

# California State Board of Education Final Minutes November 6, 2019

## Members Present

* Linda Darling-Hammond, President
* Ilene W. Straus, Vice President
* Sue Burr
* Feliza I. Ortiz-Licon
* Kim Pattillo Brownson
* Patricia A. Rucker
* Niki Sandoval
* Ting L. Sun
* Brenna Pangelinan, Student Member
* Tony Thurmond, State Superintendent of Public Instruction (SSPI), Secretary and Executive Officer

## Member Absent

* Matt Navo

## Principal Staff

* Karen Stapf Walters, Executive Director, State Board of Education (SBE)
* Judy Cias, Chief Counsel, SBE
* Patricia de Cos, Deputy Executive Director, SBE
* David Sapp, Deputy Policy Director and Assistant Legal Counsel, SBE
* Janet Weeks, Director of Communications, SBE
* Carolyn Pfister, Education Administrator I, SBE
* Laila Fahimuddin, Policy Consultant, SBE
* Sara Pietrowski, Policy Consultant, SBE
* Pamela Castleman, Education Programs Consultant, SBE
* Amy Bubbico, Staff Services Manager I, SBE
* Lupita Cortez-Alcalá, Chief Deputy Superintendent, California Department of Education (CDE)
* Stephanie Gregson, Deputy Superintendent, CDE
* Khieem Jackson, Deputy Superintendent, CDE
* Sarah Neville-Morgan, Deputy Superintendent, CDE
* Stephanie Papas, Education Policy Administrator I, CDE
* Keith Yamanaka, Chief Counsel, CDE

**Please note that the complete proceedings of the November 6, 2019 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 November 6, 2019

**Wednesday – November 6, 2019 – 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
* Report of the State Superintendent of Public Instruction
* Special Presentations
  + *Public notice is hereby given that special presentations for informational purposes may take place during this session.*
* Agenda Items
* Continuance

**President Darling-Hammond called the meeting to order at approximately 8:30 a.m.**

*REPORT OUT OF CLOSED SESSION*

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

* *Ella T. v. State*

**Report of the State Superintendent of Public Instruction**

### AGENDA ITEMS DAY 1

#### Item 01

**Subject:** 2020-2021 State Board of Education Student Member: Recommendation of Three Finalists for Submission to the Governor for Consideration and Appointment.

**Type of Action:** Action, Information

**SBE Screening Committee Recommendation:** The SBE Screening Committee (consisting of Members Straus (Chair), Ortiz-Licon, Pattillo Brownson, and Student Board Member Pangelinan) recommends that the SBE approve the following three finalists for the position of 2020-2021 SBE Student Member, as identified in the Item Addendum:

* **Michelle Alas,** Northgate High School, within the Mt. Diablo Unified School District, Contra Costa County
* **Arlene Campa,** Los Angeles County High School for the Arts, within the Los Angeles County Office of Education, Los Angeles County
* **Zaid Fattah,** Monte Visa High School, within the San Ramon Valley Unified School District, Contra Costa County

The approved finalists will be forwarded to the Governor for his consideration and appointment as the 2020-21 SBE Student Member.

In addition to the finalists named above, the following students were identified as candidates for the 2020-2021 Student Member of the Board:

* **Ethan Collier,** Hilltop High School, within the Sweetwater Union High School District, San Diego County
* **Elena Medina,** High Tech High Chula Vista, within the San Diego Unified School District, San Diego County
* **Deyi (Oliver) Zhang,** Castro Valley High School, within the Castro Valley Unified School District, Alameda County

The following students were also identified as semi-finalists for the 2020-2021 Student Member of the Board:

* **Christian Calcines,** Valley Academy of Arts and Sciences, within the Los Angeles Unified School District, Los Angeles
* **Jennifer Chavez-Veyna,** Ramona High School, within the Riverside Unified School District, Riverside County
* **Rosemary Gomes,** Ramona High School, within the Riverside Unified School District, Riverside County
* **Dayla Mecham,** Paradise High School, within the Paradise Unified School District, Butte County
* **Leah Perez,** Shasta High School, within the Shasta Union High School District, Shasta County
* **Jessica Ramos,** Skyline High School, within the Oakland Unified School District, Alameda County

**ACTION:** Member Ortiz-Licon moved the SBE Screening Committee recommendation.

Member Pattillo Brownson seconded the motion.

**Yes votes:** Members Sandoval, Pangelinan, Pattillo Brownson, Sun, Darling-Hammond, Straus, Burr, Ortiz-Licon, and Rucker.

