

FINAL MINUTES
State Board of Education
September 11-12, 2002

Thursday, September 12, 2002

California Department of Education
1430 N Street, Room 1101
Sacramento, California

Members Present

Reed Hastings, President
Joe Nuñez, Vice President
Susan Hammer
Nancy Ichinaga
Marion Joseph
Stephanie H. Lee
Suzanne Tacheny

Members Absent

Robert J. Abernethy
Donald Fisher
Carlton J. Jenkins
Vacancy

Closed Session

The Board met in Closed Session from 8:20 a.m. to 9:00 a.m.

Call to Order: Public Session

President Hastings called the Public Session to order at 9:18 a.m.

Salute to the Flag

Mr. Nuñez led the Board, staff, and audience in the Pledge of Allegiance.

Announcements/Communications

President Hastings announced the following changes in the agenda:

- Item 26, Public School Accountability Act, Emergency Regulations, has been withdrawn.
- Item 30, the regulations on administration of medication in public schools, has been postponed.
- Waiver Item W-1 has been withdrawn.
- Waiver Item W-5 has been withdrawn.

Closed Session Report

Mr. Geeting reported that the Board had considered four matters in closed session – *Chapman, et al., v. California Department of Education, et al.*; *Comité de Padres de Familia v. Honig; Williams, et al. v. State of California, et al.*; and *California Association of Private Special Education Schools, et al., v. California Department of Education, et al.* No actions were taken.

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ITEM 17	Assignment of Numbers for Charter School Petitions.	ACTION
ITEM 18	Fiscal Year 2002-03 K-12, Instructional Materials Fund Budget.	INFORMATION ACTION
ITEM 20	California School Information Services (CSIS) Data Dictionary Version 4.0.	ACTION
ITEM 21	Adoption of Supplemental Educational Service Providers required by Section 1116(e) of No Child Left Behind Act of 2002.	INFORMATION ACTION

President Hastings informed the Board that Items 17, 18, 20, and 21 were proposed consent items and could be acted on as group.

- ACTION: Ms. Hammer moved that the State Board approve the staff recommendations with respect to Items 17, 18, 20, and 21. Ms. Tacheny seconded the motion. The motion was approved by unanimous vote of the members present.

ITEM 19	High Priority Schools Grant Program Implementation Grant Awards.	ACTION
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Wendy Harris, School Improvement Division, reported that with the signing of the budget act and the Board's approval of the II/USP grant awards in June, the Department is now ready to distribute the funds to schools. A \$20 million increase in funding will add an additional 116 schools to the program. Ms. Harris stated that the Department staff had worked closely with the schools this summer to improve their plans. Most of these schools improved their plans and the Department now recommends approval of these revised plans. There are four schools' plans that Department staff is recommending the Board disapprove. These schools, by statute, will receive \$50,000 for planning purposes. Ms. Harris noted that three schools would be seeking a timeline waiver, which the Department recommends that the Board approve.

Ms. Hammer asked if all decile one schools would be able to participate in the High Priority Schools Grant Program (HPSGP). Jeff Zettel, School Improvement Division, replied that with the addition of 116 schools, all but 60 decile one schools would be in the HPSGP. President Hastings requested a copy of one good example of a school plan.

- ACTION: Mr. Nuñez moved that the State Board approve the recommendations of CDE staff for approval, approval with conditions, and disapproval of implementation grant awards under the High Priority Schools Grant Program. The motion was made with the understanding that those applicants disapproved would automatically qualify for planning grants. Ms. Hammer seconded the motion. The motion was approved by unanimous vote of the members present.

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Mrs. Joseph asked that in future reports the district as well as the school be identified. Ms. Harris agreed to provide that information.

ITEM 22	Legislative Update: Including, but not limited to, the list of bills that are currently being tracked.	INFORMATION ACTION
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Erika Hoffman, Government Affairs Office, reported that there is much action and discussion on school accountability and implementing the NCLB. The newly signed state budget includes funding for growth and cost-of-living increases. She noted that full funding for the High Priority Schools Grant Program is now available.

President Hasting asked if the Legislature understands that decile one schools will always exist, even as academic achievement improves. Ms. Hoffman said that the Legislature does understand this aspect of the accountability system. She added that the issue for lawmakers is raising the scores at those schools. Ms. Hoffman informed the Board that the school library materials funding was maintained. Of the Governor's three initiatives, AB 1781 and AB 2540 are on the Governor's desk, and SB 1995 was held in committee.

Ms. Tacheny asked about the status of the textbook weight bill. Ms. Hoffman advised the bill is on the Governor's desk.

No action was taken on this item.

ITEM 23	No Child Left Behind (NCLB) Act, Including, but not limited to, Update on NCLB and Reading First Implementation.	INFORMATION ACTION
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Ms. Steentofte reported that the Reading First application was submitted to the U.S. Department of Education (USDE) in May and approved on August 23. California became the eighth state to receive approval from the USDE. The Board staff is currently working with the State Department staff to complete and send the application out to local education agencies. There will be two rounds of applications, one in October 2002 and one in March 2003. Ms. Steentofte noted that ACSA, CSBA, and CCSESA are providing assistance to get the word out about two application workshops scheduled in September for the October application period.

Ms. Belisle stated the NCLB consolidated application was filed in June and the application was approved by the USDE in July. She reported that she and President Hastings attended a legislative hearing on highly qualified teachers, and staff is currently working actively with the USDE, California Legislature, the California Department of Education, and the California Commission on Teacher Credentialing (CTC) to reach agreement on the definition of highly qualified teachers. There is much discussion with respect to the starting point and definition of Adequate Yearly Progress (AYP), which must be set by January 2003. There is a meeting scheduled on September 19 to inform the education community about implementation efforts related to NCLB and to receive input from the education community.

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Ms. Belisle noted that currently there is legislation on the Governor's desk to create a liaison committee for NCLB. If the bill is signed, the Board will have two appointments to this committee. She mentioned that federal law requires California to have a committee of practitioners, which we do have, and the Board is becoming more involved with that committee.

Rick Brandsma reported that Ms. Belisle has been asked to serve on a national advisory group for the AYP.

President Hastings noted that there are two big decision points coming up for the Board: (1) setting the starting point for Adequate Yearly Progress (AYP) by January 2003 and (2) the final definition of highly qualified teachers by May 2003. Ms. Belisle added that many other decisions must be made before these two big decisions can be made. She commented that at yesterday's meeting, the Board asked for information about possible impacts on AYP for issues brought before the Board.

Mr. Nuñez questioned how information was relayed to schools and pointed out that teachers in year-two and year-three underperforming schools are concerned about the consequences that will be implemented this year. Superintendent Easting replied that the Department communicates frequently to the schools. She added that the Department is much more interested in having the districts and schools do the work to improve schools than in having the Department do this work.

Mr. Nuñez reiterated his point that there are new consequences and new activity so it is important to communicate to teachers. Ms. Fausset noted that in addition to communicating directly to the underperforming schools, the Department sends monthly updates to all districts that are also posted on the Department's website.

Mrs. Joseph asked for a report on which schools had which external evaluator and for a current list of external evaluators. Superintendent Eastin stated that she is happy to provide this list and added that the Department staff has reviewed the evaluators' performances and advised some evaluators they can only use certain lead evaluators. Ms. Harris added that later in the fall when the Department staff reports on the schools that did not meet their growth targets would be a good time to also report this information.

No action was taken on this item.

ITEM 24	No Child Left Behind (NCLB) Accountability Plan.	INFORMATION
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Mr. Warren remarked that this would be the Board's first in-depth discussion of the AYP. He noted that the item is for information only and at next month's meeting some action will be requested.

Mr. Padia commented that it has been difficult to obtain information from the USDE. He stated that the challenge is to integrate the Academic Performance Index (API) and AYP, as well as to define proficiency for AYP purposes. The Department recommends finding a way to integrate

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the API and AYP accountability systems. He drew the Board's attention to the mock report for a high school, which has a standard API report on the top of the page and AYP information on the bottom of the page. The AYP section shows comparable improvement for subgroups in English-language arts and mathematics and highlights the percent of each subgroup at or above proficient. Under AYP, there would be two additional subgroups—students with disabilities and students with limited-English proficiency. Mr. Padia pointed out that for a school to meet AYP, all numerically significant subgroups would have to meet their targets.

