

# California State Board of Education Final Minutes May 18-19, 2023

## Members Present

* Linda Darling-Hammond, President
* Cynthia Glover Woods, Vice President
* Francisco Escobedo (Thursday, May 18 only)
* Brenda Lewis
* Sharon Olken
* Gabriela Orozco-Gonzalez
* Haydee Rodriguez
* Alison Yoshimoto-Towery
* Naomi Porter, Student Member
* Tony Thurmond, State Superintendent of Public Instruction (SSPI), Secretary and Executive Officer

## Members Absent

* Francisco Escobedo (Friday, May 19 only)
* James J. McQuillen
* Kimberly Pattillo Brownson

## Principal Staff

* Brooks Allen, Executive Director, State Board of Education (SBE)
* Jessica Holmes, Chief Deputy Executive Director, SBE
* Lisa Constancio, Senior Deputy Director, SBE
* Kirin Gill, Chief Counsel, SBE
* Rigel Massaro, Deputy Legal Counsel and Deputy Policy Director, SBE
* Janet Weeks, Director of Communications, SBE
* Debra Brown, Senior Policy Advisor, SBE
* Laura Rodriguez, Senior Policy Director, SBE
* Aileen Allison-Zarea, Education Administrator I, SBE
* Carolyn Pfister, Education Administrator I, SBE
* Sara Pietrowski, Policy Director, SBE
* Michelle Valdivia, Assistant Policy Director, SBE
* Amy Bubbico, Staff Services Manager, SBE
* Lisa Hopkins, Associate Governmental Program Analyst, SBE
* Haley Gordon, Associate Governmental Program Analyst, SBE
* Abel Guillen, Deputy Superintendent, California Department of Education (CDE)
* Len Garfinkel, General Counsel, CDE
* Sarah Neville-Morgan, Deputy Superintendent, CDE
* Steve Zimmer, Deputy Superintendent, CDE
* Alex Moos, Education Policy Administrator I, CDE

**Please note that the complete proceedings of the May 18-19, 2023 State Board of Education meeting, including closed-captioning, are available online at:** <http://www.cde.ca.gov/be/ag/ag/sbewebcastarchive.asp>

## California State Board of Education Public Session May 18, 2023

**Thursday, May 18, 2023 – 8:30 a.m. Pacific Time ±**California Department of Education  
1430 N Street, Room 1101  
Sacramento, California 95814

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

**President Darling-Hammond called the meeting to order at approximately 8:31 a.m.**

### AGENDA ITEMS DAY 1

#### Item 01

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

**Type of Action:** Action, Information

**Recommendation:** The SBE staff recommends that the SBE listen to the:

* State Board of Education President’s Report

**ACTION:** No Action Taken.

#### Item 02

**Subject:** Adoption of the Updated List of Valid and Reliable Assessments Required by California Education Code Section 47607.2.

**Type of Action:** Action, Information

**Recommendation:** The CDE recommends that the SBE approve the recommendations contained in Attachment 1 to: (1) update the criteria to define verified data, (2) update the data use procedures related to verified data, and (3) update the academic progress indicators for inclusion within the approved verified data list.

**ACTION:** Member Darling-Hammond moved to approve the CDE staff recommendations with the following amendments in **bold** as follows:

1. Criteria to define Verified Data #2:

Participation: To be eligible for inclusion as verified data, a data source (assessment or postsecondary outcome) must include the results of at least 95 percent of eligible students. In the case of academic progress information, the charter school must demonstrate that it has administered the assessment to, and included the results of, at least 95 percent of pupils for whom the assessment is appropriate. **An authorizer may consider evidence of the impacts of global pandemic or natural disasters on participation and may waive this requirement if there is evidence that selection bias has not occurred (e.g. the school has not excluded students who are likely to score lower, on average, than students who took the assessment).** To put data in context, the charter school’s enrollment must be included (by grade, if appropriate). In addition, the number of missing (in the postsecondary data) or non- tested students must be identified. Note: Consistent with the U.S. Department of Education’s flexibility for state accountability purposes in 2019–20 and 2020–21, the 95 percent participation rate requirement should not apply in those years.

