

California Department of Education

Executive Office

SBE-003 (REV. 11/2017)

imab-adad-jan24item02

# California State Board of EducationJanuary 2024 AgendaItem #10

## Subject

High School Equivalency Program: Adopt the Final Statement of Reasons and the Proposed Amendments to the *California Code of Regulations*, Title 5, Article 2 title, sections 11530 and 11531, the deletion of Section 11532, and the addition of Section 11532.5.

## Type of Action

Action, Information, Consent

## Summary of the Issue(s)

California *Education Code* (*EC*) Section 51420 states the State Superintendent of Public Instruction (SSPI) shall issue a California High School Equivalency (HSE) Certificate and/or official score report to persons who have taken and passed an HSE test that has been approved by the California State Board of Education (SBE). *EC* Section 51426 indicates the SBE shall adopt rules and regulations necessary to implement this article. Updates are needed to the following *California Code of Regulations*, Title 5 (*5 CCR*), Article 2 title, sections 11530 and 11531, the removal of Section 11532, and the adoption of Section 11532.5. The proposed changes are:

* Amend the Article 2 title by removing the "for Persons 18 Years of Age or Older"
* Redefine the term “Fee”
* Remove “his” and “her” references and replace with gender-neutral “their”
* Update terminology used to reference testing centers by replacing “school district” with “local educational agency” to be more inclusive
* Eliminate the over-regulated eligibility requirements

## Recommendation

The California Department of Education (CDE) recommends the SBE take the following actions:

* Approve the Final Statement of Reasons
* Adopt the proposed regulations
* Authorize the CDE to take any necessary action to respond to any direction or concern expressed by the Office of Administrative Law during its review of the Final Statement of Reasons.

## Brief History of Key Issues

The 5 *CCR* Article 2 title needs revising because it implies the HSE Certificate is only for “Persons 18 Years of Age or Older.” The *EC* sections within this Article state that students with special circumstances are eligible to test using the equivalency examination, even if they are under 18 years old. The CDE is recommending the removal of the implied age restriction in the title to correctly identify who is eligible for the equivalency examination.

The definition in 5 *CCR* Section 11530 is proposed to be amended to clarify the components of the “fee.” *EC* Section 51421 specifies the fee the CDE may charge is not to exceed twenty dollars ($20); however, this is misleading as other costs such as testing center fees, vendor costs to administer, score, and provide results to the examinee are not specified in *EC* anddo not reflect the actual cost to the examinee.

The CDE proposes that Subsection (a)(1)(D) in 5 *CCR* Section 11531 be amended to change “school district” to “local educational agency.” “School district” was the term used previously to be inclusive of all educational agencies but did not include independently funded charter schools; therefore, “local educational agency” is the appropriate term for inclusivity and clarity.

Subsection (b) in 5 *CCR* Section 11532 creates restrictions on examinees, requiring them to wait until they are within 60 days of turning 18 years of age or be out of school for at least 60 days to be eligible to take the equivalency examination. *EC* Section 51420(c)(2) specifies the SSPI can issue a high school certificate of equivalency if the person “would have graduated from high school if they remained in school and followed the usual course of study toward graduation.” The criteria expressed in 5 *CCR* Section 11532 overregulates how a person can qualify to receive an HSE certificate. This language has caused confusion on when the person is eligible; therefore, 5 *CCR* Section 11532 is proposed to be deleted.

Additionally, current regulations exclude clear descriptions of acceptable forms of identification and proof of residency, which is critically important with the addition of online, live-proctored testing. The launch of online testing has created vulnerabilities to identity impersonation and access to the test by non-California residents. With the advent of online, live proctored testing the regulations must be updated to clarify identity and residency requirements; therefore, 5 *CCR* Section 11532.5 is proposed to be added.

## Summary of Previous State Board of Education Discussion and Action

In July 2023, the SBE authorized the beginning of the rulemaking process and commencement of a 45-Day Public Comment Period for Proposed Amendments 5 *CCR*, sections 11530 and 11531, the deletion of Section 11532, and the addition of Section 11532.5 (<https://www.cde.ca.gov/be/ag/ag/yr23/documents/jul23item06.docx>).