President Hastings inquired whether one subgroup not meeting the target would mean the school would not meet adequate yearly progress goals. Ms. Belisle noted that during federal regulations discussions, there was pressure to include all subgroups with ten or more students. Mr. Padia added that at recent meetings with psychometricians, there was a lot of discussion about the number of students required for reliable results. Ms. Tacheney asked if this proposal changes any of the API weightings. Mr. Padia replied that this proposal would not change those weights.

President Hastings inquired whether federal regulations require that state awards and sanctions follow the federal model. Mr. Padia answered that there was no such federal requirement. He added that if the state model is different from the AYP model, there is a possibility state awards could be given to schools that were under federal sanctions. Mrs. Joseph stated the proposed integrated method of reports is not very comprehensible and would be very hard to communicate to the field. Mr. Padia explained that AYP is a status model, but API is a growth model and that is why the Department recommends an integrated system.

Mr. Padia walked the Board through charts related to the possible AYP thresholds for English-language arts and for mathematics and for the two subjects combined. He informed that Board that nearly all public schools would fail to make adequate yearly progress by the end of 12 years.

President Hastings commented that the federal system is based on the idea that in 12 years, every child in public schools will be proficient and no child will be performing at basic or below basic. Superintendent Eastin stated that there is no state superintendent in the country who thinks that is possible. President Hastings recognized that these are the types of issues that hopefully will get resolved and agrees with Mr. Padia in that we do not want to make a lot of changes in our accountability system.

Mr. Nuñez expressed his frustration on behalf of teachers, stating that this type of program will have the effect each year of placing schools in a bad light rather than recognizing the improvement in student performance that is the basis for our state's growth model. The federal system is such that no school can meet the AYP.

The following individual addressed the Board:
Jacki Fox Ruby, California Federation of Teachers

No action was taken on this item.

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ITEM 25	NEW Waiver Guidelines for approval federal waivers – Supplemental Educational Services under the No Child Left Behind (NCLB) Act.	INFORMATION ACTION
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Judy Pinegar, Waiver Office, presented the proposed waiver guidelines for the waiver of federally required supplemental services. She noted that the USDE gives the Board the authority to waive required services.

- **ACTION:** Ms. Hammer moved that the State Board approve the proposed waiver guidelines pertaining to Supplemental Educational Services under the No Child Left Behind (NCLB) Act, in accordance with the recommendation of CDE staff. Mr. Nuñez seconded the motion. The motion was approved by unanimous vote of the members present.

ITEM 26	Public Schools Accountability Act (PSAA): Emergency Regulations.	ACTION
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This item was withdrawn.

ITEM 27	Approval of 2002-2003 Consolidated Applications.	ACTION
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Keric Ashley, Consolidated Program Accountability, advised that local education agencies (LEAs) apply for a combination of 14 federal and state programs on a consolidated application. Today, there are 1,074 applications before the Board and the Department staff recommends approval of all applications. Mr. Ashley informed the Board that in October the more difficult applications would be on the agenda.

- **ACTION:** Mr. Nuñez moved that the State Board approve 1,074 Consolidated Applications for 2002-03 in accordance with the recommendation of CDE staff. [The cover page of the supplemental agenda materials inadvertently referenced 1,072 Consolidated Applications.] Ms. Tacheny seconded the motion. The motion was approved by unanimous vote of the members present.

ITEM 28	RESCIND six (6) State Board of Education Waiver Policies/ Guidelines regarding: Program Quality Reviews, Summer School Meal Programs, Handicapped Student Transportation, Instructional Time Penalties, and Mentor Teachers (ROC/ROP and Experience Requirement).	ACTION
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Ms. Pinegar requested Board action to repeal six waiver policy/guidelines that were either outdated, superseded by statute, or out of compliance with current statute.

- **ACTION:** Mr. Nuñez moved that the State Board repeal six waiver policies/guidelines, which are outdated – Program Quality Reviews, State Meal Mandate (Summer School), Handicapped Student Transportation, Instructional Time Penalties, and Mentor Teachers

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(ROC/ROP and Experience Requirement). Ms. Tacheny seconded the motion. The motion was approved by unanimous vote of the members present.

ITEM 29	REVISED Waiver Guidelines for Schiff-Bustamante Standards-Based Instructional Materials Program, Elimination of the Reading Language Arts Exception and Clarification Language for the Science Exception.	ACTION
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Ms. Pinegar identified a language consistency error, found by Mr. Geeting, in (2) (A) of the science exception, and recommended a change in language to address the inconsistency. Mrs. Joseph noted that the policy does not have any criteria for evaluating the API data that it asks for—the language only says to “look at the API.” President Hastings commented that the waiver policy for mathematics specifically requires demonstrated exemplary achievement. He noted the because currently science is only tested at the high school level and is not included in the API, finding a measure for exemplary achievement is problematic. Mrs. Joseph asked for guidelines to evaluate exemplary achievement. President Hastings inquired whether the Board wanted to review the API for all the schools in the district or look at the district average.

- **INITIAL ACTION:** Ms. Hammer moved that the State Board approve the proposed revision to the waiver guidelines in accordance with the amended recommendation of CDE staff (i.e., to eliminate the reading/language arts exception and to add the language “or an earlier copyright version of those materials” to criterion (2)(A) of the science exception). Ms. Tacheny seconded the motion. The motion was approved by a vote of 6-0-1. In addition to the absent members, Mrs. Joseph did not vote on the motion.

Subsequently, Ms. Hammer recognized that she had inadvertently participated in the consideration of a matter having to do with science instructional materials. She asked that the record note that this was an inadvertent mistake and that she requested that the Board rescind the initial action on this item. Thereafter, she would not participate in any further consideration of this item for the reasons stated at the previous day’s session. (See minutes for Wednesday, September 11, 2002.)

- **RESCISSION OF INITIAL ACTION:** Ms. Tacheny moved that the State Board rescind the initial action taken on this item. Ms. Lee seconded the motion. The motion was approved by unanimous vote of the members present.
- **ACTION:** Ms. Tacheny moved that the State Board approve the proposed revision to the waiver guidelines in accordance with the amended recommendation of CDE staff (i.e., to eliminate the reading/language arts exception and to add the language “or an earlier copyright version of those materials” to criterion (2)(A) of the science exception). The motion was made with the understanding that CDE and State Board staff would develop recommendations to guide the State Board’s consideration of whether applicant local education agencies had demonstrated exemplary achievement in keeping with the discussion at the meeting. Ms. Lee seconded the motion. The motion was approved by a

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vote of 6-0-1. Ms. Hammer did not participate in the vote for the reasons stated at the previous day's session.

- **ACTION:** Ms. Tacheny moved that the State Board modify the language of criterion (2)(D) of the science exception to parallel the language of criterion (2)(D) of the mathematics exception, i.e., "Students in the schools where the non-adopted materials will be used have demonstrated exemplary achievement (in total and for all sub-groups) as measured by the Academic Performance Index (API) and/or the Standardized Testing and Reporting (STAR) Program." Ms. Lee seconded the motion. The motion was approved by a vote of 6-0-1. Ms. Hammer did not participate in the vote for the reasons stated at the previous day's session.

President Hastings requested that staff prepare for a meeting in the near future a proposed policy on how to define exemplary achievement for waivers under this policy. Ms. Tacheny stated that she would like to look at this issue more broadly to define exemplary achievement for schools and districts. President Hastings suggested that Ms. Tacheny come up with some models.