1. Criteria to define Verified Data #4:

Student groups: The data include all student groups that have at least 11 students (using the groups and minimum size for reporting from the California School Dashboard [Dashboard]) **for assessments that report student data for those groups.**

1. Data Use Procedure #6:

Differences from California Assessment of Student Performance and Progress (CAASPP): The charter school shall present data for the student groups whose CAASPP performance placed the school in the middle or low performance category **when appropriate data for those student groups is available. Appropriate data will meet the minimum n size for the student group and wherever possible, be considered in terms of student group norms.**

1. Data Use Procedure #8:

CAASPP for English language arts/literacy and mathematics: Specified CAASPP reported data can only be used in a manner consistent with the data reported on the CAASPP website and Dashboard. CAASPP data, and methodologies for analyzing CAASPP data **(e.g. CORE Student Growth Percentiles)** that are mutually agreed upon by the chartering authority and charter school, may be used to supplement Dashboard results. However, CAASPP data may not be used to dispute the Dashboard results.

Member Glover Woods seconded the motion.

**Yes votes:** Members Darling-Hammond, Escobedo, Glover Woods, Lewis, Olken, Orozco-Gonzalez, Porter, Rodriguez, and Yoshimoto-Towery.

**No votes:** None

**Members Absent:** Members McQuillen and Pattillo Brownson

**Abstentions:** None

**Recusals:** None

The motion passed with 9 votes.

#### Re-Open Item 01

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

**Type of Action:** Action, Information

**Recommendation:** The SBE staff recommends that the SBE listen to the:

* State Superintendent’s Report

**ACTION:** No Action Taken.

#### Item 03

**Subject:** Approval of the Recommended Summative Alternate English Language Proficiency Assessments for California Threshold for Meeting Reclassification Criterion 1 (Assessment of English Language Proficiency) for English Learner Students with the Most Significant Cognitive Disabilities.

**Type of Action:** Action,Information

**Recommendation:** The CDE recommends that the SBE approve the State Superintendent of Public Instruction’s (SSPI’s) proposed use of Summative Alternate ELPAC Overall Performance Level (PL) 3, Fluent English Proficient, to satisfy the English language proficiency criterion for reclassification decision-making beginning with the 2022–23 Summative Alternate ELPAC administration for English learner (EL) students with the most significant cognitive disabilities, enrolled in kindergarten through grade twelve. The CDE has elicited the input of interest holders based on experience with the interim threshold in preparation for making this recommendation.

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

Member Lewis seconded the motion.

**Yes votes:** Members Darling-Hammond, Escobedo, Glover Woods, Lewis, Olken, Orozco-Gonzalez, Porter, Rodriguez, and Yoshimoto-Towery.

**No votes:** None

**Members Absent:** Members McQuillen and Pattillo Brownson

**Abstentions:** None

**Recusals:** None

The motion passed with 9 votes.

### REGULAR CONSENT ITEMS (Item 04 through Item 08)

#### Item 04

**Subject:** The California Assessment of Student Performance and Progress and the English Language Proficiency Assessments for California: Approval of the 2022–23 Apportionment Rates and Updates on Program Activities.

**Type of Action:** Action, Information, Consent

**Recommendation:** The CDE recommends that the California State Board of Education (SBE) approve the following:

1. Per-pupil apportionment rates for the 2022–23 school year (contingent on the availability of an appropriation for this purpose) for the CAASPP tests administered as part of the CAASPP System, as provided in Table 1 of Attachment 2.
2. Per-pupil apportionment rates for the 2022–23 school year (contingent on the availability of an appropriation for this purpose) for the ELPAC tests administered, as provided in Table 2 of Attachment 2.

#### Item 05

**Subject:** Instructional Quality Commission Bylaws Revision

**Type of Action:** Action, Information, Consent

**Recommendation:** The California Department of Education recommends that the SBE approve the proposed revised IQC Bylaws.

#### Item 06

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

**Type of Action:** Action, Information, Consent

**Recommendation:** The CDE recommends that the SBE approve the schools’ determination of funding requests at the percentages and for the time periods as specified in Attachment 1.

#### Item 07

**Subject:** Reconsideration of a Request for Determination of Funding as Required for Nonclassroom-Based Charter Schools Pursuant to California Education Code sections 47612.5 and 47634.2, California Code of Regulations, Title 5 Section 11963.6(g), and Associated California Code of Regulations, Title 5.

**Type of Action:** Action, Information, Consent

**Recommendation:** The CDE recommends that the SBE approve Guajome Learning Center’s reconsideration request and increase its current funding determination level from 85 percent to 100 percent for fiscal year (FY) 2022–23 and FY 2023–24 as specified in Attachment 1.

#### Item 08

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

**Type of Action:** Action, Information, Consent

**Recommendation:** The CDE recommends that the SBE assign charter numbers to the charter schools identified in Attachment 1.

**ACTION:** Member Olken moved to approve the CDE staff recommendations for each regular item on consent (Item 4 through Item 8).

Member Lewis seconded the motion.