**No votes:** None

**Member Absent:** Member Navo

**Abstentions:** None

**Recusals:** None

The motion passed with 9 votes.

#### Item 02

**Subject:** Reports from the 2019 Student Advisory Board on Education.

**Type of Action:** Information

**SBE Recommendation:** Listen to student proposals from the 2019 Student Advisory Board on Education (SABE) Conference.

**ACTION:** No Action Taken.

#### Item 03

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

**Type of Action:** Action, Information

**Recommendation:** No action is recommended at this time. However, the CDE requests that the SBE provide feedback on the continued development of the statewide system of support.

**ACTION:** No Action Taken.

#### Item 04

**Subject:** Update on the Implementation of the Integrated Local, State, and Federal Accountability and Continuous Improvement System: Adoption of the English Learner Progress Indicator Status Methodology and Use of Status in Local Educational Agency and School Eligibility Assistance Determination and Update on the 2019 California School Dashboard.

**Type of Action:** Action, Information

**CDE Recommendation:** The CDE recommends that the SBE approve: (1) the methodology and cut scores for English Learner Progress Indicator (ELPI) Status by splitting levels 2 and 3 of the English Learner Proficiency Assessments for California (ELPAC) Summative Assessment thereby creating six ELPI levels based on the ELPAC, and (2) use the “Very Low” Status to determine Local Educational Agency (LEA) and school eligibility for support.

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

Member Rucker seconded the motion.

**Yes votes:** Members Sandoval, Pangelinan, Pattillo Brownson, Sun, Straus, Burr, Ortiz-Licon, and Rucker.

**No votes:** None

**Members Absent:** Members Darling-Hammond and Navo

**Abstentions:** None

**Recusals:** None

The motion passed with 8 votes.

#### Item 06

**Subject:** The California Assessment of Student Performance and Progress System and English Language Proficiency Assessments for California: Approval of the California Science Test Threshold Scores and an Update on Assessment Program Activities.

**Type of Action:** Action, Information

**CDE Recommendation:** The CDE recommends that the SBE approve the State Superintendent of Public Instruction’s proposed California Science Test (CAST) threshold scores, to be effective beginning with the 2018–19 administration. The proposed threshold scores are shown in table 1 of Attachment 2.

**ACTION:** Member Rucker moved the CDE staff recommendation.

Member Ortiz-Licon seconded the motion.

**Yes votes:** Members Sandoval, Pangelinan, Pattillo Brownson, Sun, Darling-Hammond, Straus, Burr, Ortiz-Licon, and Rucker.

**No votes:** None

**Member Absent:** Member Navo

**Abstentions:** None

**Recusals:** None

The motion passed with 9 votes.

#### Item 07

**Subject:** California Assessment of Student Performance and Progress: Determination of the Release of Up to 10 Percent Withheld for the 2018–19 Regents of the University of California Contract.

**Type of Action:** Action, Information

**CDE Recommendation:** The CDE recommends releasing the full amount of $13,769.26 of funds withheld from the University of California, Santa Cruz (UCSC) contract for activities to develop the California Educator Reporting System (CERS) for the California Assessment of Student Performance and Progress (CAASPP) and the ELPAC. These funds were withheld during fiscal year (FY) 2018–19 from invoices paid with existing CAASPP and ELPAC System contract funding. The amounts per task are listed in Attachment 1.

**ACTION:** Member Sun moved the CDE staff recommendation.

Member Rucker seconded the motion.

**Yes votes:** Members Sandoval, Pangelinan, Pattillo Brownson, Sun, Darling-Hammond, Straus, Burr, Ortiz-Licon, and Rucker.

**No votes:** None

**Member Absent:** Member Navo

**Abstentions:** None

**Recusals:** None

The motion passed with 9 votes.

### PUBLIC HEARING

#### Item 08

**Subject:** Baypoint Preparatory Academy-San Diego: Consider a Material Revision of the Charter to Change Admission Preferences.

**Type of Action:** Action, Information

**CDE Recommendation:** The CDE proposes to recommend that the SBE hold a public hearing to approve the request for the material revision of the Baypoint Preparatory Academy-San Diego (BPA-SD) petition to amend Element 8–Admission Requirements for the remainder of the five-year term of July 1, 2018, through June 30, 2023, under the oversight of the SBE, based on the CDE’s findings pursuant to *EC* sections 47605(b)(1), 47605(b)(2), 47605(b)(3), 47605(b)(4), 47605(b)(5), and 47605(b)(6), and *California Code of Regulations*, Title 5 Section 11967.5.1.