WAIVERS: CONSENT, WITHDRAWN, PROPOSED CONSENT, AND NON-CONSENT

CONSENT WAIVERS (WC-1 to WC-15)

CARL PERKINS VOCATIONAL AND TECHNICAL EDUCATION ACT

ITEM WC-1	Request by Trona Joint Unified School District for a waiver of Section 131(d)(1) of the Carl D. Perkins Vocational and Applied Technology Education Act of 1998 (P.L. 105-332). CDSIS-13-7-2002 (Recommended for APPROVAL)	ACTION
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CHARTER SCHOOL AVERAGE DAILY ATTENDANCE

ITEM WC-2	Request by the Los Angeles Unified School District to waive Title 5 CCR Section 11960, related to charter school attendance, for the Santa Monica Boulevard Community Charter School. CDSIS-9-6-2002 (Recommended for APPROVAL WITH CONDITIONS) <i>E.C. 33051(c)</i> will apply	ACTION
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ITEM WC-3	Request by the Baldwin Park Unified School District to waive Title 5 CCR Section 11960, related to charter school attendance, for the Opportunities for Learning Charter School. CDSIS-18-7-2002 (Recommended for APPROVAL WITH CONDITIONS) <i>E.C. 33051(c)</i> will apply	ACTION
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ITEM WC-4	Request by the Nevada County Office of Education to waive Title 5 CCR Section 11960, related to charter school attendance, for the Muir Charter School. CDSIS-19-7-2002 (Recommended for APPROVAL WITH CONDITIONS) <i>E.C. 33051(c)</i> will apply	ACTION
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HIGH SCHOOL EXIT EXAMINATION (special education students)

ITEM WC-5	Request by Poway SELPA to waive <i>Education Code</i> Section 60851(a), “the requirement to successfully pass the exit examination as a condition of receiving a diploma of graduation or a condition of graduation from high school” for seven special education students. #001, 002, 003, 004, 005, 006, and 007. CDSIS-27-7-2002 (Recommended for APPROVAL)	ACTION
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ITEM WC-6	Request by Colton Joint Unified School District to waive <i>Education Code</i> Section 60851(a), “the requirement to successfully pass the exit examination as a condition of receiving a diploma of graduation or a condition of graduation from high school” for one special education student. #008 CDSIS-37-7-2002 (Recommended for APPROVAL)	ACTION
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ITEM WC-7	Request by Fallbrook Union School District to waive <i>Education Code</i> Section 60851(a), “the requirement to successfully pass the exit examination as a condition of receiving a diploma of graduation or a condition of graduation from high school” for one special education student. #009 CDSIS-36-7-2002 (Recommended for APPROVAL)	ACTION
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ITEM WC-8	Request by La Cañada Unified School District to waive <i>Education Code</i> Section 60851(a), “the requirement to successfully pass the exit examination as a condition of receiving a diploma of graduation or a condition of graduation from high school” for one special education student. #010 CDSIS-35-7-2002 (Recommended for APPROVAL)	ACTION
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ITEM WC-9	Request by San Ramon Unified School District to waive <i>Education Code</i> Section 60851(a), “the requirement to successfully pass the exit examination as a condition of receiving a diploma of graduation or a condition of graduation from high school” for one special education student. #011 CDSIS-34-7-2002 (Recommended for APPROVAL)	ACTION
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INSTRUCTIONAL MATERIALS SUFFICIENCY (Audit Findings)

ITEM WC-10	Request by eight districts for a retroactive waiver of <i>Education Code</i> (EC) Section 60119 regarding Annual Public Hearing on the availability of textbooks or instructional materials. These districts have an audit finding for the 2000-2001 fiscal year that they 1) failed to hold the public hearing, 2) or failed to properly notice (10 days) the public hearing, and/or 3) failed to post the notice in the required three public places. (See list on summary write-up) (Recommended for APPROVAL)	ACTION
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NONPUBLIC SCHOOL/AGENCY (timeline)

ITEM WC-11	Request by Sonoma County Office of Education to waive <i>Education Code</i> (EC) Section 56366.1(g), the August 1 through October 31 timeline on annual certification renewals. Speech Language Services of Sonoma & Marin. CDSIS-11-7-2002 (Recommended for APPROVAL)	ACTION
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ITEM WC-12	Request by Sonoma County Office of Education to waive <i>Education Code</i> (EC) Section 56366.1(g), the August 1 through October 31 timeline on annual certification renewals. Gentiva Health Service. CDSIS-14-6-2002 (Recommended for APPROVAL)	ACTION
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ITEM WC-13	Request by Riverside County Office of Education to waive <i>Education Code</i> (EC) Section 56366.1(g), the August 1 through October 31 timeline on annual certification renewals. SpecialCare (NPA) and SpecialCare (NPS) CDSIS-31-7-2002 (Recommended for APPROVAL for the 2002 Renewal Update Application)	ACTION
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ITEM WC-14	Request by Stanislaus County Office of Education to waive <i>Education Code</i> (EC) Section 56366.1(g), the August 1 through October 31 timeline on annual certification renewals. Behavioral Education Strategy and Training (B.E.S.T.) (NPA) CDSIS-2-6-2002 (Recommended for APPROVAL for the 2002 Renewal Update Application)	ACTION
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MILLER-UNRUH READING SPECIALIST

ITEM WC-15	Request by Goleta Union School District to waive <i>Education Code</i> Section 52859(b). This request relates to the prohibition of using School Improvement Funds (SIP) to pay for local share of costs associated the employment of a Miller Unruh Reading Specialist Program. CDSIS-20-6-2002 (Recommended for APPROVAL)	ACTION
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ITEM WC-16	Request by Lakeside Union Elementary School District to waive <i>Education Code</i> Section 52859(b). This request relates to the prohibition of using School Improvement Funds (SIP) to pay for local share of costs associated with the employment of a Miller-Unruh Reading Specialist. CDSIS-23-6-2002 (Recommended for APPROVAL)	ACTION
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RESOURCE SPECIALIST

ITEM WC-17	Request by West Contra Costa Unified School District to waive <i>Education Code</i> (EC) Section 56362(c); allowing the caseload of the resource specialist to exceed the maximum caseload of 28 students by no more than four students. Helen Cardiff assigned at Coronado Elementary School. CDSIS-102-5-2002 (Recommended for APPROVAL)	ACTION
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ITEM WC-18	Request by West Contra Costa Unified School District to waive <i>Education Code</i> (EC) Section 56362(c); allowing the caseload of the resource specialist to exceed the maximum caseload of 28 students by no more than four students. Renee Cavender assigned at Downer School. CDSIS-16-6-2002 (Recommended for APPROVAL)	ACTION
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ITEM WC-19	Request by Poway Unified School District to waive <i>Education Code</i> (EC) Section 56362(c), which allows the district to exceed the maximum caseload of 28 students (but not more than 32) for each resource teacher, Gail Adams assigned at Los Penasquitos Elementary, Julie Roberts assigned at Painted Rock Elementary, Carrie Otto assigned at Park Village Elementary, Gretchen Murphy assigned at Rolling Hills Elementary, Anne Van Bebber assigned at Tierra Bonita Elementary, Debbie Thalacker assigned at Westwood Elementary and Barbara Everett assigned at Itinerant/Special Education CDSIS-12-7-2002 (Recommended for APPROVAL)	ACTION
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ITEM WC-20	Request by Downey Unified School District to waive <i>Education Code</i> (EC) Section 56362(c), which allows the district to exceed maximum caseload of 28 students (but not more than 32) for each resource teacher, Gladys Claros assigned at Downey High School, Melanie Brady and Patti Sharpe assigned at East Middle School, Blair Bolles assigned at Griffiths Middle School and Deanna McConnell assigned at West Middle School. CDSIS-83-5-2002 (Recommended for APPROVAL)	ACTION
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SCHOOL SITE COUNCIL (shared school site councils)

ITEM WC-21	Request by Tulelake Basin Unified School District to renew waiver of <i>Education Code</i> of Section 52852, allowing one joint school site council to function for three small rural schools. CDSIS-31-6-2002 (Recommended for APPROVAL)	ACTION
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ITEM WC-22	Request by Waugh School District for a waiver of <i>Education Code Section 52852</i> , allowing one joint school site council to function for two small elementary schools. CDSIS-10-6-2002 (Recommended for APPROVAL)	ACTION
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ITEM WC-23	Request by Upper Lake Union School District to renew a waiver of <i>Education Code</i> Section 52852, allowing one joint school site council to function for two small rural schools. CDSIS-96-5-2002 (Recommended for APPROVAL)	ACTION
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STATE MEAL MANDATE (Saturday session)