**Yes votes:** Members Darling-Hammond, Escobedo, Glover Woods, Lewis, Olken, Orozco-Gonzalez, Porter, Rodriguez, and Yoshimoto-Towery.

**No votes:** None

**Members Absent:** Members McQuillen and Pattillo Brownson

**Abstentions:** None

**Recusals:** None

The motion passed with 9 votes.

#### *END OF REGULAR CONSENT ITEMS*

#### Item 09

**Subject:** California Community Schools Partnership Program: Approval of Cohort 2 Implementation Grantees.

**Type of Action:** Action, Information

**Recommendation:** The CDE recommends that the SBE approve the California Community Schools Partnership Program (CCSPP) Cohort 2 Implementation Grant Awards (Attachment 1).

**ACTION:** Member Yoshimoto-Towery moved to approve the CDE staff recommendation.

Member Orozco-Gonzalez seconded the motion.

**Yes votes:** Members Darling-Hammond, Escobedo, Glover Woods, Lewis, Olken, Orozco-Gonzalez, Porter, Rodriguez, and Yoshimoto-Towery.

**No votes:** None

**Members Absent:** Members McQuillen and Pattillo Brownson

**Abstentions:** None

**Recusals:** None

The motion passed with 9 votes.

#### Item 10

**Subject:** T.I.M.E. Community: Consider Evidence Regarding a Notice of Violation Issued by the California State Board of Education, pursuant to California Education Code Section 47607(g), and Consider Issuing a Notice of Intent to Revoke with Notice of Facts, pursuant to California Education Code Section 47607(h).

**Type of Action:** Action, Information

**Recommendation:** T.I.M.E. has failed to adequately refute, remedy, or propose to remedy the violations outlined in the Notice of Violation that was issued to the school by the SBE on   
March 9, 2023. Therefore, the CDE recommends that the SBE issue a Notice of Intent to Revoke with Notice of Facts to T.I.M.E., pursuant to *EC* Section 47607(h), at its   
May 18, 2023, meeting, and hold a public hearing to issue a final decision to revoke the T.I.M.E. charter at its May 19, 2023, meeting.

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

Member Escobedo seconded the motion.

**Yes votes:** Members Darling-Hammond, Escobedo, Glover Woods, Lewis, Olken, Orozco-Gonzalez, Porter, Rodriguez, and Yoshimoto-Towery.

**No votes:** None

**Members Absent:** Members McQuillen and Pattillo Brownson

**Abstentions:** None

**Recusals:** None

The motion passed with 9 votes.

#### Item 12

**Subject:** Presentation of the California State Plan for Career Technical Education.

**Type of Action:** Information

**Recommendation:** This item is information only, there are no recommendations at this time.

**ACTION:** No Action Taken.

#### Re-OPEN Item 01

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

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

**Type of Action:** Action, Information

**Recommendation:** The SBE staff recommends that the SBE:

1. Approve the Preliminary Report of Actions/Minutes for the March 8-9, 2023 meeting. (Attachment 1)
2. Adjust term limits for March 9, 2023 SBE appointees to the Advisory Commission on Special Education. (Attachment 2)
3. Board member liaison reports

**ACTION 1:** Member Rodriguez moved to approve the SBE staff recommendation to approve the Preliminary Report of Actions/Draft Minutes for the March 8-9, 2023 meeting.

Member Orozco-Gonzalez seconded the motion.

**Yes votes:** Members Darling-Hammond, Escobedo, Glover Woods, Lewis, Olken, Orozco-Gonzalez, Porter, Rodriguez, and Yoshimoto-Towery.

**No votes:** None

**Members Absent:** Members McQuillen and Pattillo Brownson

**Abstentions:** None

**Recusals:** None

The motion passed with 9 votes.

**ACTION 2:** Member Glover Woods moved to approve the adjustment of term limits for the March 9, 2023 SBE appointees to the Advisory Commission on Special Education, as set forth in attachment 2.

Member Rodriguez seconded the motion.

**Yes votes:** Members Darling-Hammond, Escobedo, Glover Woods, Lewis, Olken, Orozco-Gonzalez, Porter, Rodriguez, and Yoshimoto-Towery.

**No votes:** None

**Members Absent:** Members McQuillen and Pattillo Brownson

**Abstentions:** None

**Recusals:** None

The motion passed with 9 votes.