The CDE finds that the BPA-SD petition is consistent with sound educational practice and the petitioners are demonstrably likely to successfully implement the intended program.

If approved by the SBE, as a condition for approval, the BPA-SD petitioners will be required to revise the petition to include the necessary language for Element 8–Admission Requirements in two ways: to include the request in the material revision for free or reduced-price meals and for the transitional kindergarten (TK) program. If space is not available for pupils in the TK program, then applicants will be entered into a lottery based on the preferences used for kindergarten (K) through grade eight, rather than be granted to pupils in order of application date.

**President Darling Hammond opened the Public Hearing at approximately 3:10 p.m.**

**President Darling Hammond closed the Public Hearing at approximately 3:16 p.m.**

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

Member Sun seconded the motion.

**Yes votes:** Members Sandoval, Pangelinan, Pattillo Brownson, Sun, Darling-Hammond, Straus, Burr, and Ortiz-Licon.

**No votes:** None

**Member Absent:** Member Navo

**Abstentions:** Member Rucker

**Recusals:** None

The motion passed with 8 votes.

### END OF PUBLIC HEARING

#### Item 09

**Subject:** The 2020 Health Instructional Materials Adoption: Appointment of Reviewers.

**Type of Action:** Action, Information

**CDE Recommendation:** The CDE recommends that the SBE take the following action: Appoint Instructional Materials Reviewers (IMRs) and Content Review Experts (CREs) as recommended by the Instructional Quality Commission (IQC).

**ACTION:** Member Ortiz-Licon moved the CDE staff recommendation.

Member Rucker seconded the motion.

**Yes votes:** Members Sandoval, Pangelinan, Pattillo Brownson, Sun, Darling-Hammond, Straus, Burr, Ortiz-Licon, and Rucker.

**No votes:** None

**Member Absent:** Member Navo

**Abstentions:** None

**Recusals:** None

The motion passed with 9 votes.

### WAIVERS ON CONSENT

*(W-01 through W-04, and W-06 through W-07)*

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

Charter School Program (Nonclassroom-Based Funding)

#### Item W-01

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

El Centro Elementary School District 3-8-2019

Fort Sage Unified School District 6-8-2019

(Recommended for APPROVAL)

Federal Program Waiver (Carl D. Perkins Voc and Tech Ed Act)

#### Item W-02

**Subject:** Request by **Chawanakee Unified Scool District** for a waiver of Section 131(c)(1) of the Carl D. Perkins Career and Technical Education Improvement for the 21st Century Act (Public Law 115-224).

Waiver Number: Fed-12-2019

(Recommended for APPROVAL)

Instructional Time Requirement Audit Penalty (Below 1982-83 Base Minimum Minutes)

#### Item W-03

**Subject:** Requests by two districtsunder the authority of the California *Education Code* Section 46206(a), to waive *Education Code* sections 46200 and 46201(a), the audit penalty for offering insufficient instructional days and minutes during the 2016–17 and 2017–18 school years.  
Waiver Numbers:

Oakland Unified School District 6-7-2019  
San Francisco Unified School District 4-7-2019  
(Recommended for APPROVAL WITH CONDITIONS)

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

#### Item W-04

**Subject:** Request byfour local educational agencies to waive California *Education Code (EC)* sections specific to statutory provisions for the sale or lease of surplus property.   
Waiver Numbers:

Lakeside Union Elementary School District 9-8-2019  
Napa Valley Unified School District 12-7-2019  
Poway Unified School District 9-7-2019

San Diego Unified School District 7-8-2019  
(Recommended for APPROVAL WITH CONDITIONS)

*ACTION ON WAIVER CONSENT ITEMS W-01 THROUGH W-04*

**ACTION:** Member Rucker moved to approve the CDE staff recommendations for each waiver item on consent (Item W-01 through W-04).

Member Sandoval seconded the motion.

**Yes votes:** Members Sandoval, Pangelinan, Pattillo Brownson, Sun, Darling-Hammond, Straus, Burr, Ortiz-Licon, and Rucker.

**No votes:** None

**Member Absent:** Member Navo

**Abstentions:** None

**Recusals:** None

Motion passed with 9 votes.

School District Reorganization (Elimination of Election Requirement)

#### Item W-06

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

Waiver Numbers:

Antioch Unified School District 15-7-2019

La Mesa-Spring Valley School District 4-8-2019

Mooreland School District 10-8-2019

Oakley Union Elementary School District 7-7-2019

San Rafael City High School District 1-9-2019

South Bay Union School District 11-8-2019

(Recommended for APPROVAL)

Other Waivers

#### Item W-07

**Subject:** Request by **Standard Elementary School District** to waive California *Education Code* (*EC*) Section 17407.5, which requires that a “skilled and trained workforce” be used in connection with projects utilizing the lease-leaseback construction delivery method.

