understanding of each district's process for identifying and assessing students with learning disabilities and granting or

requesting accommodations on standardized tests. We also interviewed personnel and reviewed relevant documentation to determine the extent to which districts educate their staff and the general public on issues related to special education and Section 504. Additionally, we attempted to select a sample of students who received extra time on the SAT and/or STAR exams. When available, we selected a sample of students who received accommodations on the SAT using official SAT lists. When such lists were not available, and for STAR, we selected our sample either from lists prepared by schools of students who received accommodations on these exams, or when such a list was also unavailable, from lists of students with IEPs or Section 504 plans. As a result, our sample includes some students who did not receive accommodations on either the SAT or STAR exam. We did not select students who received accommodations on the ACT exam because relatively few California students take this exam compared to the SAT. We shifted our focus between the SAT and STAR exams on a school-by-school basis, depending on each school's profile. For example, for those high schools in our sample with relatively high numbers of students receiving extended time on the SAT, we focused on reviewing the support for those accommodations. Conversely, for high schools with very few SAT accommodations, and for elementary schools, we focused our testing on STAR accommodations.

For each student selected, we reviewed documentation contained in the student's file, including IEPs, Section 504 plans, psychological reports, and other documents, such as teacher observations and grade reports, to determine whether accommodations on standardized tests seemed warranted. We reviewed the supporting documentation to determine whether the applicable criteria for receiving accommodations on the particular test were met. We also determined when the student's learning disability was initially identified. For questionable accommodations, we asked districts to describe their bases for providing the accommodation.

In addition to our sample of public schools, we also reviewed a sample of private schools. We identified 10 private schools with the highest numbers of students taking the SAT with accommodations. Because we generally do not have access to private school records, we did not conduct site visits at these schools. However, we determined whether any of those schools specialize in serving students with learning disabilities by reviewing the private school directory, which lists all California private schools and indicates the types of special programs, if any, each offers. We called three of these schools to obtain a general understanding

of their processes for identifying and evaluating students with disabilities and for determining what, if any, accommodations the students require. One of these schools declined to speak with us. Finally, we compared the accommodation rates and demographics of private school students taking the SAT to those of their public school counterparts.

Because the department and College Board maintain STAR and SAT data differently, we could not readily make comparisons between these exams. The department tracks and reports STAR scores based on the student's grade level and the year the test was administered. In contrast, the College Board reports cohort data for graduating seniors. The College Board defines cohort data as the latest SAT score for a graduating senior. For example, the test score for a student who took the SAT only once, as a sophomore in 1997, would not be reflected in the College Board's reports until 1999, when the student graduated. Therefore, accommodation rates from 1999 STAR and SAT data should be compared only with caution. Additionally, we did not audit the SAT, ACT, and STAR data contained in our report. Finally, STAR and special education data received from the department may not be completely accurate due to numerous sources of information and a lack of review by the department. ■

# AUDIT RESULTS

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## ***Although Few Students Receive Extra Time on Standardized Tests, Some May Not Deserve It, While Other Students May Not Be Getting the Assistance They Need***

Very few California students receive extra time on standardized tests. However, seniors graduating in 1999 who did receive extra time on college entrance exams were disproportionately white, or were more likely to come from an affluent family or to attend a private school. Demographic disparities were not found among students receiving extra time on the Standardized Testing and Reporting (STAR) exam. Because so few students receive accommodations on standardized tests, it appears that some students might not be getting the assistance they need, perhaps due to a lack of staff and parent awareness of Section 504 of the Rehabilitation Act of 1973 (Section 504) or to weaknesses in district processes for identifying and screening students with suspected disabilities. On the other hand, our audit found that some undeserving students may have received extra time on standardized tests, possibly giving these students an unfair advantage over other students taking the same tests.

### **FEW CALIFORNIA STUDENTS RECEIVE EXTRA TIME ON STANDARDIZED TESTS**

Very few students receive extra time on standardized tests, such as the Scholastic Aptitude Test (SAT); the ACT, formerly known as the American College Testing Program; and STAR. In fact, although more than 1.2 million seniors who graduated in 1999 took the SAT nationwide, only 24,016 of these students, or less than 2 percent, received extra time. Likewise, of the 151,636 California seniors graduating in 1999 who took the SAT, only 1,780, or less than 1.2 percent, received extra time.

Compared to other states in the nation and the District of Columbia, California's accommodation rate, which is the percentage of test takers that received extra time, ranked 23<sup>rd</sup> in 1999. California's 1999 graduating seniors who took the SAT received extra time at a rate below the nation's average of 2 percent. Across the nation, accommodation rates varied from 0 percent

to 6.8 percent. The District of Columbia had the highest accommodation rate, at 6.8 percent, followed by Connecticut, where almost 5 percent of graduating seniors received extra time. In contrast, none of the 1999 graduating seniors from North Dakota, Rhode Island, South Carolina, South Dakota, or Tennessee took the SAT with extra time.

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*Less than 1.2 percent of California's 1999 high school graduating seniors who took the SAT received extra time.*

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Additionally, very few students received extra time on the ACT or STAR exams. For example, nationally 1 million seniors who graduated in 1999 took the ACT; however, only 25,724 of these students, or 2.5 percent, received extra time. Similarly, 37,414 of California's 1999 graduating seniors took the ACT, yet only 460 students, or 1.2 percent, received extra time. Finally, of the more than 4.2 million California students in grades 2 through 11 who took the STAR exam during the 1998-99 school year, less than 2 percent received extra time.

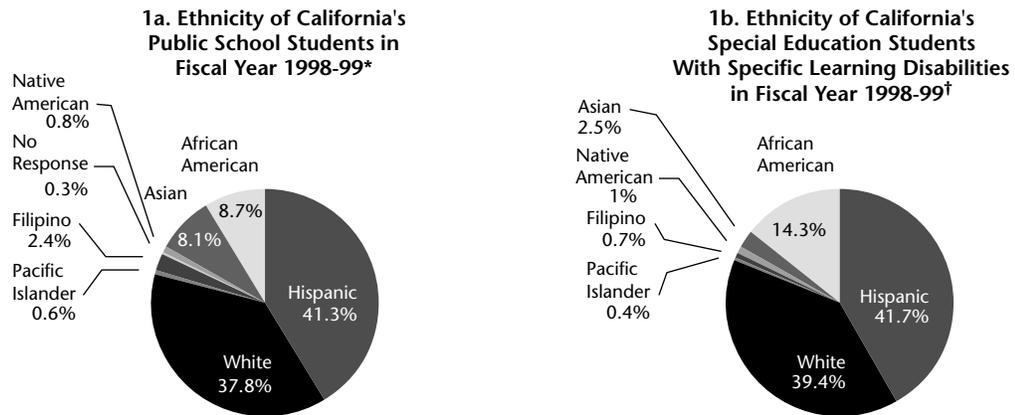
### **STUDENTS WITH LEARNING DISABILITIES ENROLLED IN SPECIAL EDUCATION GENERALLY MIRROR THE ETHNIC COMPOSITION OF THE STATE'S STUDENTS**

As shown in Figures 1a and 1b, except for Asians and African Americans, who made up less than 20 percent of the total student population, the ethnic composition of California's students with learning disabilities enrolled in special education generally mirrors that of the total student population. For example, whites and Hispanics, which compose 37.8 percent and 41.3 percent, respectively, of the general student population, make up 39.4 percent and 41.7 percent, respectively, of the students with learning disabilities enrolled in special education. However, only 2.5 percent of the learning-disabled students enrolled in special education are Asian, yet Asians compose 8.1 percent in the total student population. Conversely, a disproportionately higher percentage of learning-disabled students enrolled in special education are African American.