### CONTINUANCE OF THE MEETING

**At approximately 5:10 p.m., President Darling-Hammond announced that the meeting would continue on the following day with closed session wherethe Board would discuss and/or take action on the following case:**

* *Mirabelli v. Olson*

## California State Board of Education Public Session May 19, 2023

**Friday, May 19, 2023 – 8:30 a.m. Pacific Time +**

California Department of Education

1430 N Street, Room 1101

Sacramento, California 95814

* Call to Order
* Communications
* Announcements
* Special Presentations  
  *Public notice is hereby given that special presentations for informational purposes may take place during this session.*
* Agenda Items
* Adjournment

*REPORT OUT OF CLOSED SESSION*

President Darling-Hammond announced that in Closed Session the Board discussed and/or took action on the following case:

* *Mirabelli v. Olson*

### AGENDA ITEMS – DAY 2

### WAIVERS/ACTION AND CONSENT ITEMS

*(W-01 through W-11)*

The following agenda items include waivers that are proposed for consent and those waivers scheduled for separate action because CDE staff may have recommended denial or determined that they may present new or unusual issues. Waivers proposed for consent are so indicated on each waiver’s agenda item; however, any board member may remove a waiver from proposed consent and the item may be heard individually. Action different from that recommended by CDE staff may be taken.

Community Day Schools (CDS) (Minimum School Day)

#### Item W-01

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

Waiver Number: 1-10-2022

(Recommended for APPROVAL WITH CONDITIONS)

Community Day Schools (CDS) (Commingle Grade Levels)

#### Item W-02

**Subject:** Request by the **Chico Unified School District** for a waiver of portions of California *Education Code* Section 48660 to permit the Academy for Change community day school to serve students in grade six with students in grades seven through twelve, but no grade lower than grade six.

Waiver Number: 12-12-2022

(Recommended for APPROVAL WITH CONDITIONS)

Community Day Schools (CDS) (Minimum School Day)

#### Item W-03

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

Waiver Number: 10-11-2022

(Recommended for APPROVAL WITH CONDITIONS)

Special Education Program (Educational Interpreter for Deaf and Hard of Hearing)

#### Item W-04

**Subject:** Request by the **San Luis Obispo County Office of Education** to waive California Code of Regulations, Title 5, Section 3051.16(b)(3), the requirement that educational interpreters for deaf and hard of hearing pupils meet minimum qualifications as of July 1, 2009, to allow K.C. Loden to continue to provide services to students until July 31, 2023, under a remediation plan to complete those minimum requirements.

Waiver Number: 4-8-2022

(Recommended for APPROVAL WITH CONDITIONS)

School District Reorganization (Size of Governing Board)

#### Item W-05

**Subject:** Request by the **Big Lagoon Union Elementary School District** to waive California *Education Code* Section 5020, which requires a districtwide election to reduce the number of governing board members from five to three.

Waiver Number: 8-1-2023

(Recommended for APPROVAL)

School District Reorganization (60 day Requirement to Fill Board Vacancy)

#### Item W-06

**Subject:** Request by the **Hughes-Elizabeth Lakes Union Elementary School District** to waive portions of California *Education Code* Section 5091, which requires the board of trustees to make an appointment to fill a vacant board position within 60 days of the position becoming vacant.

Waiver Number: 5-2-2023

(Recommended for APPROVAL)

Sale or Lease of Surplus Property (Sale of Surplus Property)

#### Item W-07

**Subject:** Request by the **Oceanside Unified School District** to waive California *Education Code* sections specific to statutory provisions for the sale or lease of surplus property.

Waiver Number: 1-2-2023

(Recommended for APPROVAL WITH CONDITIONS)

School Construction Bonds (Citizens Oversight Comittee - Term Limits)

#### Item W-08

**Subject:** Request by the **Oxnard School District** to waive portions of California *Education Code* Section 15282(a), relating to term limits for members of a Citizens’ Oversight Committee for all construction bonds in the district.

Waiver Number: 6-11-2022

(Recommended for APPROVAL WITH CONDITIONS)

School Construction Bonds (Bond Indebtedness Limit)

#### Item W-09

**Subject:** Request by **ten local educational agencies** to waive California *Education Code* sections 15102, 15268, 15106, and/or 15270(a) to allow the districts to exceed their bonded indebtedness limits. Total bonded indebtedness may not exceed 1.25 percent of the taxable assessed valuation of property for elementary or high school districts and 2.50 percent of the taxable assessed valuation of property for unified school districts. Depending on the type of bond, a tax rate levy limit of $30 per $100,000 of assessed value for elementary or high school districts and $60 per $100,000 of assessed value for unified school districts may also apply.