In March 2014, the SBE authorized the use of three official tests to be administered in California: the GED® test, the HiSET®, and the TASC® for the HSE test. However, beginning in 2020, the TASC® is no longer offered in California ([https://www.cde.ca.gov/be/ag/ag/yr14/documents/mar14item12.doc](https://www.cde.ca.gov/be/ag/ag/yr14/documents/mar14item12.doc%22%20%5Co%20%22This%20link%20opens%20the%20March%202014%20SBE%20Agenda%20Item.)).

## Fiscal Analysis (as appropriate)

An Economic and Fiscal Impact Statement is provided as Attachment 4.

## Attachment(s)

* Attachment 1: Final Statement of Reasons (2 pages)
* Attachment 2: Proposed Regulations (4 pages)
* Attachment 3: Public Comments (1 page)
* Attachment 4: Economic and Fiscal Impact Statement (STD. 399) (5 pages)

**FINAL STATEMENT OF REASONS**

High School Equivalency Program

**UPDATE OF INITIAL STATEMENT OF REASONS**

The original proposed text was made available for public comment for at least 45 days from August 11, 2023, through September 26, 2023, inclusive. One individual provided comments during the 45-day comment period.

A public hearing was held via videoconference on September 26, 2023, at 1:30 P.M.Eleven individuals attended the public hearing, and no oral comments were received at the public hearing.

**SUMMARY AND RESPONSE TO COMMENTS RECEIVED DURING THE INITIAL NOTICE PERIOD OF August 11, 2023, THROUGH September 26, 2023, INCLUSIVE.**

**Name of Commenter:** April Moore, Ed.D., Superintendent, Sierra Sands Unified School District

**Comment:**

* Could you please clarify the intent of the change?
* Seems like the HSE might replace the CHSPE in all practicality.
* Could HSE be available for students/individuals at the second semester of sophomore year of high school or later?

**Accept/Reject**:

The CDE is rejecting this comment because it was simply requesting clarification that was already found in the initial statement of reasons. The two programs serve two separate populations and are not meant to replace the other.

**ALTERNATIVES DETERMINATION**

The State Superintendent of Public Instruction has determined that no alternative would be more effective in carrying out the purpose for which the regulation is proposed or would be as effective and less burdensome to affected private persons than the proposed regulation or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provisions of law.

No alternatives have been brought to the agency’s attention and given the underlying statutory requirements; the agency has been unable to come up with any reasonable alternatives.

The nonadoption of these changes is not a suitable alternative because the proposed changes correct a misleading title regarding the age requirement, removes duplication of Education Code*,* and adds a much-needed section to clarify what are appropriate forms of identification.

**LOCAL MANDATE DETERMINATION**

The proposed regulations do not impose any mandate on local agencies or school districts.

10-23-2023 [California Department of Education]

The State Board of Education has illustrated changes to the original text in the following manner: text originally proposed to be added is underlined; text proposed to be deleted is displayed in ~~strikeout~~.

# Title 5. EDUCATION

## Division 1. California Department of Education

### Chapter 11. Special Programs

#### **Subchapter 8. High School Proficiency Certificates**

##### **Article 2. High School Equivalency Certificate ~~- for Persons 18 Years of Age or Older~~**

###### **§ 11530. Definitions.**

 (a) “Certificate” means a document containing the words “California High School Equivalency Certificate.”

 (b~~c~~) “Certification” means documentation from a homeless services provider, or a county or state agency, certifying the examinee is a homeless youth or a foster youth.

 (~~b~~c) “Fee” ~~as referenced in Education Code section 51421(a),~~ ~~shall be $20.00 and~~ refers to a payment ~~shall be~~ submitted ~~by the examinee~~ at the time of initial registration or when requesting services, such as ordering additional score reports or ~~for a test to obtain a high school equivalency~~ certificates.

 (d) “Resident of this State” means a person who either presently lives in the State of California, or who has ~~his~~ their domicile in California in accordance with the criteria established in Government Code section 244.

 (e) “Testing accommodations” means any variation in the assessment environment or process that does not fundamentally alter what the test measures or affect the comparability of scores.

NOTE: Authority cited: Sections 51421.5 and 51426, Education Code. Reference: Sections 51420, 51421, 51421.5 and 51425, Education Code.