### **STUDENTS RECEIVING EXTRA TIME ON THE STAR EXAM REFLECT THE DEMOGRAPHICS OF THE STUDENT POPULATION AS A WHOLE**

As shown in Figures 1b and 2b, a similar ethnic balance existed between students who received extra time on the STAR exam and students with learning disabilities enrolled in special education. Specifically, the ethnic composition of students receiving extra

## FIGURES 1a and 1b

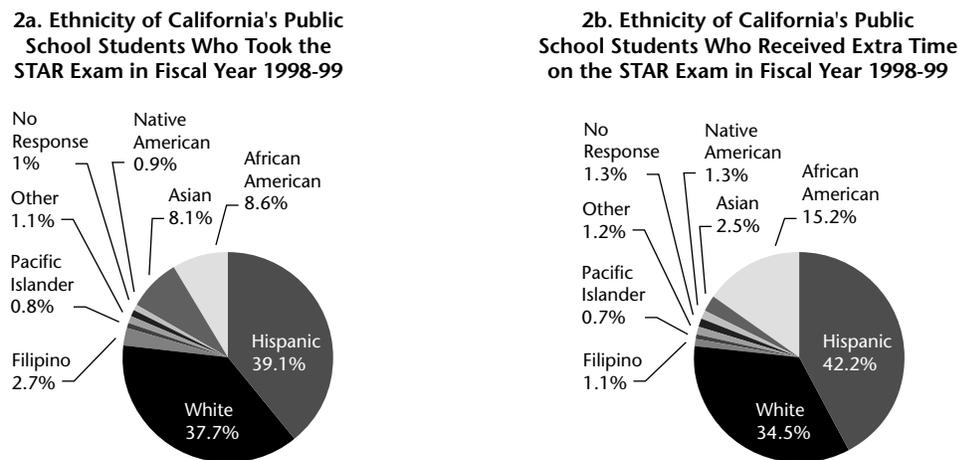


\*Source: California Department of Education's California Basic Education Data System

†Source: California Department of Education's California Special Education Management Information System

time on the STAR exam varied from the ethnic breakdown of learning-disabled students in special education by less than 1 percent for all ethnic groups other than white, which varied by less than 5 percent. Furthermore, except for Asians and African Americans, the ethnic composition of students receiving extra time on the STAR exam also generally mirrored that of all students taking the test, as shown in Figures 2a and 2b.

## FIGURES 2a and 2b



Source: California Department of Education's STAR database

## **WIDE DEMOGRAPHIC DISPARITIES EXIST BETWEEN THOSE STUDENTS WHO RECEIVED EXTRA TIME ON THE SAT AND THOSE WHO DID NOT**

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*A disproportionate share of students receiving extra time on the SAT were white.*

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In contrast to our findings on the STAR exam, we found wide demographic disparities among students who received accommodations on the SAT and those who did not. For example, a disproportionately large percentage of white students received extra time on the SAT. Furthermore, a disproportionate share of students receiving extra time on the exam may come from more affluent families. Finally, the percentage of California's 1999 private school graduating seniors who took the SAT with accommodations was four times higher than the rate of their public school counterparts.

### **The Ethnic, Income, and Gender Mix of Students Who Received Extra Time on the SAT Was Not Proportional to That of SAT Test Takers as a Whole**

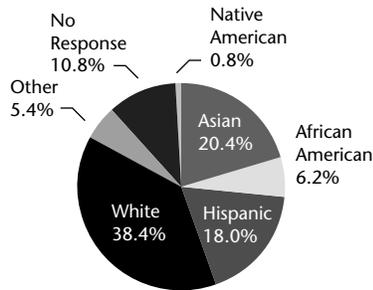
Although the ethnic mix of students receiving accommodations on the STAR exam generally mirrored that of the entire student population, a similar balance did not exist for the SAT, as shown in Figures 3a and 3b. A disproportionate share of students receiving extra time on the exam were white. Specifically, statewide enrollment data shows that 37.8 percent of California's students are white. Likewise, a similar proportion of California's 1999 graduating seniors who took the SAT are also white. However, 55.5 percent of the graduating seniors who received extra time on the SAT are white. On the other hand, although Hispanic students represent nearly 42 percent of total student enrollment and special education students with learning disabilities, only 18 percent of California's 1999 graduating seniors who took the SAT are Hispanic. Furthermore, only 6.3 percent of the 1999 graduating seniors receiving extra time on the SAT are Hispanic.

Because many students chose not to report their ethnicity, the disparities just noted may be larger or smaller than indicated. However, this does not change our overall conclusion that a disproportionate share of students receiving accommodations are white.

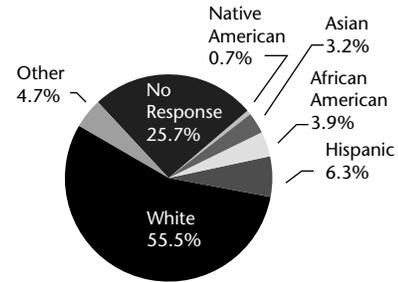
Economic disparities also exist between students who received extra time on the SAT and those who did not. As shown in Figures 4a and 4b, only 12 percent of all SAT test takers reported

## FIGURES 3a and 3b

**3a. Ethnicity of California's 1999 Graduating Seniors Who Took the SAT**



**3b. Ethnicity of California's 1999 Graduating Seniors Who Received Extra Time on the SAT**

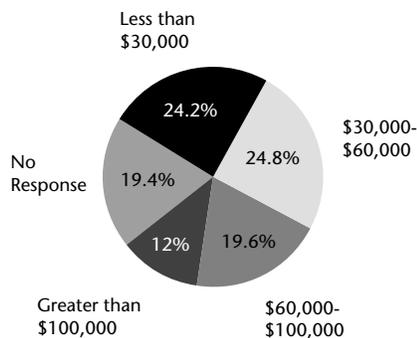


Source: The College Board's SAT database

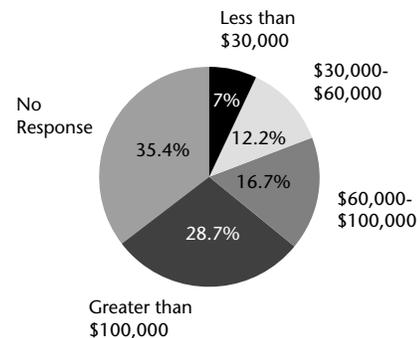
family incomes greater than \$100,000, while 28.7 percent of those who received extra time reported family incomes in excess of \$100,000. In contrast, 24.2 percent of all SAT test takers reported family incomes of less than \$30,000, but only 7 percent of those students receiving extra time reported family incomes under \$30,000.

## FIGURES 4a and 4b

**4a. Family Income Levels of California's 1999 Graduating Seniors Who Took the SAT**



**4b. Family Income Levels of California's 1999 Graduating Seniors Who Took the SAT With Extra Time**



Source: The College Board's 1999 SAT Overview Report

Due to the high nonresponse rate, however, the data on family income is inconclusive. Therefore, we also looked at the percentage of students who participated in free or reduced-price lunch programs for every public school in California that had 1999 graduating seniors who took the SAT. For each school, we compared this percentage to the percentage of students receiving accommodations on the SAT. Students from families with household incomes at or below 130 percent of federal poverty guidelines qualify for free school lunches. Likewise, students with household incomes greater than 130 percent but below 185 percent of federal poverty guidelines qualify for reduced-price lunches. As an example, during the year ended June 30, 2000, students from a family of four would qualify for free lunches if their annual household income was \$21,710 or less and would qualify for reduced-price lunches with an annual household income between \$21,711 and \$30,895.

Even though the majority of seniors graduating from public schools in 1999 who took the SAT with extra time may have come from more affluent families, we did not find that all schools that serve wealthier students had high SAT accommodation rates. For example, when we analyzed 97 public schools with the lowest percentage of students receiving free and reduced-price lunches (5 percent or less), we found that 47 of these schools had no 1999 graduating seniors take the SAT with extra time. On the other hand, our analysis of 96 public schools with the highest percentage of students receiving free and reduced-price lunches (greater than 66 percent) found that 11 had at least one 1999 graduating senior take the SAT with extra time. Consequently, 1999 graduating seniors who took the SAT with extra time came from schools whose students ranged the spectrum of economic wealth.