ITEM WC-24	Request by Ballico-Cressey Elementary School District to waive <i>Education Code</i> Section 49550, the State Meal Mandate during the Saturday School Session. CDSIS-90-5-2002 (Recommended for APPROVAL) <i>E.C. 33051(c)</i> will apply	ACTION
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STATE MEAL MANDATE (summer school session--renewals)

ITEM WC-25	Request by <u>thirteen</u> school districts to waive <i>Education Code</i> Section 49550, the State Meal Mandate during the summer school session. (see list attached) (Recommended for APPROVAL)	ACTION
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STATE MEAL MANDATE (summer school session--first time)

ITEM WC-26	Request by <u>two</u> school districts to waive <i>Education Code</i> Section 49550, the State Meal Mandate during the summer school session. CDSIS-85-5-2002 Ballico Cressey USD CDSIS- 4-6-2002 Old Adobe Union School District (Recommended for APPROVAL)	ACTION
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NONPUBLIC SCHOOL/AGENCY (timeline)

ITEM WC-27	Request by Pasadena Unified School District to waive <i>Education Code</i> (EC) Section 56366.1(g), the August 1 through October 31 timeline on annual certification renewals for nonpublic, nonsectarian schools/ agencies. Rosemary School (NPS). CDSIS-36-6-2002 (Recommended for APPROVAL)	ACTION
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Ms. Pinegar informed the Board that Items WC-5 through WC-9 were the first waivers regarding special education students and the California High School Exit Examination (CAHSEE) to come before the Board. The waiver requests are for a total of 11 special education students. Ms. Pinegar noted that six of the eight districts under WC-10 are seeking waivers for minor technical errors related to public noticing requirements.

- ACTION: Mr. Nuñez moved that the State Board approve the CDE staff recommendations regarding items WC-1 through WC-27. The motion took note of the fact that Items WC-5 through WC-9 were the first waivers to be acted upon by the State Board for special education students taking the California High School Exit Examination with modifications. The motion included the proposed conditions regarding the requests Items WC-2, WC-3, and WC-4, and the proposed approval limitations regarding the requests in Items WC-13 and WC-14. The motion recognized that the provisions of *Education Code* Section 33051(c) would apply to the requests in Items WC-2, WC-3, WC-4, and WC-24. Ms. Hammer seconded the motion. The motion was approved by unanimous vote of the members present.

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Ms. Pinegar asked the Board to sponsor a statutory change to modify the public notice requirement set forth in *Education Code* Section 60119(b), because it is different from the public notice requirement with which local agencies are familiar under the Brown Act and, therefore, the source of inadvertent mistakes by local agencies.

Mr. Brandsma clarified that the Board did not endorse the proposed statutory change by approving the consent waiver items, but that the Board may consider the proposed statutory change at a future meeting.

WITHDRAWN WAIVERS (W-1, W-3, W-5, and W-9)
FEDERAL NCLB - SUPPLEMENTAL SERVICES

ITEM W-1	Request by districts for a waiver of NCLB, Title I, Part A, Section 1116(e), the requirement to provide “supplemental services” to eligible students. Placeholder. CDSIS—To be determined (Recommendation(s) pending)	ACTION
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ACADEMIC PERFORMANCE INDEX (adult testing irregularities)

ITEM W-3	Alhambra City Schools (ACS) Academic Performance Index (API Waiver). Specifically, the ACS requests a waiver for Mark Keppel High School of Title 5 CCR Section 1032(d)(1) and (3) to allow the school to be included in the API for the current year (2002) or at least the subsequent year (2003). The district had "adult testing irregularities" at Mark Keppel High School. CDSIS-39-7-2002 (Recommended for DENIAL per <i>Education Code</i> Section 33051(a)(1), the educational needs of the pupils are not adequately addressed.	ACTION
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CALIFORNIA PUBLIC SCHOOL LIBRARY ACT OF 1998

ITEM W-5	General waiver request of <i>Education Code</i> Section 18183 (California Public School Library Act of 1998) by Los Angeles USD to pay for elementary <u>library aide positions</u> in FY 2002-2003 instead of purchasing <u>library materials</u> and equipment. CDSIS-30-5-2002 (Recommended for DENIAL) per <i>Education Code</i> 33051(a)(1) and (3)	ACTION
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ECONOMIC IMPACT AID

ITEM W-9	Request by Los Angeles Unified School District for a retroactive waiver for 2001-2002 related to <i>Education Code</i> (EC) Section 54000, 5 CCR §4400, related to program design, school and student eligibility; 54004.5(a), 5 CCR §4410, EIA funds solely for educationally disadvantaged students; 5 CCR §4411, 4416, and 4420, to use a portion of EIA funds without reference to school eligibility or ranking, and waive applicable "average amount per pupil" requirement as well as the intradistrict allocation plan modification; 54004.5(3)(b), 5 CCR §4410, 4412, so that LAUSD may use its own method to determine effectiveness of proposed intervention programs; 54004.1, EIA Allocation Plan. (Waiver for expenditure of 18.7 million dollars) CDSIS-4-5-2002 (Recommended for APPROVAL, for FY 2001-2002 only WITH CONDITIONS)	ACTION
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Ms. Pinegar announced that the following waivers had been withdrawn from the agenda: W-1, W-3, W-5, and W-9. In addition, Stanislaus County Office of Education has withdrawn its waiver request under W-34, leaving only the Elk Hills School District request.

The following individual addressed the Board on W-9:
Sue Shannon, Los Angeles Unified School District

President Hastings asked staff to work with Los Angeles Unified School District to resolve this issue. He added that he does not think a waiver is necessary to solve the problem.

PROPOSED CONSENT WAIVERS (W-6 through W-8, W-10 through W-15, W-18 through W-23, and W-32, W-33, and W-35)

COMMUNITY DAY SCHOOL (collocation)

ITEM W-6	Request by El Dorado Union High School District for renewal of a waiver of <i>Education Code</i> Section 48661(a) relating to the continued placement of a district community day school at the Independence High School Alternative Center, (the Continuation High School and the Independent Learning Center are housed at this location.) CDSIS-15-6-2002 (Recommended for APPROVAL) <i>E.C.</i> 33051(c) will apply	ACTION
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ITEM W-7	Request by Salinas Union High School District for a waiver of <i>Education Code</i> Section 48661(a) relating to the placement of a community day school on the same site as a middle school for only the 2002-03 school year. CDSIS-3-8-2002 (Recommended for APPROVAL)	ACTION
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ITEM W-8	Request by North Monterey County Unified School District for renewal of a waiver of <i>Education Code</i> Section 48661(a) relating to the placement of a community day school on the same site as a comprehensive high school. CDSIS-9-7-2002 (Recommended for APPROVAL) <i>E.C.</i> 33051(c) will apply	ACTION
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ENGLISH LEARNER ADVISORY COMMITTEE

ITEM W-10	Request by Waugh School District to waive <i>Education Code</i> Section 62002.5 and 5 CCR 4312 relating to the establishment of a School Bilingual Advisory Committee (one committee for two school sites in the district). CDSIS-8-6-2002 (Recommended for APPROVAL WITH CONDITIONS)	ACTION
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EQUITY LENGTH OF TIME

ITEM W-11	Request by Chico Unified School District for a renewal to waive <i>Education Code</i> Section 37202, equity length of time requirement for 7th and 8th grade students at Bidwell Junior High School. CDSIS-98-5-2002 (Recommended for APPROVAL WITH CONDITIONS)	ACTION
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ITEM W-12	Request by Auburn Union School District to waive <i>Education Code</i> Section 37202, equity length of time requirement for the students at Rock Creek and Alta Vista Elementary Schools. CDSIS-24-7-2002 (Recommended for APPROVAL WITH CONDITION FOR ONE YEAR ONLY)	ACTION
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ITEM W-13	Request by Konocti Unified School District for a renewal to waive <i>Education Code</i> Section 37202, the equity length of time requirement for kindergarten students at East Lake Elementary School, an II/USP school using the restructuring authority of <i>Education Code</i> Section 44669. CDSIS-3-7-2002 (Recommended for APPROVAL WITH CONDITIONS)	ACTION
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HIGH PRIORITY SCHOOLS GRANT PROGRAM (HPSGP)

