

# California State Board of Education Final Minutes May 9, 2018

## Members Present

* Michael W. Kirst, President
* Ilene W. Straus, Vice President
* Sue Burr
* Bruce Holaday
* Patricia A. Rucker
* Niki Sandoval
* Ting L. Sun
* Karen Valdes
* Trish Williams
* Jaden Gray, Student Member
* Tom Torlakson, State Superintendent of Public Instruction (SSPI)

## Member Absent

* Feliza I. Ortiz-Licon

## Principal Staff

* Karen Stapf Walters, Executive Director, State Board of Education (SBE)
* Judy Cias, Chief Counsel, SBE
* Patricia de Cos, Deputy Executive Director, SBE
* David Sapp, Deputy Policy Director and Assistant Legal Counsel, SBE
* Teri Burns, Director of Policy and Legislation, SBE
* Janet Weeks, Director of Communications, SBE
* Carolyn Pfister, Education Administrator I, SBE
* Laila Fahimuddin, Policy Consultant, SBE
* Sara Pietrowski, Policy Consultant, SBE
* Pamela Castleman, Education Programs Consultant, SBE
* Amy Bubbico, Staff Services Manager I, SBE
* Glen Price, Chief Deputy Superintendent, California Department of Education (CDE)
* Stephanie Papas, Education Policy Administrator I, CDE
* Nick Schweizer, Deputy Superintendent, CDE
* Tom Adams, Deputy Superintendent, CDE
* Keric Ashley, Deputy Superintendent, CDE
* Todd Smith, Chief Counsel II, CDE
* Edmundo Aguilar, Chief Counsel II, CDE

**Please note that the complete proceedings of the May 9, 2018 State Board of Education meeting, including closed-captioning, are available online at:** <http://www.cde.ca.gov/be/ag/ag/sbewebcastarchive.asp>

## California State Board of Education Public Session May 9, 2018

**Wednesday – May 9, 2018 Pacific Time ±**California Department of Education  
1430 N Street, Room 1101  
Sacramento, California 95814

* Call to Order
* Salute to the Flag
* Communications
* Announcements
* Report of the State Superintendent of Public Instruction
* Special Presentations
  + *Public notice is hereby given that special presentations for informational purposes may take place during this session.*
* Agenda Items
* Adjournment

**President Kirst called the meeting to order at approximately 8:30 a.m.**

**Report of the State Superintendent of Public Instruction (SSPI)**

### AGENDA ITEMS DAY 1

#### Item 01

**Subject:** Update on the Development of California’s System of Support for Local Educational Agencies and Schools.

**Type of Action:** Action, Information

**CDE Recommendation:** No action is recommended at this time. However, the CDE recommends that the SBE provide feedback on the system of support update.

The CDE also recommends that the SBE take additional action as deemed necessary and appropriate.

**ACTION:** No Action Taken.

#### Item 02

**Subject:** Developing an Integrated Local, State, and Federal Accountability and Continuous Improvement System: Approval of a Student Growth Model and the One-Year Graduation Rate for Schools with Dashboard Alternative School Status, and Update on the California School Dashboard.

**Type of Action:** Action, Information

**CDE Recommendation:** The CDE recommends that the SBE approve: (1) the “Residual Gain” student growth model for further exploration and modeling to be considered for possible inclusion in the 2018 dashboard, and (2) the recommended methodology for calculating the one-year graduation rate for Dashboard Alternative School Status (DASS) schools.

**ACTION:** Member Burr moved to approve the CDE staff recommendation.

Member Rucker seconded the motion.

**Yes votes:** Members Holaday, Gray, Sandoval, Williams, Sun, Kirst, Straus, Burr, Valdes, and Rucker.

**No votes:** None

**Member Absent:** Member Ortiz-Licon

**Abstentions:** None

**Recusals:** None

The motion passed with 10 votes.

#### Item 03

**Subject:** California Assessment of Student Performance and Progress: Update on Program Activities Related to the California Assessment of Student Performance and Progress System.

**Type of Action:** Information

**ACTION:** No Action Taken.

#### Item 04

**Subject:** English Language Proficiency Assessments for California: Approval of the Operational Initial Assessment Preliminary Threshold Scores and Composite Weights for the English Language Proficiency Assessments for California.