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***Most students who received extra time on the SAT and STAR exams are male, which is reflective of the higher proportion of learning-disabled males enrolled in special education.***

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Although the majority of students who received extra time on the SAT and STAR exam are male, these numbers are reflective of the higher proportion of learning-disabled males enrolled in special education. Specifically, 56.7 percent of 1999 graduating seniors who took the SAT and 65.8 percent of students who took the STAR with extra time are male. The percentage of males enrolled in special education with learning disabilities is relatively proportional, at 67.9 percent.

Because the College Board's database contains summary information by school, we could not determine the gender, ethnicity, and family income levels of individual students receiving extra time on the SAT. Therefore, although we can conclude that a

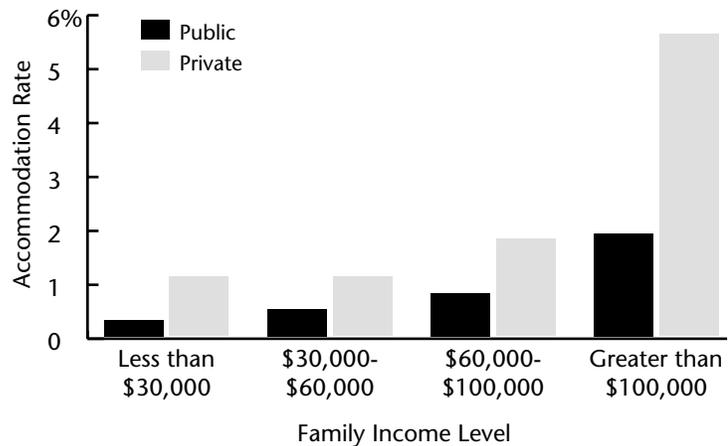
disproportionate share of white, affluent, and male students received extra time on the SAT, we cannot conclude that a disproportionate share of students receiving extended time on the exam are white *and* affluent *and* male.

### Students From Private Schools Were More Likely to Receive Extra Time on the SAT Than Students From Public Schools

The percentage of California’s 1999 graduating seniors from private schools who took the SAT with extra time was four times higher than that of their public school counterparts. In fact, nearly 3.5 percent of 1999 graduating seniors from private schools who took the SAT received extra time, while less than 0.8 percent of graduating seniors from public schools who took the SAT received extended time. As Figure 5 illustrates, for every income level, a higher percentage of private school students than of public school students received extra time on the exam.

**FIGURE 5**

#### Comparison of SAT Accommodation Rates by Income for Graduating California Seniors in 1999



Source: The College Board’s SAT database

Note: In total, 31 of the 1,780 students that received extra time failed to indicate which high school they attended to the College Board. As such, the percentages in the figure above are based on 1,749 students that received extra time. The accommodation rates for public and private school students who received accommodation but did not report family income was 1.2 percent and 6.1 percent, respectively.

One reason that accommodation rates are higher for private school students is that some of these schools specialize in serving students with learning disabilities. For example, 4 of the 10 private schools we analyzed had special programs for learning-disabled students. It seems reasonable that a larger percentage of seniors graduating from these schools would require extra time on standardized tests. However, we did not identify all private schools that specialize in students with learning disabilities because such information is not readily available. As a result, we could not factor this characteristic into our analysis of private school accommodation rates.

### **STUDENTS WHO RECEIVE UNWARRANTED EXTRA TIME ON COLLEGE ENTRANCE EXAMS MAY HAVE AN UNFAIR ADVANTAGE OVER OTHER STUDENTS**

Although having extra time on a college entrance exam does not guarantee a higher score, it may provide students with the opportunity for a better score. On the SAT, about 80 percent of test takers should be able to get through all of the questions, and all test takers should be able to reach 75 percent of the questions. For a student with a disability, extra time on the SAT should level the playing field. In other words, disabled students who receive extra time have a better chance of attempting the same number of questions as their nondisabled counterparts. However, when students who are not disabled receive extra time, they may have an unfair advantage over other students. In fact, research on the effects of extended time for nondisabled test takers has generally found that extra time produces small to moderate score gains on both essay and multiple-choice tests. For some high-achieving students, a small to moderate score gain could potentially mean the difference between acceptance and rejection at the most competitive schools across the country.

### **THERE DOES NOT APPEAR TO BE ANY INCENTIVE FOR STUDENTS TO RECEIVE UNWARRANTED EXTRA TIME ON THE STAR EXAM**

While many students with individualized education programs (IEPs) and Section 504 plans meet the eligibility requirements for extra time on the STAR exam, not all of those who qualify choose to use this accommodation. This may be because the STAR exam is not used as a measure for advancement, placement, or future college entrance, and thus students may not be under

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*The STAR exam is not used as a measure for advancement, placement, or future college entrance.*

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the same pressure to excel as they are when taking the SAT. Also, when a student receives extra time, his or her percentile scores, which are a measure of comparison to other students, are not summarized in the final score report. Thus, some students who qualify for extra time on the STAR exam choose a standard test so that their scores will be shown in the comparative format. For example, 9 of 14 students who were eligible to take the STAR exam with extra time from one school that we reviewed in the San Francisco Unified School District (San Francisco) chose not to use this accommodation. Further, parents are not as likely to pressure schools for extra time, since high STAR exam scores currently do not place their child in better classes or ensure college entrance.

Finally, schools and teachers have no incentive to offer unwarranted accommodations in an attempt to raise STAR exam scores. Even though schools and teachers may receive monetary and other incentives for improvement in their academic performance index (API), which is partly based on STAR exam scores, because scores resulting from accommodations are not included in schools' summary reports, they have no effect on the API.

### **SOME STUDENTS MAY NOT BE GETTING THE ASSISTANCE THEY NEED DUE TO A LACK OF AWARENESS OF SECTION 504 OR POOR DISTRICT POLICIES AND PROCEDURES**

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*Nearly 70 percent of California's public high schools with 1999 graduating seniors who took the SAT had no seniors who received extra time.*

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Based on our review of statewide accommodation rates on standardized tests and interviews with staff from our sample districts, it appears that some students may not be receiving the assistance they need on critical exams such as the SAT. In fact, most high schools in the State, both public and private, had no 1999 graduating seniors who received extra time on the SAT. While the cause of this problem may vary from district to district, a lack of staff and parent awareness of Section 504 and its implications for education seem to be a contributing factor. Weaknesses in district processes for identifying and evaluating students with suspected disabilities may be another causal factor.

### **Many Schools Had Low SAT Accommodation Rates**

Many schools had accommodation rates for the SAT that seemed exceptionally low. Nearly 70 percent of all public high schools with 1999 graduating seniors who took the SAT (1,012 schools) had none who took the SAT with extended time. These public

schools served 60,266 (49.4 percent) of all students taking the SAT who graduated from public school in 1999. Likewise, 73 percent of all similar private high schools (584 schools) had no graduating seniors who received extra time. These private schools served 8,081 (34.8 percent) of the students taking the SAT who graduated from private school in 1999. To determine why some schools have low accommodation rates, we visited two districts, Los Angeles Unified School District (Los Angeles) and San Francisco, which had below average accommodation rates on the SAT. According to College Board data, only 56, or 0.5 percent, of the 12,116 students taking the SAT who graduated from Los Angeles in 1999 received extra time. Similarly, only 13, or 0.6 percent, of the 2,383 San Francisco seniors who graduated in 1999 and took the SAT received extra time.

Although the percentage of Los Angeles and San Francisco students receiving accommodations on the SAT was low, the percentage of learning-disabled students enrolled in special education in these districts exceeded the statewide average. Similarly, the percentage of students in both districts who received extra time on the STAR exam exceeded the statewide average. Administrators from Los Angeles and San Francisco explained their low SAT accommodation rates by stating that their special education students generally do not take the SAT because these students typically do not go to four-year colleges when they graduate. Rather, they indicated that these students often attend junior colleges or trade schools where the SAT is not required.