Waiver Number: 1-8-2019

(Recommended for DENIAL)

*ACTION ON WAIVER CONSENT ITEMS W-06 AND W-07*

**ACTION:** Member Rucker moved to approve the CDE staff recommendations for each waiver item on consent (Item W-06 and W-07).

Member Sun seconded the motion.

**Yes votes:** Members Sandoval, Pangelinan, Pattillo Brownson, Sun, Darling-Hammond, Straus, Burr, Ortiz-Licon, and Rucker.

**No votes:** None

**Member Absent:** Member Navo

**Abstentions:** None

**Recusals:** None

Motion passed with 9 votes.

### Item W-05 was withdrawn by the California Department of Education on November 6, 2019.

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

#### ~~Item W-05~~

**~~Subject:~~** ~~Request by the~~ **~~Torrance Unified School District~~** ~~to waive California~~ *~~Education Code (EC)~~* ~~sections specific to statutory provisions for the sale or lease of surplus property.  
Waiver Number 2-8-2019  
(Recommended for APPROVAL WITH CONDITIONS)~~

[Note: the preceding information about Item W-05 contains strikethroughs which indicate the item has been withdrawn.]

### END OF WAIVERS

### REGULAR CONSENT ITEMS

*(Item 10 through Item 14)*

#### Item 10

**Subject:** Approval of 2019–20 Consolidated Applications.

**Type of Action:** Action, Information

**CDE Recommendation:** The CDE recommends that the SBE approve the 2019–20 Consolidated Applications (ConApps) submitted by LEAs in Attachment 1.

#### Item 11

**Subject:** English Language Proficiency Assessments for California: Approve Commencement of a 15-day Public Comment Period for Proposed Amendments to the California Code of Regulations, Title 5, Sections 11518, 11518.5, 11518.15, 11518.20, 11518.25, 11518.30, 11518.35, 11518.37, 11518.40, 11518.45, 11518.50, 11518.75, and 11518.77.

**Type of Action:** Action, Information

**CDE Recommendation:** The CDE recommends the SBE take the following actions:

* Approve the proposed changes to the proposed regulation amendments.
* Direct that the proposed changes be circulated for a 15-day public comment period in accordance with the Administrative Procedure Act.
* If no relevant comments to the proposed changes are received during the 15-day public comment period, the proposed regulations with changes are deemed adopted and the CDE is directed to complete the rulemaking package and submit it to the Office of Administrative Law (OAL).
* If any relevant comments to the proposed changes are received during the 15-day public comment period, the CDE is directed to place the proposed regulations on the SBE’s January agenda for action.
* Authorize the CDE to take any necessary ministerial action to respond to any direction or concern expressed by the OAL during its review of the final rulemaking file.

#### Item 12

**Subject:** English Language Proficiency Assessments for California: Readoption of the Finding of Emergency and Proposed Emergency Regulations for Amendments to the California Code of Regulations, Title 5, Sections 11518, 11518.5, 11518.15, 11518.20, 11518.25, 11518.30, 11518.35, 11518.37, 11518.40, 11518.45, 11518.50, 11518.75, and 11518.77.

**Type of Action:** Action, Information

**CDE Recommendation:** The CDE recommends the SBE take the following actions:

* Approve the Finding of Emergency.
* Readopt the proposed emergency regulation amendments.
* Direct the CDE to circulate the required Notice of Proposed Emergency Action, and then resubmit the emergency regulations to the OAL for readoption.
* Authorize the CDE to take any necessary action to respond to any direction or concern expressed by the OAL during its review of the Finding of Emergency and proposed emergency regulation amendments.

#### Item 13

**Subject:** Consideration of Request 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

**CDE Recommendation:** The CDE recommends that the SBE approve the determination of funding request with mitigating circumstances at the percentage and time period specified for the charter school listed on Attachment 1.

**Advisory Commission on Charter Schools Recommendation**

At the October 8, 2019, meeting, the ACCS voted unanimously to approve the CDE recommendation that the SBE approve the determination of funding and the time period specified for the Nonclassroom-based (NCB) charter school as provided in Attachment 1.

The meeting notice for the October 8, 2019, ACCS meeting is located on the SBE ACCS web page at <https://www.cde.ca.gov/be/cc/cs/accsnotice100819.asp>.