ITEM W-14	Request by three school districts to waive <i>Education Code</i> Section 52055.610(c)(1-3) in the High Priority Schools Grant Program (HPSGP) from August 15, 2002 through December 15, 2002 in order to delay the timelines for participating schools in the district. (see list attached to summary write-up) (Recommended for APPROVAL)	ACTION
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II/USP ACTION PLAN

ITEM W-15	Request by Edison Charter Academy for a waiver delaying the timelines specified in <i>Education Code</i> (EC) Section 52045(a), for the submission of action plan. CDSIS-14-7-2002 (Recommended for APPROVAL)	ACTION
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MATHEMATICS PROFESSIONAL DEVELOPMENT

ITEM W-18	Request by two county offices of education for a waiver of <i>Education Code</i> Section 44721(a) to allow use of AB 1331 Grant funds for per diem and release time for teacher training in mathematics instruction. CDSIS-24-6-2002 Humboldt County Office of Education CDSIS-15-7-2002 San Luis Obispo County Office of Education (Recommended for APPROVAL)	ACTION
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NONPUBLIC SCHOOL/AGENCY (Child Specific—Out-of-State)

ITEM W-19	Request by San Mateo Union High School District to waive <i>Education Code</i> (EC) Section 56366.1(a), certification for an uncertified nonpublic school, The Learning Center Clinic, located in Brooklyn, Connecticut to provide services to one special education student, Mark D. CDSIS-29-6-2002 (Recommended for APPROVAL)	ACTION
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ITEM W-20	Request by Oak Grove School District to waive <i>Education Code</i> (EC) Section 56366.1(a), certification requirement for an uncertified nonpublic school, Heartspring School, located in Wichita, Kansas to provide services for one special education student, Ryan L. CDSIS-162-4-2002 (Recommended for APPROVAL)	ACTION
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ITEM W-21	Request by San Francisco Unified School District to waive <i>Education Code</i> (EC) Section 56366.1(a), certification for an uncertified nonpublic school, Rancho Valmora School, located in New Mexico, to provide services to one special education student, Kaly M. CDSIS-108-5-2002 (Recommended for APPROVAL)	ACTION
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ITEM W-22	Request by San Francisco Unified School District to waive <i>Education Code</i> (EC) Section 56366.1(a), certification for an uncertified nonpublic school, Three Springs, located in Huntsville, Alabama to provide services to one special education student, Emily T. CDSIS-22-7-2002 (Recommended for APPROVAL)	ACTION
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ITEM W-23	Request by Santa Rosa School District to waive <i>Education Code</i> (EC) Section 56366.1(a), certification for an uncertified nonpublic school, Desert Hills Center for Youth and Families, located in Albuquerque, New Mexico to provide services to one special education student, Jeff H. CDSIS-32-7-2002 (Recommended for APPROVAL)	ACTION
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SCHIFF-BUSTAMANTE WAIVER

ITEM W-32	General waiver request of <i>Education Code</i> Sections 60450(b) and 60451(b) Schiff-Bustamante Standards-Based Instructional Materials Program by Davis Joint Unified School District to purchase nonadopted Instructional Resources (<i>Houghton Mifflin Mathematics, Grade 6</i>) using Schiff-Bustamante Funds. CDSIS-7-7-2002 (Recommended for APPROVAL from date of SBE action through July 1, 2003)	ACTION
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SCHOOL SITE COUNCIL (composition)

ITEM W-33	Request by Novato Unified School District to waive <i>Education Code</i> Section 52852, in order to have equal numbers of school staff and parent/community members, plus up to five students, on the St. Marin High School's school site council. CDSIS-91-5-2002 (Recommended for APPROVAL)	ACTION
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TEACHER EVALUATION

ITEM W-35	Request by Mt. Diablo Unified School District to waive <i>Education Code</i> Section 44664(a) to allow permanent teachers with "proficient" or "distinguished" evaluations to be evaluated on a three-year cycle (instead of a two-year cycle). CDSIS-61-5-2002 (Recommended for APPROVAL)	ACTION
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Ms. Pinegar drew the Board's attention to the agenda materials for Waiver 33 and noted the addition of a second school under the waiver and the district's correction of an incorrect code citation on the waiver request form.

- ACTION: Mr. Nuñez moved that the State Board approve the following proposed consent items: W-6 through W-8, W-10 through W-15, W-18 through W-23, W-32, W-33, and W-35. The motion included the proposed conditions regarding the requests in Items W-10 through W-13, and the proposed limitation regarding the request in Item W-32. The motion incorporated corrections to Item W-33 as presented by CDE staff. The motion recognized that *Education Code* Section 33051(c) would apply to the requests in

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Items W-6 and W-8. Ms. Tacheny seconded the motion. The motion was approved by unanimous vote of the members present.

NON-CONSENT WAIVERS

ACADEMIC PERFORMANCE INDEX (adult testing irregularities)

ITEM W-2	Healdsburg Unified School District (HUSD) Academic Performance Index (API) Waiver. Specifically, the HUSD requests a waiver of Title 5 CCR Section 1032(d) (1) to allow Foss Creek Elementary School to be given a valid API (no awards) for the current year (2002), in spite of "adult testing irregularities." CDSIS-21-7-2002 (Recommended for DENIAL per <i>Education Code</i> Section 33051(a) (1), the educational needs of the pupils are not adequately addressed.	ACTION
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Pat Chladek, Awards Unit, recommended a second review of this waiver because the testing irregularity involved only one class and one teacher. Superintendent Eastin remarked there were only three questions involved and encouraged the Board to "show mercy" to this school.

The following individual addressed the Board:
Richard Jones, Healdsburg Unified School District

- **MOTION FAILS:** Ms. Hammer moved that the State Board approve the waiver request in Item W-2. Ms. Lee seconded the motion. The motion was failed passage by a vote of 5-2. Mr. Hastings and Ms. Tacheny voted against the motion.

President Hastings noted that whatever line is set, someone will always want to move it. He cautioned again voting for the waiver and suggested changing the policy related to the percentage of students whose tests were affected.

- **MOTION FAILS:** Ms. Hammer moved that the State Board postpone further consideration of the waiver request in Item W-2 to the October 2002 meeting. Mr. Nuñez seconded the motion. The motion failed passage by a vote of 3-3-1. Mr. Hastings, Mrs. Ichinaga, and Ms. Tacheny voted against the motion. Mrs. Joseph did not vote on the motion.

On behalf of the Healdsburg Unified School District, Mr. Jones formally withdrew the waiver request for purposes of resubmitting the request for consideration at the October 2002 meeting.

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ADMINISTRATOR/ TEACHER RATIO

ITEM W-4	Request by Banta Elementary School District to waive the financial penalty imposed by <i>Education Code</i> Section 41404 for exceeding the maximum number of administrative employees specified in <i>Education Code</i> Section 41402. CDSIS-27-6-2002 (Recommended for APPROVAL WITH CONDITION) Condition proposes to suspend the operation of E.C. 33051(c) during the waiver's effective period of July 1, 2001, to June 30, 2006, thus keeping the waiver from having ongoing effect under E.C. 33051(c).	ACTION
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Ms. Pinegar asked the Board to approve this waiver with the proposed revised condition as recommended by Department staff. The revised condition is that the waiver time period would run from July 1, 2001 to June 30, 2006.

- ACTION: Ms. Hammer moved that the State Board approve the waiver request in Item W-4 with the revised condition recommended by CDE staff that the waiver would be effective from July 1, 2001, to June 30, 2006. Mr. Nuñez seconded the motion. The motion was approved by unanimous vote of the members present.

INSTRUCTIONAL TIME PENALTY

ITEM W-16	Request by Ravenswood City School District to waive <i>Education Code</i> Section 46201(c), the full longer-day instructional time penalty for the 2000-2001 fiscal year for Menlo Oaks Magnet School. CDSIS-12-6-2002 (Recommended for APPROVAL WITH CONDITION)	ACTION
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ITEM W-17	Request by Lakeside Union Elementary School District to waive <i>Education Code</i> Section 46201(c), the longer day instructional time penalty for fiscal year 2000-01 at Gardenside Elementary School. CDSIS-46-3-2002 (Recommended for APPROVAL WITH CONDITION)	ACTION
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Ms. Pinegar explained that these districts are requesting a waiver of the new deadlines that were set by the clean-up legislation. She noted that the Board had just rescinded its waiver guidelines on minimum instructional time because of the new legislative requirements and that a new policy would need to be developed.