### **Some Districts Also Had Low Percentages of Students With Section 504 Plans**

Section 504 plans can provide a basis for learning-disabled students who do not qualify for special education under the Individuals With Disabilities Education Act (IDEA) to obtain extended time on standardized tests. However, Los Angeles and San Francisco had low percentages of students with 504 plans. According to a survey of its schools, during the fall of 1999 Los Angeles had approximately 710,000 students enrolled in grades K through 12, and of these students 1,234, or less than 0.2 percent, had Section 504 plans. We encountered a similar situation in San Francisco. During the 1999-2000 school year, San Francisco had approximately 61,000 students enrolled in grades K through 12, yet only 62 of these students had Section 504 plans, representing only 0.1 percent of the total district enrollment.

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*Section 504 plans provide a basis for learning-disabled students to obtain extra time on standardized tests.*

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Officials in Los Angeles conceded that, considering its size, the district had very few Section 504 plans. It cited a lack of awareness of Section 504 among district staff and parents as the major reason for there being so few plans. San Francisco also admitted that districtwide awareness of Section 504 was limited, especially at the school level. When districts do not make parents and staff aware of Section 504, disabled students who do not qualify for IEPs under IDEA may not receive the accommodations they need. (Because there is no statewide data on the number of Section 504 plans at California schools and because the College Board does not track whether students receiving extra time on the SAT had IEPs or Section 504 plans, we could not determine whether a correlation exists between schools' low SAT accommodation rates and low numbers of Section 504 plans.)

Besides a lack of awareness, weaknesses in a district's process for identifying and evaluating students with suspected disabilities could also have an impact on the number of students found to be eligible for Section 504 plans. Disabled students in Los Angeles filed a class action lawsuit alleging that the district was out of compliance with IDEA and Section 504 regulations. Notably, the lawsuit criticized the district for having a weak process for identifying students with disabilities. The lawsuit resulted in a consent decree in which Los Angeles agreed to revamp its procedures for identifying and evaluating students with disabilities.

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***Weak processes for identifying and evaluating students with suspected disabilities may affect the number of students with Section 504 plans.***

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Both Los Angeles and San Francisco are currently in the process of formalizing new procedures designed to identify and provide services to students eligible for protection under Section 504. These new procedures include increasing Section 504 awareness by providing teacher and staff training. For example, Los Angeles said, since July 1999, it has conducted 99 staff development sessions on Section 504. The district also stated that it developed in the spring of 2000 a special education compliance guide containing a chapter addressing Section 504 and has trained every district administrator on the contents of the guide. Also, in August 2000, every Los Angeles school received a Section 504 reference manual and brochures for parent and community members. Furthermore, to comply with Section 504 requirements, both districts have outlined a referral, evaluation, and placement process for students. Los Angeles is also in the process of strengthening its special education program as required by the consent decree.

## **SOME STUDENTS AT SIX OF SEVEN DISTRICTS RECEIVED QUESTIONABLE ACCOMMODATIONS ON STANDARDIZED TESTS**

We identified cases in which students' eligibility for extended time was questionable at six of the seven districts we reviewed. The frequency and seriousness of these questionable cases varied from district to district. Only one of these districts, San Dieguito Union High School District (San Dieguito), displayed significant, widespread problems. For example, its incorrect interpretation of Section 504 allowed potentially ineligible students to obtain extra time on college entrance exams. At this district, Section 504 eligibility decisions were also often inappropriately made by one person, rather than by a team. The threat of litigation caused at least one district to provide an unwarranted Section 504 plan that the student then used to obtain questionable accommodations on college entrance exams. Finally, vague instructions on the College Board's eligibility form and weaknesses in its approval process may have allowed some undeserving students to receive extra time on the SAT. However, because less than 2 percent of the 1999 graduating seniors taking the SAT and students taking the 1999 STAR exam received extra time, the potential for large numbers of students receiving unwarranted accommodations was limited.

We reviewed the files of 330 California students from 18 public schools, most of whom obtained special accommodations on standardized tests, and found the basis for their accommodations questionable in 60 cases, or 18.2 percent. Table 2 summarizes these questionable accommodations.

### **Some Districts Did Not Have Adequate Documentation to Support Accommodations**

In four instances, we questioned the necessity of extra time on standardized tests because the students' IEPs or Section 504 plans did not include this accommodation. In one case, this omission may have been a simple oversight, because the student had an earlier and a later IEP that called for extended time. In other instances, the accommodation was given in error. For example, one Acalanes Union High School District (Acalanes) student received extra time on the SAT even though the student's Section 504 plan stated that accommodations were not needed. When we brought this to Acalanes attention, its staff indicated that the student had received the extra time in error.

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*Four students received extra time on standardized tests even though their IEPs or Section 504 plans did not include this accommodation.*

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**TABLE 2**

**Summary of Districts Reviewed and Questionable Accommodations Identified**

Category	School Districts Reviewed							
	Acalanes Union High	Beverly Hills Unified	Capistrano Unified	Los Angeles Unified	Palo Alto Unified	San Dieguito Union High	San Francisco Unified	Totals
<b>Students In Sample</b>								
IEP	22	30	12	52	33	16	51	216
Section 504	15	12	11	—	19	33	—	90
Professional Evaluations	15	1	2	—	6	—	—	24
<b>Total Students In Sample</b>	<b>52</b>	<b>43</b>	<b>25</b>	<b>52</b>	<b>58</b>	<b>49</b>	<b>51</b>	<b>330</b>
<b>Students Receiving Questionable Accommodations</b>								
IEP	—	1	—	—	1	—	1	3
Section 504	3	—	—	—	18	22	—	43
Professional Evaluations	6	—	2	—	6	—	—	14
<b>Total Questionable Accommodations</b>	<b>9</b>	<b>1</b>	<b>2</b>	<b>—</b>	<b>25</b>	<b>22</b>	<b>1</b>	<b>60</b>
<b>Summary of Questionable Accommodations</b>								
<b>IEP or Section 504 Plan Did Not Include Extra Time</b>								
IEP	—	1	—	—	1	—	1	3
Section 504	1	—	—	—	—	—	—	1
<b>Missing Documents</b>								
Section 504	—	—	—	—	18	—	—	18
<b>Accommodations Predate Qualifying Plan</b>								
Section 504	1	—	—	—	—	—	—	1
<b>No Records at School</b>								
Professional Evaluations	2	—	2	—	6	—	—	10
<b>No District Evaluation</b>								
Section 504	—	—	—	—	—	21	—	21
<b>Outdated Outside Professional Evaluation</b>								
Section 504	—	—	—	—	—	3	—	3
<b>Unilateral Eligibility Decision</b>								
Section 504	—	—	—	—	—	6	—	6
<b>Insufficient Supporting Documentation of Disability</b>								
Section 504	—	—	—	—	—	7	—	7
<b>Litigation</b>								
Section 504	1	—	—	—	—	—	—	1
<b>College Board's Imprecise Instructions on Eligibility Form</b>								
Professional Evaluations	2	—	—	—	—	—	—	2
<b>Weaknesses in the College Board's Approval Process</b>								
Professional Evaluations	2	—	—	—	—	—	—	2

NOTE: Some questionable accommodations are included in more than one category.

We questioned several accommodations at Palo Alto Unified School District (Palo Alto) because documents supporting the need for a Section 504 plan were missing from the students' files. For example, we found 18 SAT accommodations to be questionable due to missing documentation such as diagnostic test results, teacher comments, or grade reports. In each case, the missing documents related to recently graduated students who previously had Section 504 plans. We reviewed the Section 504 plans for all 18 students and verified that each student's plan called for extra time on tests. However, because it is Palo Alto's practice to discard the documents used to support each Section 504 plan after a student graduates, we were unable to verify whether adequate supporting documentation existed to justify the Section 504 plans.

At Acalanes, we also questioned one accommodation that predated the qualifying plan. In this case, the student did not have documentation supporting the need for accommodations when the student took the SAT exam in the fall of 1998. The qualifying Section 504 plan for this student was not developed until the spring of 1999.