Waiver Number:

* Alum Rock Union Elementary School District 11-2-2023
* Compton Unified School District 9-2-2023
* Mount Pleasant Elementary School District 4-2-2023
* Muroc Joint Unified School District 12-2-2023
* Oxnard School District 9-12-2022
* Pittsburg Unified School District 10-2-2023
* Planada Elementary School District 7-12-2022
* Rio Elementary School District 6-12-2022
* Selma Unified School District 14-2-2023
* Stockton Unified School District 15-2-2023

(Recommended for APPROVAL WITH CONDITIONS)

Other Waivers (Employment - Retirement System)

#### Item W-10

**Subject:** Request by the **Inglewood Unified School District** to waive California *Education Code* Section 45134(c), in which no person shall be employed in a classified position in school employment while he or she is receiving a retirement allowance under any retirement system by reason of prior school employment, to allow a retired individual, Dr. James Morris, to be appointed to a classified position as the County Administrator.

Waiver Number: 5-1-2023

(Recommended for APPROVAL WITH CONDITIONS)

Other Waivers (Other Waivers)

#### Item W-11

**Subject:** Request by the **Los Angeles Unified School District** to waive portions of California *Education Code* Section 45272(a), to allow the appointment of applicants from outside the top three ranks on the eligibility lists to classified positions.

Waiver Number: 8-12-2022

(Recommended for APPROVAL WITH CONDITIONS)

**ACTION:** Member Glover Woods moved to approve the CDE staff recommendations for each waiver item on consent (W-01 through W-11).

Member Olken seconded the motion.

**Yes votes:** Members Darling-Hammond, Glover Woods, Lewis, Olken, Orozco-Gonzalez, Porter, Rodriguez, and Yoshimoto-Towery.

**No votes:** None

**Members Absent:** Members Escobedo, McQuillen, and Pattillo Brownson

**Abstentions:** None

**Recusals:** None

The motion passed with 8 votes.

#### *END OF WAIVER CONSENT ITEMS*

### REGULAR ITEMS CONTINUED – DAY 2

#### Item 11

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

**Type of Action:** Action, Information

**Recommendation:** The CDE recommends that the SBE take the following actions on the charter schools’ mitigating circumstances requests and determination of funding requests:

1. Approve the mitigating circumstances requests and determination of funding requests at 100 percent for 20 charter schools, as specified below and in Attachment 1.
2. Approve the mitigating circumstances requests and determination of funding requests at 85 percent for seven charter schools, as specified below and in Attachment 1.
3. Deny the mitigating circumstances requests and approve the determination of funding requests at the level for which they qualify based on their reported expenditures for seven charter schools, as specified below and in Attachment 1.

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

Member Glover Woods seconded the motion.

**Yes votes:** Members Darling-Hammond, Glover Woods, Lewis, Olken, Porter, and Yoshimoto-Towery.

**No votes:** Members Rodriguez and Orozco-Gonzalez

**Members Absent:** Members Escobedo, McQuillen, and Pattillo Brownson

**Abstentions:** None

**Recusals:** None

The motion passed with 6 votes.

### Item 13 was not heard. The charter was surrendered by action of the T.I.M.E. Board on May 19, 2023 with a school closure date of June 5, 2023.

### ~~PUBLIC HEARING~~

~~The following Public Hearing will commence no earlier than 9:00 a.m. on Friday, May 19, 2023. The Public Hearing listed below will be held as close to 9:00 a.m. as the business of the State Board permits.~~

#### ~~Item 13~~

**~~Subject:~~** ~~T.I.M.E. Community: Hold a Public Hearing and Consider Revocation of the Charter, pursuant to California Education Code Section 47607(h).~~

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

**~~Recommendation:~~** ~~On May 18, 2023, the SBE will consider issuing a Notice of Intent to Revoke and Notice of Facts in support of revocation of the T.I.M.E. charter. If the SBE issues the Notice of Intent to Revoke with Notice of Facts on May 18, 2023, the CDE recommends that the SBE hold a public hearing on May 19, 2023, to consider the final decision to revoke the T.I.M.E. charter.~~

~~If the SBE finds sufficient grounds for revocation, the CDE recommends that the SBE adopt the Final Decision to Revoke (Attachment 1), and that the SBE provide notice to the T.I.M.E. Board that revocation becomes effective on Friday, June 30, 2023, and direct T.I.M.E. to immediately begin the closure procedures set forth in the T.I.M.E. charter petition approved by the SBE on July 9, 2020.~~

[Note: the preceding information about Item 13 contains strikethroughs which indicate the item has been withdrawn.]

### REGULAR ITEMS CONTINUED – DAY 2

#### Item 14

**Subject:** GENERAL PUBLIC COMMENT.

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

**Type of Action:** Information

**ACTION:** No Action Taken.

### ADJOURNMENT OF THE MEETING

**President Darling-Hammond adjourned the meeting at approximately 10:45 a.m.**