- ACTION: Mr. Nuñez moved that the State Board approve the waiver requests in Items W-16 and W-17 with the conditions proposed by CDE staff. Ms. Ichinaga seconded the motion. The motion was approved by unanimous vote of the members present.

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NON STANDARD SCHOOL YEAR

ITEM W-24	Request by Fairfield-Suisun Unified School District to waive <i>Education Code</i> Section 37200 relating to standard school year for Crystal Middle, H. Glenn Richardson Elementary, Crescent Elementary and Amy Blanc Schools. CDSIS-97-5-2002 (Recommended for APPROVAL WITH CONDITIONS)	ACTION
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Ms. Pinegar advised that the Fairfield-Suisun Unified School District is requesting a change in the time period of the waiver so that it will be prospective and not retroactive. The time period of the waiver would be from September 1, 2002 to September 1, 2004. Ms. Belisle advised that the district will go across fiscal years in the proposed non-standard calendar and that it will also affect reporting of the schools' test data. Ms. Pinegar replied that the district has taken that into consideration and has agreed to meet all of the STAR test dates. Ms. Belisle commented that she understood the Department of Finance's concerns about this waiver were due to the retroactive nature of the waiver. Mr. Brandsma suggested that there be a condition related to the STAR calendar. Mr. Warren stated that these few schools would not create a problem with STAR test reporting because it is a small number of schools and they will not impact the statewide numbers.

President Hastings asked why this particular school wanted a non-standard calendar. Tom Payne, School Facilities Planning Division, replied that a few schools select a non-standards calendar because of the number of children who do not attend school in July. Attendance is much better when school begins in September.

- ACTION: Ms. Hammer moved that the State Board approve the waiver request in Item W-24 as revised by the district (which is that the waiver apply prospectively for a two-year period) with the conditions recommended by CDE staff. The motion took note of the fact that the State Department of Finance had requested that consideration of the waiver be postponed for one meeting to determine whether the its retroactive nature would make the waiver not properly before the State Board pursuant to *Education Code* Sections 41344 and 41344.2; however, that issue became moot by the district's decision to make the waiver prospective only. The motion recognized that *Education Code* Section 33051(c) would apply to the waiver. Mrs. Ichinaga seconded the motion. The motion was approved by unanimous vote of the members present.

INSTRUCTIONAL MATERIALS FUND (IMF) PETITION

ITEM W-26	Petition request under <i>Education Code</i> (EC) Section 60200(g) by Shasta County Office of Education to purchase nonadopted Instructional Resources for "special education students" using Instructional Materials Fund (IMF) monies. (List attached) CDSIS-31-5-2002 (Recommended for APPROVAL from date of SBE action through August 31, 2004)	ACTION
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Ms. Pinegar informed the Board that only the Shasta County Office of Education had a representative at the meeting, but the representative would try to answer questions for the other county offices.

The following individual addressed the Board:
Kathy Thompson, Shasta County Office of Education

- ACTION: Mrs. Ichinaga moved that the State Board approve the request in Item W-26 for the period recommended by CDE staff. Ms. Hammer seconded the motion. The motion was approved by unanimous vote of the members present.

ITEM W-25	Petition request under <i>Education Code</i> Section 60200(g) by Santa Barbara County Office of Education to purchase nonadopted Instructional Resources for “special education students” using Instructional Materials Fund (IMF) monies. (List attached) CDSIS-36-5-2002 (Recommended for APPROVAL from date of SBE action through August 31, 2004)	ACTION
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ITEM W-27	Petition request under <i>Education Code</i> (EC) Section 60200(g) by Stanislaus County Office of Education to purchase nonadopted Instructional Resources for "special education students" using Instructional Materials Fund (IMF) monies. (List attached) CDSIS-33-5-2002 (Recommended for APPROVAL from date of SBE action through August 31, 2004)	ACTION
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Mrs. Joseph stated that her problem with the list of materials the county offices wished to purchase was that the appropriateness of the materials depends on the population being served. Referring to Santa Barbara and Stanislaus County Offices, Mrs. Joseph noted they are serving a fairly broad population. Their lists do not indicate they are using newly adopted materials, which would be helpful for their students to use. Mrs. Joseph stated she did not have this problem with Shasta COE’s request for a waiver, which clearly identified the student population in its wavier request.

When it became apparent that members of the Board wished to have additional information from the applying local education agencies, President Hastings directed that further consideration of the requests in Items W-25 and W-27 be postponed to the October 2002 meeting and that CDE staff make the applying LEAs aware of the Board’s request to have a representative present at the next meeting.

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ITEM W-28	Petition request under <i>Education Code</i> (EC) Section 60200(g) by Conejo Valley USD to purchase nonadopted Instructional Resources (<i>Everyday Mathematics, Grades 4 – 6, c. 2002</i>) using Instructional Materials Fund (IMF) monies CDSIS-25-4-2002 (Recommended for APPROVAL from date of SBE action through August 31, 2004)	ACTION
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Ms. Pinegar informed the Board that there were representatives of the district here to answer any questions from the Board.

The following individuals addressed the Board:
Martha Mutz, Conejo Valley Unified School District
Mike Vollmert, Conejo Valley Unified School District

Superintendent Eastin commented that this district is getting it right and deserves the Board's support.

Mr. Nuñez agreed that this district could serve as the poster child for demonstrated exemplary achievement as discussed by the Board earlier in the meeting. Mr. Nuñez stated that he is concerned that Curriculum Chair Sue Stickel found that *Everyday Mathematics* did not fully cover the standards, especially in the 4th grade.

- ACTION: Ms. Hammer moved that the State Board approve the request in Item 28 for the period recommended by CDE staff. Ms. Tacheny seconded the motion. The motion was approved by unanimous vote of the members present. In addition to the absent members, Mrs. Joseph was not present when the vote was taken.

ITEM W-29	Petition request under <i>Education Code</i> (EC) Section 60200(g) by East Whittier City School District to purchase nonadopted Instructional Resources (<i>Everyday Mathematics, Grades K-3, c. 2001; Grades 4-5, c. 2002</i>) using Instructional Materials Fund (IMF) monies. CDSIS-34-4-2002 (Recommended for APPROVAL from date of SBE action through August 31, 2004)	ACTION
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Ms. Pinegar asked the representatives from the district to come forward.

The following individuals addressed the Board:
Kathy Tryon, East Whittier City School District
Dorka Duran, East Whittier City School District

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President Hastings commented that looking at the API similar schools rankings, this district is about in the middle. The district does demonstrate improvement in its math test scores. He stated that question is whether this growth is exemplary achievement.

- ACTION: Ms. Hammer moved that the State Board approve the request in Item W-29 for the period recommended by CDE staff. Mrs. Ichinaga seconded the motion. The motion was approved by unanimous vote of the members present. In addition to the absent members, Mrs. Joseph was not present when the vote was taken.

SCHIFF-BUSTAMANTE WAIVER

ITEM W-31	<p>General waiver request of <i>Education Code</i> (EC) Section 60450(b) and 60451(b)--Schiff-Bustamante Standards-Based Instructional Materials Program by Montecito Union School District to purchase nonadopted Instructional Resources (<i>Everyday Mathematics, Grades K-6, 2nd Edition</i>) using Schiff-Bustamante Funds. CDSIS-11-6-2002 (Recommended for APPROVAL of Grades K-3, 2nd Edition <i>Everyday Mathematics</i> waiver request from date of SBE action through August 31, 2003. (Recommended for DENIAL of Grades 4-6, 2nd Edition <i>Everyday Mathematics</i> waiver request, pending a standards review.</p>	ACTION
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Ms. Pinegar noted that there was no representative of the district at the meeting, but that a district representative, Richard Douglas, had addressed the Board the previous day.

- ACTION: Ms. Hammer moved that the State Board approve the request in Item W-31. The motion took note of the fact that a representative of the district (at the preceding day's session) had assured the State Board that the district would supplement *Everyday Mathematics, Grades 4-6*, as necessary to coverage of all mathematics content standards. Mr. Nuñez seconded the motion. The motion was approved by unanimous vote of the members present. In addition to the absent members, Mrs. Joseph was not present when the vote was taken.