**Type of Action:** Action, Information

**CDE Recommendation:** The CDE recommends that the SBE approve the SSPI’s recommended preliminary threshold scores for the initial English Language Proficiency Assessments for California (ELPAC) (Attachment 1). This item also presents for approval the recommended composite weights for the Initial ELPAC (Attachment 1).

**ACTION:** Member Sun moved to approve: 1) Initial ELPAC weighting to calculate an overall score for oral and written language composites (Attachment 1), and 2) Approve preliminary Initial ELPAC threshold scores for overall scale score (Attachment 1).

Member Rucker seconded the motion.

**Yes votes:** Members Holaday, Gray, Sandoval, Williams, Sun, Kirst, Straus, Burr, Valdes, and Rucker.

**No votes:** None

**Member Absent:** Member Ortiz-Licon

**Abstentions:** None

**Recusals:** None

The motion passed with 10 votes.

### WAIVERS ON CONSENT (W-03 through W-11, and W-13)

The following agenda items include waivers that are proposed for consent and those waivers scheduled for separate action because CDE staff has identified possible opposition, recommended denial, or determined may present new or unusual issues that should be considered by the State Board. Waivers proposed for consent are so indicated on each waiver’s agenda item; however, any board member may remove a waiver from proposed consent and the item may be heard individually. On a case-by-case basis, public testimony may be considered regarding the item, subject to the limits set by the Board President or by the President's designee; and action different from that recommended by CDE staff may be taken.

COMMUNITY DAY SCHOOLS (CDS) (Minimum School Day)

#### Item W-03

**Subject:** Request by Manteca Unified School District to waive portions of California Education Code Section 48663(a), relating to community day school minimum instructional minutes.

**Waiver Number:** 27-1-2018

**CDE Recommendation: Approval with Conditions**

INSTRUCTIONAL TIME REQUIREMENT AUDIT PENALTY (Charter - Minimum Instructional Time)

#### Item W-04

**Subject:** Request by Encore High School for the Arts - Riverside under the authority of the California Education Code Section 47612.6(a), to waive Education Code Section 47612.5(c), the audit penalty for offering less instructional time in the 2015–16 school year for students in grades nine and ten (shortfall of 5,400 minutes) at the charter school.

**Waiver Number:** 20-1-2018

**CDE Recommendation: Approval with Conditions**

SCHOOL CONSTRUCTION BONDS (Bond Indebtedness Limit)

#### Item W-05

**Subject:** Request by the Albany City Unified School District to waive a portion of California Education Code sections 15106 and 15270(a) to allow the District to exceed its bonded indebtedness limit. Total bonded indebtedness may not exceed 2.5 percent of the taxable assessed valuation of property for unified school districts. Depending on the type of bond, a tax rate levy limit to $60 per $100,000 of assessed value for unified school districts may also apply.

**Waiver Number:** 13-2-2018

**CDE Recommendation: Approval with Conditions**

SCHOOL DISTRICT REORGANIZATION (60 day Requirement to Fill Board Vacancy)

#### Item W-06

**Subject:** Request by Happy Camp Union Elementary School District to waive portions of California Education Code Section 5091, which will allow the board of trustees to make a provisional appointment to a vacant board position past the 60-day statutory deadline.

**Waiver Number:** 12-3-2018

**CDE Recommendation: Approval**

SCHOOL DISTRICT REORGANIZATION (Elimination of Election Requirement)

#### Item W-07

**Subject:** Request by thirteen local educational agencies to waive California Education Code Section 5020, and portions of sections 5019, 5021, and 5030, that require a districtwide election to establish a by-trustee-area method of election.