#### Item 14

**Subject:** Vision Testing: Adopt Proposed Amendments to the California Code of Regulations, Title 5 sections 590, 591, 594, and 596 and Proposed Section 597.

**Type of Action:** Action, Information

**CDE Recommendation:** The CDE recommends the SBE take the following actions:

* Adopt the proposed regulations.
* Authorize the CDE to take any necessary ministerial action to respond to any direction or concern expressed by the Office of Administrative Law during its review of the final rulemaking file.

*“A Guide for Vision Screening in California Public Schools,”* provided as Attachment 6, is provided for information only.

*ACTION ON REGULAR CONSENT ITEMS*

**ACTION:** Member Rucker moved to approve the CDE staff recommendations for each regular item on consent (Item 10 through Item 14).

Member Sandoval seconded the motion.

**Yes votes:** Members Sandoval, Pangelinan, Pattillo Brownson, Sun, Darling-Hammond, Straus, Burr, Ortiz-Licon, and Rucker.

**No votes:** None

**Member Absent:** Member Navo

**Abstentions:** None

**Recusals:** None

The motion passed with 9 votes.

*END OF REGULAR CONSENT ITEMS*

### REGULAR AGENDA ITEMS Continued

#### Item 05

**Subject:** Update on the Development of the California State Plan for the Every Student Succeeds Act: Technical Amendments for Inclusion in the State Plan for Resubmission to the U.S. Department of Education.

**Type of Action:** Action, Information

**CDE Recommendation:** The CDE recommends that the SBE approve: (1) clarification of the definitions of “ineffective teacher” and “out of field” teacher and (2) the proposed long-term goal and revised Status cut scores for the extended graduation rate and (3) CDE staff making technical edits to the plan as required.

**ACTION:** Member Rucker moved to approve the CDE recommendation, with the following modifications:

1. For the “Ineffective teacher” definition, strike the word <full> from the second bullet, to read: < A teacher who holds a teaching credential but does not possess a permit or authorization that temporarily allows them to teach outside of their credentialed area (misassigned)>.
2. For the “Out-of-field teacher” definition, revise to read:

A credentialed out-of-field teacher is:

A fully credentialed teacher who has not yet demonstrated subject matter competence in the subject area(s) or for the student population to which he or she is assigned. Under this definition, the following limited permits will be considered out of field:

* General Education Limited Assignment Permit (GELAP)
* Special Education Limited Assignment Permit (SELAP)
* Short-Term Waivers
* Emergency English Learner or Bilingual Authorization Permits
* Local Assignment Options

Member Sun seconded the motion.

**Yes votes:** Members Pangelinan, Pattillo Brownson, Sun, Darling-Hammond, Straus, Burr, Ortiz-Licon, and Rucker.

**No votes:** None

**Members Absent:** Members Navo and Sandoval

**Abstentions:** None

**Recusals:** None

The motion passed with 8 votes.

#### Item 15

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

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

**Type of Action:** Action, Information

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

1. Approve the Preliminary Report of Actions/Minutes for the September 11, 2019 meeting. (Attachment 1)
2. Consider the SBE Screening Committee recommendations for appointments to the Advisory Commission on Special Education, California Practitioners Advisory Group, and the Instructional Quality Commission. (Attachment 2)

**ACTION 1:** Member Burr moved to approve the SBE staff recommendation.

Member Rucker seconded the motion.

**Yes votes:** Members Pangelinan, Pattillo Brownson, Sun, Darling-Hammond, Straus, Burr, Ortiz-Licon, and Rucker.

**No votes:** None

**Members Absent:** Members Navo and Sandoval

**Abstentions:** None

**Recusals:** None

The motion passed with 8 votes.

**ACTION 2:** Member Straus moved to approve the SBE Screening Committee recommendations for appointments to the Advisory Commission on Special Education, California Practitioners Advisory Group, and the Instructional Quality Commission. (Attachment 2)

Member Pattillo Brownson seconded the motion.

**Yes votes:** Members Pangelinan, Pattillo Brownson, Sun, Darling-Hammond, Straus, Burr, Ortiz-Licon, and Rucker.

**No votes:** None

**Members Absent:** Members Navo and Sandoval

**Abstentions:** None

**Recusals:** None

The motion passed with 8 votes.

#### Item 16

**Subject:** GENERAL PUBLIC COMMENT.

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

**Type of Action:** Information

**ACTION:** No Action Taken.

### ADJOURNMENT OF MEETING

**President Darling-Hammond adjourned the meeting at approximately 5:29 p.m.**