###### **§ 11531. Approval of Testing Centers.**

 (a) A testing center may be approved by the State Superintendent of Public Instruction (SSPI) to administer tests for purposes of Education Code section 51420 provided it has complied with all of the following:

 (1) Provided the CDE with all required information indicating:

 (A) Name of Institutional Chief Administrative Officer and title~~,~~;

 (B) Name of Chief Examiner and Alternate Examiner(s) and their titles~~,~~;

 (C) Name of testing facility~~,~~;

 (D) Contracting agency or ~~school district,~~ local educational agency; and

 (E) Address of the testing center.

 (2) Agreed to comply with all test security requirements provided by the CDE and to maintain all required records regarding tests and testing activities.

 (3) Agreed to provide each examinee with ~~his or her~~ their test scores.

 (4) Agreed to inspection by authorized representatives of the CDE.

 (b) The SSPI may suspend or revoke the approval, or deny renewal of an approval, of any center for failure or refusal to maintain any one or more of the standards described in subdivision (a) of this section.

NOTE: Authority cited: Section 51426, Education Code. Reference: Sections 51420, 51422 and 51423, Education Code.

###### **~~§ 11532. Eligibility to Take a Test to Obtain a High School Equivalency Certificate.~~**

 ~~(a) A person is eligible to take a test to obtain a high school equivalency certificate no sooner than 60 days prior to the date he or she is eligible to receive a certificate pursuant to Education Code section 51420(c).~~

 ~~(b) The 60 day limitation in subdivision (a) does not apply to any person who is 17 years of age or older who has been out of school for at least 60 days and who submits a letter of request for the test from the military, a postsecondary educational institution or a prospective employer~~.

 ~~(c) Any person who is 17 years of age or older who is incarcerated in a California state or county correctional facility and who meets the following criteria is eligible to take a test to obtain a high school equivalency certificate:~~

 ~~(1) The person does not have a realistic chance of completing the requirements for a high school diploma.~~

 ~~(2) The person has adequate academic skills to successfully complete a test to obtain a high school equivalency certificate.~~

 ~~(3) The person understands the options available regarding acquisition of a high school diploma, the high school equivalency certificate or the high school proficiency certificate, and the requirements, expectations, benefits and limitations of each option.~~

 ~~(4) The person has sufficient commitment time left to complete an entire test to obtain a high school equivalency certificate battery before release; or if released before completion of the test, may complete testing at an authorized testing center.~~

~~NOTE: Authority cited: Section 51426, Education Code. Reference: Sections 51420 and 51422, Education Code.~~

###### **§ 11532.5. Identity and Residency Requirements.**

 (a) Every examinee must provide proof of identification and residency prior to initial testing and retesting.

 (1) Identification shall include:

1. Full legal name; and
2. Date of birth, signature, and photograph.

 (2) Residency shall be proven by providing one of the following current documents:

1. Rental or lease agreement;
2. Home utility bill;
3. Employment document;
4. Insurance document;
5. Court document listing applicant as a California resident;
6. California certificate of vehicle or vessel title or registration; or
7. Completed California High School Equivalency Declaration of California

Residency.

NOTE: Authority cited: Section 51426, Education Code. Reference: Sections 51420 and 51422, Education Code.

04-18-23 [California Department of Education]

**From:** April Moore <amoore@ssusd.org>
**Sent:** Wednesday, August 16, 2023 11:00 AM
**To:** Bernadine Holman <BHolman@cde.ca.gov>
**Subject:** [EXTERNAL] Question on HSE proposed rule-making

CAUTION! This email originated from outside the California Department of Education. Be careful of links and attachments.

Bernadine,

Could you please clarify the intent of the change? By removing the age and high school related eligibility, it seems like the HSE might replace the CHSPE in all practicality, as students could take this exam earlier than the second semester of 10th grade. Is that correct? It would make sense to me that the HSE be available for students/individuals at the second semester of sophomore year of high school or later, rather than no age/eligibility criteria at all. I look forward to your clarification. If a phone call is easier, I may be reached at the number below or on my cell phone at 951-830-8584. Thank you.

Yours truly,

April Moore, Ed.D.

Superintendent,
Sierra Sands Unified School District

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