**Waiver Numbers:**

* Apple Valley Unified School District 21-2-2018
* Barstow Unified School District 17-1-2018
* Central Elementary School District 5-2-2018
* Chaffey Joint Union High School District 12-2-2018
* Hesperia Unified School District 2-3-2018
* Inglewood Unified School District 26-2-2018
* Irvine Unified School District 18-3-2018
* Lowell Joint School District 15-2-2018
* Morongo Unified School District 9-3-2018
* Santa Rosa City Schools 38-3-2018
* Ventura Unified School District 22-1-2018
* Victor Elementary School District 21-1-2018
* Victor Valley Union High School District 42-3-2018

**CDE Recommendation: Approval**

SCHOOLSITE COUNCIL STATUTE (Number and Composition of Members)

#### Item W-08

**Subject:** Request by five local educational agencies under the authority of California Education Code Section 52863 for waivers of Education Code Section 52852, relating to schoolsite councils regarding changes in shared, composition, or shared and composition members.

**Waiver Numbers:**

* Barstow Unified School District 25-1-2018
* Barstow Unified School District 26-1-2018
* Maple Creek Elementary School District 8-1-2018
* Salinas Union High School District 3-2-2018
* San Joaquin County Office of Education 18-2-2018
* Tahoe-Truckee Unified School District 18-1-2018
* Tahoe-Truckee Unified School District 19-1-2018

**CDE Recommendation: Approval with Conditions**

SPECIAL EDUCATION PROGRAM (Educational Interpreter for Deaf and Hard of Hearing)

#### Item W-09

**Subject:** Requests by two County Offices of Education to waive California Code of Regulations, Title 5, Section 3051.16(b)(3), the requirement that educational interpreters for deaf and hard of hearing pupils meet minimum qualifications as of July 1, 2009, to allow Amie Denner and Heather Pedraza to continue to provide services to students until June 30, 2019, under a remediation plan to complete those minimum requirements.

**Waiver Numbers:**

* San Joaquin County Office of Education 10-2-2018
* Siskiyou County Office of Education 27-2-2018

**CDE Recommendation: Approval with Conditions**

SPECIAL EDUCATION PROGRAM (Extended School Year)

#### Item W-10

**Subject:** Request by six local educational agencies to waive California Code of Regulations, Title 5, Section 3043(d), which requires a minimum of 20 school days for an extended school year (summer school) for students with disabilities.

**Waiver Numbers:**

* Hanford Elementary School 23-1-2018
* Hesperia Unified School District 7-2-2018
* Monterey County Office of Education 24-1-2018
* Oceanside Unified School District 1-2-2018
* Oroville City Elementary School District 16-1-2018
* Paradise Unified School District 3-1-2018

**CDE Recommendation: Approval with Conditions**

SPECIAL EDUCATION PROGRAM (Resource Teacher Caseload)

#### Item W-11

**Subject:** Request by two local educational agencies, under the authority of California Education Code Section 56101 and California Code of Regulations, Title 5, Section 3100, to waive Education Code Section 56362(c). Approval of this waiver will allow the resource specialists to exceed the maximum caseload of 28 students by no more than four students (32 maximum).

**Waiver Numbers:**

* King City Union School District 5-1-2018
* Newman-Crows Landing Unified School District 19-2-2018
* Newman-Crows Landing Unified School District 20-2-2018

**CDE Recommendation: Approval with Conditions**

State Testing Apportionment Report (CAASPP and CELDT)

#### Item W-13

**Subject:** Request by two local educational agencies to waive the State Testing Apportionment Information Report deadline as stipulated in the California Code of Regulations, Title 5 (5 CCR), Section 11517.5(b)(1)(A), regarding the California English Language Development Test, or Title 5, Section 862(b)(2)(A), regarding the California Assessment of Student Performance and Progress System.

**Waiver Numbers:**

* Cottonwood Union Elementary School District 1-3-2018
* Keppel Union Elementary School District 24-2-2018

**CDE Recommendation: Approval**

**ACTION:** Member Rucker moved to approve the CDE staff recommendations for each waiver item on consent (W-03 through W-11, and W-13).

Member Straus seconded the motion.

**Yes votes:** Members Holaday, Gray, Sandoval, Williams, Sun, Kirst, Straus, Burr, Valdes, and Rucker.

**No votes:** None

**Member Absent:** Member Ortiz-Licon

**Abstentions:** None

**Recusals:** None

The motion passed with 10 votes.

### REGULAR WAIVER ITEMS INDIVIDUAL ACTION NEEDED

Charter School Program (Geographic Limitations - Non-classroom Based)

#### Item W-01

**Subject:** Request by four local educational agencies to waive portions of California Code of Regulations, Title 5, Section 11963.6(c), relating to the submission and action on determination of funding requests regarding nonclassroom-based instruction.