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*We questioned one accommodation because it predated the qualifying Section 504 plan and 10 other accommodations because there was no documentation supporting them.*

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We also questioned accommodations for six Palo Alto students, two Acalanes students, and two Capistrano Unified School District (Capistrano) students because these districts had no documentation supporting the accommodations. According to Palo Alto, its students received these accommodations through the College Board's appeal process. However, when we contacted the College Board to ask about these cases, the College Board said it had no record that these students had appealed. Acalanes did not provide an explanation, and Capistrano asserted that supporting documentation existed at one time. Because we do not know the basis for these accommodations, we cannot conclude whether they were justified.

### **San Dieguito's Poor Policies and Procedures Resulted in Many Questionable Accommodations**

Poor policies and procedures at San Dieguito permitted some students to obtain questionable accommodations for college entrance exams. The procedures the district has established to address students requesting Section 504 plans do not comply with federal regulatory requirements for Section 504 and do not satisfy College Board guidelines for documenting disabilities. For example, because San Dieguito misinterprets Section 504, it offers Section 504 plans to students on the basis of virtually any

professional diagnosis, allowing potentially ineligible students to obtain extra time on college entrance exams. Contrary to federal regulations, San Dieguito also allows Section 504 eligibility decisions to be made by one person, rather than by a team. Finally, San Dieguito provides Section 504 plans to some students without sufficiently documenting the disability and its impact on the student's ability to learn. Because San Dieguito's problems are systemic in nature, many of the accommodations that we questioned came from that district.

### ***San Dieguito's Interpretation of Section 504 Is Too Broad***

Under Section 504, students are protected from discrimination when they have an impairment that substantially limits a major life activity, are regarded as having a disability, or have a record of such a disability. San Dieguito has misinterpreted this language to mean that anyone "regarded as having an impairment" or "having a history of such an impairment" is entitled to Section 504 services. According to the United States Department of Education's Office of Civil Rights (Office of Civil Rights), this is an incorrect and overly broad interpretation of the regulations. Rather, it stated that, unless a student actually has a disabling condition, the mere fact that he or she has a "record of" or is "regarded as" having such a condition is insufficient in itself to warrant a Section 504 plan. For example, a student with a history of tuberculosis cannot be discriminated against on the basis of this past condition but would not be entitled to services under Section 504.

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***San Dieguito offers Section 504 plans to students who specifically request them on the basis of virtually any professional diagnosis.***

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Due to San Dieguito's misinterpretation of Section 504, it offers Section 504 plans to students who specifically request them on the basis of virtually any professional diagnosis asserting that the student has a disability. Therefore, it exercises an inappropriately low standard for determining eligibility for Section 504 services. As a result, 21 of San Dieguito's 22 questionable cases are due to its inappropriate application of Section 504.

For example, one San Dieguito student was parentally referred for Section 504 services six months before the student's first SAT exam. The student's grades were consistently excellent, and there is no record of any physical disability. Documentation of the student's disability included a two-sentence note on a pediatrician's prescription pad indicating that the student had once been diagnosed with attention deficit disorder (ADD) and asserting that the student could function well in school as long as the student was not placed in a timed test situation. Also

provided was a one-page summary of a test designed to detect ADD that had been performed four years before the Section 504 referral. The summary included an assessment of attention deficit by a medical doctor. Despite the lack of a recent diagnosis or other information supporting the diagnosis, San Dieguito approved a Section 504 plan without attempting to corroborate this assessment by performing its own required evaluation.

This student subsequently graduated from high school early with a cumulative grade point average of more than 4.0 and significantly more credits than required for graduation, including several advanced placement courses. None of the comments provided by teachers expressed concerns about this student's learning ability or performance on timed tests. The student took college entrance exams repeatedly and always received special accommodations.

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***San Dieguito does not ensure that it provides Section 504 services only to students whose impairment "substantially limits" their ability to learn.***

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Because San Dieguito provides Section 504 services to most students who provide documents showing a record of a disability or who are regarded as having a disability without conducting its own evaluation, it does not ensure that Section 504 services are provided only to students whose impairment "substantially limits" their ability to learn. Also, by allowing students to get Section 504 plans based on outdated evaluations, San Dieguito permits some students to obtain accommodations for college entrance exams without meeting the testing organizations' standards, which require that evaluations occur within three years of the requested test date.

### ***The San Dieguito District Allows One Person to Make Decisions Regarding Section 504 Plans***

Federal regulations require that decisions regarding Section 504 placement be made by a group of persons, including persons knowledgeable about the student, the meaning of the evaluation data, and the placement options. Placement decisions involve determining eligibility, ascertaining the services and accommodations the student must receive, and indicating the setting in which the student will be educated. In addition, the Office of Civil Rights stated that the decision to evaluate a student for possible placement in a Section 504 plan must be a group decision and that districts are required to conduct their own evaluations before providing Section 504 plans. But San Dieguito's procedures allow the director of pupil personnel, or a designee, to unilaterally

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***In at least 6 of 22 questionable cases, a district administrator decided that a district evaluation was not needed.***

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determine whether a district evaluation to assess eligibility for Section 504 services is necessary. In at least 6 of the 22 questionable cases, the district administrator decided that a district evaluation was not needed. Instead, the Section 504 coordinator relied on privately obtained evaluation materials provided by parents and sometimes approved Section 504 plans without first convening a meeting of knowledgeable persons, as required by federal regulations.

For instance, San Dieguito granted a Section 504 plan to a student with an overall grade point average slightly below 4.0 based solely on an evaluation by a private psychologist. The district did not conduct its own evaluation, and the decision to provide the plan was made by the district's Section 504 coordinator alone. The coordinator did not even receive teacher input. In this case, the student's parents requested the Section 504 plan 10 days prior to the deadline to apply for extended time on the SAT. The Section 504 plan was prepared within 4 days of the request, and the student took the SAT with extended time two months later.

#### ***The San Dieguito District Failed to Document and Corroborate Information for Section 504 Eligibility***

Federal regulations require school districts to establish procedures to ensure that information collected to determine eligibility for Section 504 services is documented and carefully considered. However, San Dieguito provided Section 504 plans to some students without sufficiently documenting the disability and its impact on the students' ability to learn.

For example, San Dieguito granted a Section 504 plan to a student on the basis of an evaluation by an educational therapist and comments received from teachers. The therapist's report points to mild attentional problems but notes that the student is functioning within grade level expectations and at a level commensurate with the student's cognitive abilities. The therapist's report contains several recommendations for the student; however, extra time was not among them, and the teachers who provided comments noted no learning difficulties and did not recommend any accommodations for this student. Despite the lack of evidence that the disability was affecting the student's learning, the district did not conduct its own evaluation before approving the Section 504 plan. This student subsequently used the Section 504 plan to receive extra time on the SAT exam.

## **The Threat of Litigation Can Cause Districts to Create Unwarranted Section 504 Plans**

The threat of litigation posed economic disincentives for some school districts to deny Section 504 plans to ineligible students. Two of the districts we visited asserted that the potential for litigation and the associated costs were sometimes a factor in making placement decisions. One district contended that Section 504 plans are inexpensive to provide but can be costly to deny.

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***One district contended that Section 504 plans are inexpensive to provide but can be costly to deny.***

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For example, one Acalanes student ultimately received a Section 504 plan as a result of a continuous dispute involving lawyers representing the parents and the district. Comments received from classroom teachers indicated that the student's academic problems were due to a lack of completed homework assignments. After several drafts of a Section 504 plan, the parents and district staff agreed to extensive accommodations. In fact, the Section 504 coordinator stated that the accommodations provided not only were unwarranted but exceeded those provided to the most limited of special education students. The student used this Section 504 plan to obtain extra time on the SAT.