SALE/LEASE OF SURPLUS REAL PROPERTY

ITEM W-30	<p>Request by Cucamonga School District to waive <i>Education Code</i> (EC) Section 17455-17476, (with exceptions), regarding Sale/Lease of Surplus Real Property--Bid and Offer Procedures for Guasti School (2.2 acres). CDSIS-68-5-2002 (Recommended for APPROVAL) <i>E.C. 33051(c)</i> will apply</p>	ACTION
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Mr. Payne presented the waiver. He commented that the Department staff looks at these kinds of requests carefully.

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Mr. Brandsma expressed his opinion that the competitive bid process is the best way to determine the actual value of the property. President Hastings stated that it is his understanding that the district feels that by not using the competitive bid process it would save significant time and money. Mr. Nuñez requested a postponement of this issue until the district can come to present information and answer the Board's questions.

- **MOTION FAILS:** Mrs. Ichinaga moved that the State Board approve the request in Item W-30. Ms. Hammer seconded the motion. The motion failed passage by a vote of 3-0-4. Mr. Hastings, Ms. Hammer, and Mrs. Ichinaga voted in favor of the motion.

President Hastings directed CDE staff to place this waiver on the October 2002 agenda for further consideration and requested that a representative of the district be present to respond to questions about the request.

STATE MEAL MANDATE (summer school—renewal)

ITEM W-34	Renewal request by Elk Hills School District and NEW request by Stanislaus County Office of Education to waive <i>Education Code</i> (E.C.) Section 49550, the State Meal Mandate to serve meals to each needy child during the summer school session. CDSIS-19-6-2002 Elk Hills School District CDSIS-166-4-2002 Stanislaus County Office of Education (Recommended for DENIAL)	ACTION
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Ms. Pinegar reported that the Stanislaus County Office of Education had withdrawn its request, so this waiver is only for Elk Hills School District. The Department recommendation remains the same.

- **ACTION:** Ms. Hammer moved that the State Board deny the request from the Elk Hills School District in Item W-34. It was noted that the request from the Stanislaus County Office of Education had been withdrawn (see above). Ms. Tacheny seconded the motion. The motion was approved by unanimous vote of the members present.

Lunch Break: President Hastings called for the lunch break at 12:38 p.m. He reconvened the meeting at 1:18 p.m.

ITEM 30	Title 5 Regulations on Administration of Medication in Public Schools.	INFORMATION ACTION
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This item was withdrawn.

ITEM 31	Permanent Regulations Defining “Instructional Materials...Otherwise Authorized by the State Board of Education” for purposes of the Mathematics and Reading Professional Development Program, AB 466 (Chapter 737, Statutes of 2001).	INFORMATION ACTION PUBLIC HEARING
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Ms. Steentofte reported that no written comments were received during the public comment period on the otherwise authorized materials regulations. She stated that an amendment was needed to include the title of the prior funding year form and this change requires a 15-day public review period.

President Hastings opened the Public Hearing at 1:20 p.m. There were no speakers for this item.

President Hastings closed the Public Hearing at 1:20 p.m.

- **ACTION:** Ms. Hammer moved that the State Board direct that the proposed regulations be amended as recommended by staff and sent out for 15-day public review in accordance with the Administrative Procedure Act. Mrs. Ichinaga seconded the motion. The motion was approved by unanimous vote of the members present.

ITEM 32	Request by the Academy of Culture and Technology Petitioners to Approve a Petition to Become a Charter School Under the Oversight of the State Board of Education.	INFORMATION ACTION PUBLIC HEARING
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Deborah Connelly, School Fiscal Services Division, reported that the Advisory Commission on Charter Schools (ACCS) heard the requested petition twice and recommended approval at the second meeting after the petitioners addressed the concerns of the ACCS. She noted that the Department's concerns about education programs, especially the programs for 6-8 grades and English learners remain. The Department staff also is concerned about the provision of services for special education students and possible conflict of interest between the interests of the charter governing board and of the sponsoring community organization.

Ms. Connelly noted that the Department staff has suggested conditions for approval should the Board wish to approve the petition.

Advisory Commission Chair Mark Kushner expressed the Advisory Commission's great confidence that this charter will be successful if they meet the recommended conditions for approval. He noted that the petitioners have a very strong relationship with the community and also have a facility. Advisory Commission Member Steve Barr stated that the petitioners' community and political support and their own facility are all indicators of success.

President Hastings opened the Public Hearing at 1:36 p.m.

The following individuals addressed the Board:

Tomas Ursua, Director, Pomona Valley Center for Community Development
Jim Bush, Advanced Education Services
Julian Villasenor, Pomona Unified School District

President Hastings closed the Public Hearing at 1:47 p.m.

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Superintendent Eastin expressed her fundamental belief that the charter petitioners should provide the district with an opportunity to review the application with the proposed changes. Superintendent Eastin said that she hopes the Board will support legislation, currently on the Governor's desk, requiring charter schools to go to the county for approval prior to coming before the Board

Ms. Hammer expressed her concerns about the charter and her belief that the conditions of approval should be met before the petitioners are granted the charter. She added that she agreed with Superintendent Eastin that the charter should go back to the district.

Mr. Nuñez commented this petition just is not ripe. The number of conditions for approval and the changes in the charter both argue for a second district review. Mrs. Joseph stated that she is interested in the recommendations of the ACCS regarding political savvy and other factors, but is very concerned about the educational program and the special education services issue.

Mr. Ursua and Mr. Bush responded to questions raised by the Board

President Hastings said that the issue is the students in the schools in this community are not getting a good education now. He noted that without a charter number, some of these conditions cannot be met. The petitioner's education program is the cause of the Board's anxiety. President Hasting remarked that it is a difficult task to educate children and is not as easy as people think it is. He commented that he would like to give this charter the opportunity to raise student achievement within the next three years.

Ms. Tacheny remarked that anxiety is exactly what she is feeling. She stated that she had expected to hear from the Advisory Commission that in addition to community support and a facility, the charter had a great educational program. She added that she hopes that this is will be what the Advisory Commission says the next time a charter petition is brought before the Board. Mrs. Joseph cautioned that these students are not prepared for the curriculum described in the charter's program, especially because the charter would start with 6th grade.

Superintendent Eastin said that she wanted to make two points. First, she shares President Hastings' concerns about the children. She is also concerned about how the Board will comply with the NCLB requirements to provide alternative education services. She added that Department staff cannot handle the workload of monitoring another charter. Superintendent Eastin stated that it is her recommendation that this charter return to the district where she believes they can work things out. In addition, she would like a commitment from the charter petitioners that students will not be charged tuition and that all teachers will be certificated. She questioned how the charter would provide the alternative education services under the NCLB.

- **MOTION FAILS:** Ms. Hammer moved that the State Board deny the petition for the Academy of Culture and Technology submitted by the Pomona Valley Center for Community Development to become a school chartered under the authority of the State Board. The motion incorporated encouragement for all of the following: (1) that the petitioner prepare a revised petition addressing the concerns outlined in the CDE staff

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analysis and discussed at the State Board meeting; (2) that the petitioner submit that revised petition, with appropriate signatures, to the Board of Education of the Pomona Unified School District or the Los Angeles County Board of Education; and (3) that the local governing board(s) to which the revised petition is submitted give the petition full and fair consideration, recognizing that the State Board would be inclined to view the petition favorably if revised so as to address those concerns. Ms. Lee seconded the motion. The motion failed passage by a vote of 4-1-2. Mr. Hastings voted against the motion. Mrs. Joseph and Ms. Tacheny did not vote on the motion.

Ms. Lee encouraged the petitioners to be more specific in their educational program. Ms. Tacheny asked if the petition could be brought before the Board in the event the district denies their request. Mr. Geeting responded that the Board has experienced one similar situation—New West and LAUSD. In that case, LAUSD never reheard the petition. If the Board denies the petition, the petitioners would have to start all over with a new application. Mrs. Joseph inquired whether the charter school would have to meet all the conditions of approval before opening. President Hastings replied that the conditional approval would require that all conditions be met before the school could open. New West, for example, did not meet the conditions and did not open this year. Deputy Superintendent Susan Lange noted that if the Board approved the petition, the Department staff would be required to monitor this charter and its efforts to meet the conditions.