**Waiver Numbers:**

* Acton-Agua Dulce Unified School District 22-2-2018
* Acton-Agua Dulce Unified School District 23-2-2018
* Enterprise Elementary School District 14-2-2018
* Evergreen Union School District 12-1-2018
* New Jerusalem Elementary School District 13-1-2018
* New Jerusalem Elementary School District 14-1-2018

**CDE Recommendation: Approval**

**ACTION:** Member Williams moved to approve the CDE staff recommendation for each waiver request.

Member Holaday seconded the motion.

**Yes votes:** Members Holaday, Gray, Sandoval, Williams, Sun, Kirst, Straus, Burr, Valdes, and Rucker.

**No votes:** None

**Member Absent:** Member Ortiz-Licon

**Abstentions:** None

**Recusals:** None

The motion passed with 10 votes.

CHARTER SCHOOL PROGRAM (Other Waiver)

#### Item W-02

**Subject:** Request by San Diego Unified School District to waive portions of California Education Code Section 47652, relating to the grade level expansion requirement for continuing charter schools and the capping of average daily attendance in the special advance apportionment.

**Waiver Number:** 6-2-2018

**CDE Recommendation: Denial**

**ACTION:** Member Holaday moved to approve the waiver with the following conditions:

* The charter school shall provide to the Charter Schools Division in the CDE copies of the board meeting minutes documenting the schools’ intent to merge the two K-8 charter schools by July 13, 2018.
* The charter school shall provide evidence to the satisfaction of the Charter Schools Division in the CDE that the school has officially closed in 2017-18 by July 13, 2018.
* The CDE shall provide advance state funding to the continuing charter school at a level commensurate with the LCFF funding provided at the 2017-18 second principal apportionment. Such funding shall be adjusted by any overpayments of Local Control Funding Formula (LCFF) and Education Protection Account (EPA) funds not yet recovered by CDE.

Member Williams seconded the motion.

**Yes votes:** Members Holaday, Gray, Sandoval, Williams, Sun, Kirst, Straus, Burr, Valdes, and Rucker.

**No votes:** None

**Member Absent:** Member Ortiz-Licon

**Abstentions:** None

**Recusals:** None

The motion passed with 10 votes.

STATE MEAL MANDATE (Summer School Session)

#### Item W-12

**Subject:** Request by three school districts under the authority of California Education Code Section 49548 to waive Education Code Section 49550, the State Meal Mandate during the summer school session.

**Waiver Numbers:**

* Eastern Sierra Unified School District 5-3-2018
* Mark West Union Elementary School District 25-2-2018
* Wiseburn Unified School District 28-1-2018

**CDE Recommendation: Approval**

**ACTION:** Member Rucker moved to approve the CDE staff recommendation for each waiver request.

Member Burr seconded the motion.

**Yes votes:** Members Holaday, Gray, Sandoval, Williams, Sun, Kirst, Straus, Burr, Valdes, and Rucker.

**No votes:** None

**Member Absent:** Member Ortiz-Licon

**Abstentions:** None

**Recusals:** None

The motion passed with 10 votes.

**END OF WAIVERS**

### REGULAR CONSENT ITEMS (Item 05 through Item 08)

#### Item 05

**Subject:** Approval of 2017–18 Consolidated Applications.

**Type of Action:** Action, Information

**CDE Recommendation:** The CDE recommends that the SBE approve the 2017–18 Consolidated Applications (ConApps) submitted by LEAs in Attachment 1.

#### Item 06

**Subject:** 2018 Science Instructional Materials Adoption: Approval of Additional Facilitators.

**Type of Action:** Action, Information

**CDE Recommendation:** The CDE recommends that the SBE take the following action:

1. Approve the following individuals, as recommended by the Instructional Quality Commission (IQC), to train and facilitate instructional materials review panel members during the 2018 Science Instructional Materials Adoption:

* Constantino Silva, Administrator, Curriculum Frameworks and Instructional Resources Division, CDE
* Jennifer Buzolich, Education Programs Consultant, Curriculum Frameworks and Instructional Resources Division, CDE
* Christine Anderson, Previous Facilitator (2015 English Language Arts/English Language Development Adoption)
* Cyndi Hammonds, Information Technology Specialist, Curriculum Frameworks and Instructional Resources Division, CDE

#### Item 07

**Subject:** Consideration of Requests for Determination of Funding as Required for Nonclassroom-based Charter Schools Pursuant to California Education Code sections 47612.5 and 47634.2, and Associated California Code of Regulations, Title 5.