## **Questionable Cases Sometimes Resulted From the College Board's Imprecise Instructions and Weaknesses in Its Approval Process**

Imprecise instructions on the College Board's eligibility form may have allowed some ineligible students to receive extra time on the SAT. In two instances, the College Board granted students extra time on the SAT even though their own school was not providing such accommodation under an IEP or Section 504 plan. In addition, although the College Board initially denied two other students' requests for accommodations, it later approved them. For at least one of these students, the district had found the student ineligible for either an IEP or Section 504 plan.

### ***Imprecise Instructions Allowed Some Students Who Were Ineligible for an IEP or Section 504 Plan to Receive Accommodations***

For students to receive extended time on the 1999 SAT, the College Board required that they be receiving similar accommodations on school-based tests. However, the instructions on the College Board's eligibility form did not state whether the school had to be providing these accommodations under an IEP or

Section 504 plan. As a result, the instructions were subject to interpretation and may have allowed ineligible students to receive extra time.

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***The instructions on the College Board's eligibility form did not state whether the school had to be providing accommodations under an IEP or Section 504 plan.***

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For example, Acalanes, like other districts, provides some students who do not qualify for an IEP or Section 504 plan accommodations in the classroom. These informal accommodations may include extra time on assignments, quizzes, and tests. Because the College Board's instructions were imprecise, Acalanes included these informal accommodations on the eligibility form. As a result, two students whom the district found ineligible under Section 504 received accommodations on the SAT. In contrast, although Beverly Hills Unified School District (Beverly Hills) also allows informal accommodations in the classroom, it contends that these small accommodations do not qualify a student to receive extended time on standardized tests. Beverly Hills will not indicate on the College Board's eligibility form that a student receives accommodations similar to the ones requested for the SAT unless that student has a formal IEP or Section 504 plan in place that requires such accommodations.

New language contained in the College Board's eligibility form for 2000 should help clear up these types of misunderstandings. The new application clearly specifies that students must have an IEP, Section 504 plan, or other formal written plan and must receive accommodations in the classroom similar to the ones requested for the SAT exam. In addition, these classroom accommodations must be the result of a documented disability.

Although the College Board's instructions are clearer than they were before, we are concerned that they will continue to permit some undeserving students to receive accommodations on the SAT. Along with IEPs and Section 504 plans, the College Board now allows accommodations based on formal written plans. However, these formal written plans, which replace professional evaluations as a basis for accommodation, are not subject to the regulatory requirements of IDEA or Section 504. According to the College Board, this third option is intended for private schools that do not need to comply with IDEA or Section 504. However, it does not limit this option to such private schools. As a result, schools that are subject to these regulatory requirements, now also have the option of using formal written plans to obtain accommodations for their students on the SAT.

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***Though clearer, the College Board's new instructions may continue to permit some undeserving students to receive extra time on the SAT.***

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The College Board assumes that this new requirement will cause schools to review professional evaluations, prepare formal written plans, and communicate student's needs to those providing services. However, the College Board's eligibility form does not address these expectations, and unlike IDEA and Section 504, these formal written plans are not subject to any regulatory requirements. Consequently, there is less assurance that students receiving accommodations under such plans require extra time on the SAT to complete as much of the exam as other students. Furthermore, the College Board does not treat requests for accommodations based on formal written plans as appeals and, therefore, does not review supporting documentation to verify that requested accommodations are justified. If the College Board provides accommodations to students who do not warrant them, it gives these students an unfair advantage.

For the 1999-2000 school year, ACT, Inc. has also revised its eligibility criteria to allow the use of formal written plans. Needless to say, we have the same concerns with the ACT. We have communicated our concerns in letters to the College Board and ACT, Inc.

### ***Weaknesses in the College Board's Approval Process Allowed Some Potentially Ineligible Students to Receive Accommodations***

In some of the cases we examined, the College Board allowed potentially ineligible students to receive questionable accommodations on the SAT. When students do not meet all eligibility requirements, they can appeal directly to the College Board to take the SAT with extra time. After the College Board receives an appeal and supporting documents from the student, its own panel of professionals reviews the case and decides whether to grant the requested accommodations. In some cases, the College Board did not uphold the decision of its own expert panel and agreed to allow the accommodations. According to the College Board, it never reverses the decision of its experts; however, it always defers the decision to provide accommodations to the schools because they have more information on which to base such decisions. We believe this practice allows some potentially undeserving students to receive accommodations on the SAT.

In one case, a student appealed to the College Board one month before the SAT test date because the student was not receiving accommodations on school tests at the time of the appeal. After

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***In some cases, the College Board did not uphold the decision of its own expert panel and allowed accommodations on the SAT.***

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reviewing the student's request, the College Board denied the appeal because its reviewers felt that test data in the professional evaluation did not support the need for accommodations. They felt more information was necessary and did not believe that the underlying data supported the conclusions and recommendations of the evaluator. However, the College Board gave the student extra time on the SAT in January 1999. When we asked the College Board why it subsequently granted the student extra time, it surmised that the school submitted another eligibility form because the school had begun providing the student accommodations on classroom tests. However, our review revealed that this student did not have an IEP or Section 504 plan, and since the College Board's own expert panel felt that the underlying evaluation data did not support the need for extra time on the SAT, it is questionable whether this student had a disability that required accommodations.

In a similar example, another student appealed to the College Board for an exception to the eligibility criteria for accommodations on the SAT. The College Board denied the appeal two months prior to the exam because the documentation the student submitted did not support the need for the requested accommodation. According to the College Board, the documentation did not describe a functional limitation resulting from the disability that would negatively impact the student's ability to take a standardized test. Additionally, the documentation did not contain a recommendation for extended time. However, the College Board allowed the student to receive extra time two months later. The College Board said that the student was ultimately approved because the student's counselor notified it that the school had decided to give the student extra time. However, when we earlier discussed this student's accommodation with school and district staff, including the counselor referred to by the College Board, we were told that they did not support the request for accommodations. In fact, nine years earlier, the student was denied special education services because no significant discrepancy existed between ability and achievement. Three years before his first SAT exam, the student was also denied Section 504 accommodations.

## RECOMMENDATIONS

To ensure that school districts identify students with learning disabilities and provide them with the services they need, we recommend the following:

- All California school districts should ensure compliance with the requirements of Section 504. Procedures should exist to identify and evaluate students with disabilities and to ensure that eligible students receive the services and accommodations they need. Districts should inform staff of their responsibilities under Section 504 and should train them in the services available to students who qualify under this statute. Districts should also ensure that students and parents are aware of the services available to eligible students under Section 504.
- Los Angeles and San Francisco should continue to implement their new procedures designed to identify, evaluate, and provide services to students eligible for protection under Section 504. They should increase Section 504 awareness by continuing to provide teacher and staff training on Section 504. Los Angeles should also continue to implement the changes required under a consent decree that are designed to improve its process for identifying students eligible for special education.

To ensure that ineligible students do not gain an unfair advantage on standardized tests, we recommend the following:

- San Dieguito should improve its process for providing Section 504 plans. Specifically, it should provide Section 504 plans only to students whose impairment substantially limits a major life activity. The district should ensure that decisions regarding eligibility, placement, and services to be provided are made by a team qualified to make such decisions. In determining eligibility under Section 504, San Dieguito should perform its own evaluations of claimed disabilities and should insist that diagnoses from outside sources be current. San Dieguito should also ensure that all the information it uses to make placement decisions is documented.
- Acalanes, Beverly Hills, Palo Alto, and San Francisco should ensure that they provide or request extra time on standardized tests only when such an accommodation is warranted and documented in the student's IEP or Section 504 plan.
- Acalanes should also ensure that it includes on the SAT eligibility form only those accommodations provided under an IEP or Section 504 plan.

We conducted this review under the authority vested in the California State Auditor by Section 8543 et seq. of the California Government Code and according to generally accepted government auditing standards. We limited our review to those areas specified in the audit scope section of this report.

Respectfully submitted,

A handwritten signature in black ink that reads "Elaine M. Howle". The signature is written in a cursive, flowing style.