- **ACTION:** Ms. Tacheny moved that the State Board express its intent to approve the petition with conditions if a local board of education does not approve the petition by February 2003. The motion was made with the understanding that the State Board President and the State Superintendent will send joint letters to the Board of Education of the Pomona Unified School District and the Los Angeles County Board of Education urging them to consider and act to approve the petition with such reasonable conditions as may be necessary to effectuate the school’s opening in fall 2003 and to ensure both that the school complies with the requirements of applicable statute and regulation and that the school is otherwise operated in a reasonable and responsible manner. Ms. Lee seconded the motion. The motion was approved by unanimous vote of the members present. In addition to the absent members, Mrs. Ichinaga did not vote on the motion.

ITEM 33	Request by the School of Arts and Enterprise Petitioners to Approve a Petition to Become a Charter School Under the Oversight of the State Board of Education.	INFORMATION ACTION PUBLIC HEARING
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Ms. Tacheny introduced her son, Jordan, who is completing an internship in Senator Dede Alpert’s office and will be attending college this fall.

Ms. Connelly reported that the Advisory Commission had heard the petition once and recommended approval with conditions. She reported that the Department has concerns about this petition. In particular, the specifics and details are missing from education programs and services for special education students. Ms. Connelly pointed out that in the recommendation

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there is a condition that says educators, but not employees of the charter, can serve on the charter school board. Ms. Connelly commented that the main difference between this petition and the previous petition is that this petition evidences more understanding of education research. It has people involved who have previous experience in successful charter schools. It also has community support. Superintendent Eastin asked how the Board would meet the NCLB requirement for alternative services. Ms. Connelly replied that she has not seen any regulations on alternative services specifically for charter schools. President Hastings noted that there are specific references to charter schools in the highly qualified teachers regulations.

Advisory Commission Chair Mark Kushner stated that this is the best charter petition he has ever seen. He reported that the Advisory Commission believes that the non-profit law is strong enough to address the concerns about having an employee as a member of the board.

President Hastings opened the Public Hearing at 2:51 p.m.

The following individuals addressed the Board:
Simeon P. Slovacek, School of Arts and Enterprise
Lucille H. Berger, School of Arts and Enterprise
Edward Tessier, School of Arts and Enterprise
David Patterson, California Association of Education Charters
Julian Villasenor, Pomona Unified School District
Paul C. Minney, Spector, Middleton, Young & Minney

President Hastings closed the Public Hearing at 3:07 p.m.

Ms. Hammer asked Mr. Villasenor if the Pomona Unified School District had ever approved a charter and was advised that they have not.

Superintendent Eastin stated that she wants to be very clear to Pomona and other districts that this state has charter schools as a public school option for children. She expressed her concern that the Department cannot handle the staff work, but added that this charter has great potential. She said that she thinks these petitioners deserve the Board's support.

- **ACTION:** Ms. Hammer moved that the State Board conditionally approve the petition to establish the School of Arts and Enterprise (SAE) for a period of three years beginning July 1, 2003, and assign the school charter number 505. The conditions are as follows:
 - (a) Not later than May 1, 2003, (or such earlier time as SAE may employ individuals or acquire or lease property or facilities for which insurance would be customary), submit documentation of adequate insurance coverage, including liability insurance, which shall be based on the type and amount of insurance coverage maintained in similar settings.
 - (b) Not later than January 1, 2003, either (a) accept an agreement with the State Board of Education (administered through the California Department of Education) to be the direct oversight entity for the school, specifying the scope of oversight and reporting activities, including, but not limited to, adequacy and safety of facilities; or (b) enter into an

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appropriate agreement between the charter school, the State Board of Education (as represented by the Executive Director of the State Board), and an oversight entity (pursuant to Education Code Section 47605(k)(1)) regarding the scope of oversight and reporting activities, including, but not limited to, adequacy and safety of facilities.

(c) Not later than February 1, 2003, submit written verification of having applied to a special education local plan area (SELPA) for membership as a local education agency and, not later than June 1, 2003, submit either written verification that the school is (or will be at the time students are being served) participating in the SELPA, or an agreement between a SELPA, a school district that is a member of the SELPA, and SAE that describes the roles and responsibilities of each party and that explicitly states that the SELPA and the district consider SAE's students to be students of the school district in which SAE is physically located for purposes of special education programs and services (which is the equivalent of participation in the SELPA). Satisfaction of this condition should be determined by the Executive Director of the State Board of Education based primarily on the advice of the State Director of Special Education.

(d) Not later than January 1, 2003, submit a description of the curriculum development process the school will use and the scope and sequence for grades 9-12 envisioned by the school; and, not later than July 1, 2003, submit the complete educational program for students to be served in the first year (anticipated to be grade nine students only), including, but not limited to, a description of the curriculum and identification of the basic instructional materials to be used, plans for professional development of instructional personnel to deliver the curriculum and use the instructional materials, identification of specific assessments that will be used in addition to the results of the Standardized Testing and Reporting (STAR) program in evaluating student progress, and a budget which clearly identifies the core program from enrichment activities and reflects only those loans, grants, and lines of credit (if any) that have been secured by the petitioners. Satisfaction of this condition should be determined by the Executive Director of the State Board of Education based primarily on the advice of the Deputy Superintendent for Curriculum and Instructional Leadership.

(e) Not later than May 1, 2003, submit for approval the specific means to be used for student attendance accounting and reporting that will be satisfactory to support state average daily attendance claims and satisfy any audits related to attendance that may be conducted. Satisfaction of this condition should be determined by the Executive Director of the State Board of Education based primarily on the advice of the Director of the School Fiscal Services Division.

(f) Not later than January 1, 2003, present a written agreement (a lease or similar document) indicating SAE's right to use the principal school site identified by the petitioners for at least the first year of the school's operation and evidence that the facility will be adequate for the school's needs. Not later than June 1, 2003, present a written agreement (or agreements) indicating SAE's right to use any ancillary facilities planned for use in the first year of operation. Satisfaction of these conditions should be determined by the Executive Director of the State Board of Education based primarily on the advice of the Director of the School Facilities Planning Division.

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(g) Not less than 30 days prior to the school's opening, present evidence that the facility is located in an area properly zoned for operation of a school and has been cleared for student occupancy by all appropriate local authorities. For good cause, the Executive Director of the State Board of Education may reduce this requirement to fewer than 30 days, but may not reduce the requirement to fewer than 10 days. Satisfaction of this condition should be determined by the Executive Director of the State Board of Education based primarily on the advice of the Director of the School Facilities Planning Division.

(h) Not later than January 1, 2003, present a final charter that includes all provisions and/or modifications of provisions that reflect appropriately the State Board of Education as the chartering authority and otherwise address all concerns identified by California Department of Education staff, and that includes a specification that the school will not operate satellite schools or campuses without the prior written approval of the Executive Director of the State Board of Education based primarily on the advice of appropriate CDE staff.

(i) In the final charter presented pursuant to condition (8), resolve any provisions related to legal issues that may be identified by the State Board's Chief Counsel.

(j) Prior to the employment of any individuals by SAE, present evidence that SAE has made appropriate arrangements for the processing of the employees' retirement contributions to the Public Employees' Retirement System (PERS) and the State Teachers' Retirement System (STRS).

(k) If any deadline specified in these conditions is not met, approval of the charter is terminated, unless the State Board of Education deletes or extends the deadline not met. If SAE is not in operation by September 30, 2004, approval of the charter is terminated.

The motion recognized that the conditions are as recommended by CDE staff. The Advisory Commission on Charter Schools joined in recommending the conditions, except that the Advisory Commission did not recommend a complete prohibition on school employees serving on the school's governing board. The State Board did not concur with the Advisory Commission's recommendation in that regard.

Ms. Tacheney seconded the motion. The motion was approved by unanimous vote of the members present. In addition to the absent members, Mrs. Ichinaga was not present when the vote was taken.

Adjournment: President Hastings adjourned the meeting at 3:11 p.m.