**Type of Action:** Action, Information

**CDE Recommendation:** The CDE proposes to recommend that the SBE approve the determination of funding for the periods specified for the 42 nonclassroom-based charter schools as provided in Attachment 1.

#### Item 08

**Subject:** Consideration of Requests for Determination of Funding with “Reasonable Basis”/Mitigating Circumstances as Required for a Nonclassroom-based Charter School Pursuant to California Education Code sections 47612.5 and 47634.2, and Associated California Code of Regulations, Title 5.

**Type of Action:** Action, Information

**CDE Recommendation:** The CDE proposes to recommend that the SBE approve the determination of funding for the periods specified for the nine nonclassroom-based charter schools as provided in Attachment 1.

**ACTION:** Member Holaday moved to approve the CDE staff recommendations for each regular item on consent (Item 5 through Item 8).

Member Williams seconded the motion.

**Yes votes:** Members Holaday, Gray, Sandoval, Williams, Sun, Kirst, Straus, Burr, Valdes, and Rucker.

**No votes:** None

**Member Absent:** Member Ortiz-Licon

**Abstentions:** None

**Recusals:** None

The motion passed with 10 votes.

**END OF REGULAR CONSENT ITEMS**

#### Item 09

**Subject:** Approval of the Charter School Numbers Assigned to Newly Established Charter Schools.

**Type of Action:** Action, Information

**CDE Recommendation:** The CDE recommends that the SBE assign a charter number to each charter school identified in Attachment 1.

**ACTION:** Member Holaday moved to approve the CDE staff recommendation.

Member Williams seconded the motion.

**Yes votes:** Members Holaday, Gray, Sandoval, Williams, Sun, Kirst, Straus, Burr, and Valdes.

**No votes:** None

**Member Absent:** Member Ortiz-Licon

**Abstention:** Member Rucker

**Recusals:** None

The motion passed with 9 votes.

#### Item 10

**Subject:** STATE BOARD PROJECTS AND PRIORITIES.

Including, but not limited to, future meeting plans; agenda items; and officer nominations and/or elections; State Board appointments and direction to staff; declaratory and commendatory resolutions; Bylaw review and revision; Board policy; approval of minutes; Board liaison reports; training of Board members; and other matters of interest.

**Type of Action:** Action, Information

1. SBE Draft Preliminary Report of Actions/Minutes for the March 14-15, 2018 and April 12, 2018 meetings
2. Board member liaison reports

**ACTION:** Member Holaday moved to approve the SBE staff recommendation.

Member Williams seconded the motion.

**Yes votes:** Members Holaday, Sandoval, Williams, Sun, Kirst, Straus, Valdes, and Rucker.

**No votes:** None

**Members Absent:** Members Burr, Gray, and Ortiz-Licon

**Abstentions:** None

**Recusals:** None

The motion passed with 8 votes.

### PUBLIC HEARINGS

#### Item 11

**Subject:** Petition for the Establishment of a Charter School Under the Oversight of the State Board of Education: Consideration of International Studies Language Academy, which was denied by the Los Angeles Unified School District and the Los Angeles County Board of Education.

**Type of Action:** Action, Information, Public Hearing

**CDE Recommendation:** The CDE recommends that the SBE hold a public hearing to consider the CDE’s recommendation to deny the request to establish International Studies Language Academy (ISLA), a transitional kindergarten (TK)/kindergarten (K) through grade eight charter school, under the oversight of the SBE, based on the CDE’s findings pursuant to *EC* sections47605(b)(2), 47605(b)(4), and 47605(b)(5), and *California Code of Regulations*, Title 5 (5 *CCR*) Section 11967.5.1.