ELAINE M. HOWLE  
State Auditor

Date: November 30, 2000

Staff: Sylvia L. Hensley, CPA, Audit Principal  
Michael Tilden, CPA  
Bryan Beyer  
Corey Bock  
Nuno DaLuz  
Grant Parks

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# APPENDIX

## Profile of School Districts and Students Selected for Review

	Total District Enrollment	Special Education		Section 504 Plans		Percent of Total Enrollment Receiving Free or Reduced-Price Lunch*	SAT Accommodation Rate for 1999 Graduating Seniors	Number of Students in Sample <sup>‡</sup>	Number of Students in Sample Taking SATs	Number of Students in Sample Receiving Extra Time on SAT I	Number of Students in Sample Receiving Extra Time on SAT II
		Number of Students With Learning Disabilities	Percent of Total District Enrollment	Number of Students With Section 504 Plans	Percent of Total District Enrollment						
<b>Acalanes Union High</b>	<b>5,061</b>	<b>268</b>	<b>5.3%</b>	<b>54<sup>†</sup></b>	<b>1.0%</b>	<b>1.3%</b>					
Miramonte High							8.8%	20	16	16	-
Campolindo High							5.7	16	16	16	-
Acalanes High							3.8	16	16	12	8
<b>Beverly Hills Unified</b>	<b>5,302</b>	<b>243</b>	<b>4.6</b>	<b>123</b>	<b>2.3</b>	<b>7.5</b>					
Beverly Hills High							7.0	33	23	18	12
Beverly Vista Elementary							n/a	10	-	-	-
<b>Capistrano Unified</b>	<b>42,196</b>	<b>1,744</b>	<b>4.1</b>	<b>215</b>	<b>0.5</b>	<b>15.6</b>					
Capistrano Valley High							0.7	13	3	3	1
San Clemente High							1.7	12	2	2	-
<b>Los Angeles Unified</b>	<b>694,707</b>	<b>44,958</b>	<b>6.5</b>	<b>1,234<sup>†</sup></b>	<b>0.2</b>	<b>73.9</b>					
North Hollywood Senior High							1.2	13	-	-	-
Garfield Senior High							0.0	19	-	-	-
Pio Pico Elementary							n/a	20	-	-	-
<b>Palo Alto Unified</b>	<b>9,720</b>	<b>638</b>	<b>6.6</b>	<b>173<sup>†</sup></b>	<b>1.7</b>	<b>6.5</b>					
Henry M. Gunn High							7.9	29	27	24	13
Palo Alto High							6.7	25	25	23	11
Walter Hays Elementary							n/a	4	-	-	-

	Total District Enrollment	Special Education		Section 504 Plans		Percent of Total Enrollment Receiving Free or Reduced-Price Lunch*	SAT Accommodation Rate for 1999 Graduating Seniors	Number of Students in Sample <sup>‡</sup>	Number of Students in Sample Taking SATs	Number of Students in Sample Receiving Extra Time on SAT I	Number of Students in Sample Receiving Extra Time on SAT II
		Number of Students With Learning Disabilities	Percent of Total District Enrollment	Number of Students With Section 504 Plans	Percent of Total District Enrollment						
<b>San Dieguito Union High</b>	<b>9,559</b>	<b>537</b>	<b>5.6</b>	<b>311</b>	<b>3.3</b>	<b>7.3</b>					
Torrey Pines High							5.7	36	36	33	16
San Dieguito High School Academy							4.8	13	13	13	3
<b>San Francisco Unified</b>	<b>60,540</b>	<b>4,202</b>	<b>6.9</b>	<b>62<sup>†</sup></b>	<b>0.1</b>	<b>43.8</b>					
Abraham Lincoln High							0.0	20	-	-	-
J. Eugene McAteer High							1.1	20	-	-	-
Hillcrest Elementary							n/a	11	-	-	-
<b>Totals</b>	<b>827,085</b>	<b>52,590</b>						<b>330</b>	<b>177</b>	<b>160</b>	<b>64</b>

\* Statewide, 47.6 percent of all students received free or reduced-price lunches.

<sup>†</sup> This district provided the number of Section 504 plans for fiscal year 1999-2000. Consequently, we used the district's fiscal year 1999-2000 enrollment figures to compute the related percent of enrollment.

<sup>‡</sup> Our sample includes STAR and SAT test takers.

Sources: California Department of Education—district enrollment figures for fiscal years 1998-99 and 1999-2000 and special education enrollment figures and free or reduced-price lunch percentages for fiscal year 1998-99

College Board—SAT accommodation rates for 1999 graduating seniors

School Districts—number of students with Section 504 plans

*Agency's comments provided as text only.*

Los Angeles Unified School District  
Roy Romer, Superintendent of Schools  
Administrative Offices  
450 North Grand Avenue, Room A-223  
Los Angeles, California 90012

November 8, 2000

Ms. Elaine M. Howle  
California State Auditor  
Bureau of State Audits  
555 Capitol Mall, Suite 300  
Sacramento, CA 95814

Dear Ms. Howle:

RE: Excerpts from draft copy of Report No. 2000-108

The Educational Equity Compliance Office is responsible for monitoring the Los Angeles Unified School District's compliance with Section 504 of the Rehabilitation Act. That office reviewed the above-referenced copy of the summary audit report and recommendations made dealing with Section 504.

The draft summary report appears to adequately address the issues of Section 504 in the District. The District's Educational Equity Compliance Office will continue to increase Section 504 awareness by providing teacher and staff development training on Section 504. The recommendations made in the report are currently being addressed under the Section 504 Plan of the *Chanda Smith* Consent Decree.

If additional information is needed in regard to the implementation of Section 504 in the District, please contact Deanne Neiman, Director of the District's Educational Equity Compliance Office. She may be reached at (213) 229-5900.

Sincerely,

*(Signed by: Roy Romer)*

Roy Romer

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*Agency's comments provided as text only.*

San Dieguito Union High School District  
William A. Berrier, Superintendent  
710 Encinitas Blvd.  
Encinitas, CA 92024-3357

November 7, 2000

Elaine M. Howle\*  
State Auditor  
Bureau of State Audits  
555 Capitol Mall, Suite 300  
Sacramento, CA 95814

RE: San Dieguito Union High School District's Response to Report Entitled "Standardized Tests: Although Some Students May Receive Extra Time on Standardized Tests That Is Not Deserved, Others May Not Be Getting the Assistance They Need."

Dear Ms. Howle:

We have reviewed the above-entitled draft report ("Report") issued by your office. Before responding to the Report's specific findings, we would like to take this opportunity to assure you that the San Dieguito Union High School District ("District") takes seriously any and all issues regarding the civil rights of students. With that in mind, the district strives to consider the civil rights and best interests of its students when making decisions that may significantly impact their education. Accordingly, we have contracted with legal counsel to review and, if appropriate, revise the District's policies and procedures regarding Section 504 of the Rehabilitation Act of 1973 ("Section 504"). This review includes, but is not limited to, consideration of individual school site committees to determine eligibility for Section 504.

In general, we would like to point out that your Report demonstrates the difficult decisions that school districts must make regarding eligibility and services under State and Federal law. Specifically, the Report first explains that, at most school districts, very few students receive accommodations on standardized tests, concluding that "some students might not be getting the assistance they need." You suggest that potential causes of this problem may be "a lack of staff and parent awareness of Section 504" as well as "weaknesses in district processes for identifying and screening students with suspected disabilities." Conversely, the Report suggests that some "undeserving student" may receive extra time on standardized tests. However, the report concludes that the "potential magnitude of undeserving students receiving extra time is limited" as less than two (2) percent of all takers of the Scholastic Achievement Test and the STAR exam receive extra time.

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\*California State Auditor's comments begin on page 47.

With community advocates and watchdog groups often demanding that school districts take various, and sometimes conflicting, courses of action, districts must safeguard the civil rights of students while maintaining the efficient operation of a public entity. Thus, school districts face numerous decisions which do not always have clear answers. In such cases, many districts decide to err on the side of upholding, rather than denying, the civil rights of students. If these actions result in a statistically insignificant over-inclusion of students eligible for Section 504 services, school districts may view such results as the lesser of two evils. In other words, over-inclusion may be preferable, as under-inclusion, even if statistically insignificant, means that some students are being denied services to which they are entitled under Federal and/or State law.

① Accordingly, we request that the Report highlight the fact that while it found that the District may have provided Section 504 services to some students who may not have been eligible, it makes no findings or allegations that the District failed to provide services to deserving students.

In order to address the Report's specific allegations and findings in an efficient manner, we have attempted to create headings reflective of the issues as we understand them. Below each of the headings, we discuss our comments and/or concerns with that particular issue.

#### Accommodations Provided by the College Board Exam

The Report states that the District's procedures "do not satisfy College Board guidelines for documenting disabilities." It also states that the District's "incorrect interpretation of Section 504 allowed potentially ineligible students to obtain extra time on college entrance exams." Subsequently, the Report concludes that "by allowing students to get Section 504 plans based on outdated evaluations, San Dieguito permits some students to obtain accommodations for college entrance exams without meeting the testing organizations' standards, which require that evaluations occur within three years of the requested test date."

One of the major themes underlying the Report's findings is that some undeserving students may have received extra time on the SAT. While not taking a position on the validity of this finding, we must note that school districts are governed by various State and Federal civil rights and/or education laws, including Section 504. Accordingly, the policies and procedures developed and applied by school districts reflect those laws and interpretations thereof made by courts and/or agencies with jurisdiction over that subject matter.

It is our understanding that the College Board, as well as other publishers of standardized tests, are responsible for establishing policies and guidelines regarding the provision of accommodations for those taking its exams. We understand that some of those policies and guidelines rely on eligibility and accommodation determinations made by school districts. However, to our knowledge, a school district is not, nor should it be, required to make Section 504 eligibility determinations based upon whether or not a student will gain extra time on the SAT. Therefore, we believe that the findings regarding accommodations provided by the College Board should be separated from those provided by school districts.

The propriety of this distinction is further supported by the fact that combining the discussion of the College Board with school districts makes it impossible to determine the actual reason(s) that any particular students received extended time on the SAT. The Report itself states that “vague instructions on the College Board’s eligibility form and its own inconsistencies in its appeals process may have allowed some undeserving students to receive extra time on the SAT.” The Report does not conclude that ineligible students received extra time. Rather, it states only that “potentially ineligible students” may have received extra time. Moreover, by combining the discussion of the College Board with that regarding the school district, it is difficult, if not impossible, to determine which agency, if any, was responsible for the provision of extra time to ineligible students.

#### Report’s Title and Implications Should be Clarified

The Report is entitled “Standardized Tests: Although Some Students May Receive Extra Time on Standardized Tests That Is Not Deserved, Others May Not be Getting the Assistance They Need.” We request that the Report emphasize the fact that it found no evidence that our District has denied eligibility and/or services to a student who actually qualified under Section 504. This point must be clarified as the Report’s title may be read to conclude that our District provides extra services to some ineligible students while denying other students the services for which they are eligible. Otherwise, the Report will be misinterpreted and unjustly reflect negatively against the District.

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#### Inaccurate Implication Regarding Threat of Litigation

In the final paragraph of the “Summary,” the Report states that the “threat of litigation also caused one district to provide an unwarranted 504 plan that was used by a student to obtain questionable accommodations on a college entrance exam.” It is unclear whether the reference to “one district” is meant to refer to our District. If it is not, this allegation should not be included in the same paragraph as the preceding four (4) sentences, which are specifically discussing our District.

Conversely, if this assertion is intended to refer to our District, we deny its validity. The threat of litigation is always present when high stakes decisions are made by school districts. However, we have never provided an “unwarranted” Section 504 plan based on a mere threat of litigation. We emphatically deny any implication that our District can be, or has been, coerced into providing unwarranted eligibility determinations. As discussed above, our District makes its decisions based on the applicable law and the best interests of our students.

In some cases, community advocates in our region have interpreted some of the Section 504 statutes and regulations more liberally. Thus, where the law is ambiguous, we generally choose to err in favor of protecting students’ rights, rather than adopting a more strict interpretation that will deny such rights and likely lead to litigation. We believe such actions are both legally

prudent and consistent with our educational mission and should not be characterized as acquiescing to any request based on a threat of litigation.

Inaccurate Statistics

- ③ It should be noted that one of the charts accompanying the Report contains some inaccurate data. District records indicate 1,035 students were identified with a learning disability in the 1998-99 school year. This represents 10.8% of the 1998-99 District enrollment with an active Individual Education Program (IEP).

Timely Evaluation

- ④ The Report appears to draw a negative implication from the fact that, in one case, a “Section 504 plan was prepared within four days of the request.” We note that school districts are obligated to timely evaluate students and complying with this mandate should not result in a negative inference regarding the District’s motives.

In conclusion, we reiterate that we take seriously the issues raised in the Report and are in the process of reviewing our Section 504 policies and procedures to assure their accuracy. However, we disagree with some of the findings, both express and implied, made in the Report. We hope that you will agree with our position and revise the Report accordingly. From our perspective, it is especially important that the Report clarify and emphasize the fact it makes no allegations or findings that our District failed to provide Section 504 services to eligible students.

- ① We also request that the Report include more emphasis on its own conclusion that the potential magnitude of undeserving students receiving extra time on standardized tests is limited. Such emphasis is imperative in order to provide the proper context for the Report’s subsequent allegations that our District “displayed significant, widespread problems” and the problems were “systematic in nature.” Those phrases create the impression that the consequences of the District’s alleged actions are significant when, in fact, the Report concludes that they are not. At a minimum, we request that our comments be included in the report.

Please do not hesitate to contact us should you have any further questions regarding this matter.

Sincerely,

*(Signed by: William A. Berrier)*

William Berrier  
Superintendent

# COMMENTS

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## **California State Auditor's Comments on the Response From the San Dieguito Union High School District**

To provide clarity and perspective, we are commenting on the San Dieguito Union High School District's (San Dieguito) response to our audit report. The numbers below correspond to the numbers we have placed in the response.

- ① San Dieguito's discussion of the possible "over-inclusion" of students in Section 504 of the Rehabilitation Act of 1973 (Section 504) plans misses the point of our critique. As we discuss on page 28, its procedures for addressing students requesting Section 504 plans do not comply with federal regulatory requirements. As a result, we questioned Scholastic Aptitude Test (SAT) accommodations based on Section 504 plans for 22 of the 33 cases we reviewed, or 66.7 percent. This is not "statistically insignificant," as San Dieguito has suggested.
- ② San Dieguito acknowledges that we found the district may have provided Section 504 services to some students who may not have been eligible, but we make no findings that the district failed to provide services to deserving students. To put this statement in its proper perspective, we must point out that we limited our review to students that received accommodations. Consequently, we would have no way of knowing if the district failed to provide services to deserving students.
- ③ The district is incorrect. According to additional documentation San Dieguito provided, the 1,035 students referenced in its response includes all special education students, not just those with learning disabilities as in our Appendix. According to its own records, only 557 of these students had learning disabilities as of April 1, 1999. This closely approximates the 537 learning-disabled special education students reported in our Appendix. The difference of 20 students is because the special education data contained in our Appendix is dated December 1, 1998.
- ④ The district misses the point of our concern. As noted on page 31, our concern is that in preparing this Section 504 plan so quickly, the district did not comply with federal regulations.

Specifically, the district did not conduct its own evaluation of the student's disability, and the decision to provide the Section 504 plan was made by one person rather than a group of knowledgeable persons as required by law.

cc: Members of the Legislature  
Office of the Lieutenant Governor  
Milton Marks Commission on California State  
Government Organization and Economy  
Department of Finance  
Attorney General  
State Controller  
State Treasurer  
Legislative Analyst  
Senate Office of Research  
California Research Bureau  
Capitol Press