The CDE finds that the ISLA petitioner presents an unsound educational program and is demonstrably unlikely to implement the program set forth in the petition due to an unrealistic financial and operational plan including aggressive enrollment assumptions, ability to recruit qualified teachers for the two-way dual immersion program in four different languages, and the ability to secure a facility.

Additionally, the CDE finds that the ISLA petition does not contain a reasonably comprehensive description of all required elements including: a signed affirmation document, employee qualifications, admission requirements, suspension and expulsion procedures, and dispute resolution procedures.

The meeting notice for the April 10, 2018, Advisory Commission on Charter Schools (ACCS) meeting is located on the SBE ACCS Web page at <https://www.cde.ca.gov/be/cc/cs/accsnotice041018.asp>.

**Advisory Commission on Charter Schools Recommendation**

The ACCS considered the ISLA petition for establishment at its April 10, 2018, meeting. The ACCS moved to recommend approval of the ISLA petition on appeal. The motion did not pass by a vote of four to three. Five votes are required to move an ACCS recommendation forward to the SBE; therefore, no recommendation moved.

**President Kirst opened the public hearing at 3:43 p.m.**

**President Kirst closed the public hearing at 4:05 p.m.**

**ACTION:** Member Williams moved to approve the SBE staff recommendation to deny the request to establish ISLA under the oversight of the SBE.

Member Holaday seconded the motion.

**Yes votes:** Members Holaday, Gray, Sandoval, Williams, Sun, Kirst, Straus, Burr, Valdes, and Rucker.

**No votes:** None

**Member Absent:** Member Ortiz-Licon

**Abstentions:** None

**Recusals:** None

The motion passed with 10 votes.

#### Item 12

**Subject:** Renewal Petition for the Establishment of a Charter School Under the Oversight of the State Board of Education: Consideration of Spark Charter School, which was denied by the Santa Clara County Office of Education.

**Type of Action:** Action, Information, Hearing

**CDE Recommendation:** The CDE recommends that the SBE hold a public hearing to consider the CDE’s recommendation deny the request to establish Spark Charter School (SCS), a kindergarten through grade eight charter school, under the oversight of the SBE, based on the CDE’s findings pursuant to *EC* sections 47605(b)(1), 47605(b)(2), 47605(b)(5), and *California Code of Regulations*, Title 5 Section 11967.5.1.

The CDE finds that the SCS petitioner presents an unsound educational program and is demonstrably unlikely to implement the program set forth in the petition due to an unrealistic financial and operational plan.

Additionally, the CDE finds that the SCS petition does not provide a reasonably comprehensive description of the racial and ethnic balance, admissions requirements and method for measuring pupil progress. The meeting notice for the April 10, 2018, Advisory Commission on Charter Schools (ACCS) meeting is located on the SBE ACCS Web page at <https://www.cde.ca.gov/be/cc/cs/accsnotice041018.asp>.

**Advisory Commission on Charter Schools Recommendation**

The ACCS considered the SCS petition for establishment at its April 10, 2018, meeting. The ACCS moved to recommend approval of the SCS petition on appeal. The motion passed by a vote of five to two.

**President Kirst opened the public hearing at 4:24 p.m.**

**President Kirst closed the public hearing at 5:37 p.m.**

**ACTION:** Member Holaday moved to approve the SBE staff recommendation to deny the establishment of Spark Charter School under the oversight of the SBE.

Member Williams seconded the motion.

**Yes votes:** Members Holaday, Sandoval, Williams, Kirst, Straus, Valdes, and Rucker.

**No votes:** Members Sun and Burr

**Members Absent:** Members Gray and Ortiz-Licon

**Abstentions:** None

**Recusals:** None

The motion passed with 7 votes.

**END OF PUBLIC HEARINGS**

#### Item 13

**Subject:** GENERAL PUBLIC COMMENT.

Public Comment is invited on any matter **not** included on the printed agenda. Depending on the number of individuals wishing to address the State Board, the presiding officer may establish specific time limits on presentations.

**Type of Action:** Information

**ACTION:** No Action Taken.

**ADJOURNMENT OF MEETING**

**President Kirst adjourned the meeting at approximately 6:20 p.m.**