Agenda--March 10-11, 2004

California State Board of Education (SBE) meeting agenda.

FULL BOARD
Public Session

AGENDA

March 10-11, 2004

All Items within the Agenda are Portable Document Format (PDF) Files. And you'll need Adobe Acrobat Reader to open them.

Schedule of Meeting and Closed Session Agenda (PDF; 135KB; 4pp.)

Wednesday, March 10, 2004 - 9:00 a.m. ± (Upon adjournment of Closed Session if held)

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

- Call to Order
- Salute to the Flag
- Approval of Minutes (January 2004 Meeting)
- Announcements
- Communications
- REPORT OF THE SUPERINTENDENT
- SPECIAL PRESENTATIONS

Public notice is hereby given that special presentations for informational purposes may take place during this session.

STATE BOARD PROJECTS AND PRIORITIES.

ITEM 1 (PDF; 348KB; 16pp.)	Including, but not limited to, future meeting plans; agenda items; State Board office budget; staffing, appointments, and direction to staff; declaratory and commendatory resolutions; update on litigation; bylaw review and revision; review of the status of State Board-approved charter schools as necessary; election of State Board officers; and other matters of interest.	INFORMATION ACTION

PUBLIC COMMENT.

ITEM 2 (PDF; 52KB; 1p.)	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.	INFORMATION

ITEM 3	Standardized Testing and Reporting (STAR): Including, but not limited to, approval to allow	INFORMATION

(PDF; 58KB; 2pp.)	Grade Eleven Students enrolled in Integrated Mathematics 3 to take the Algebra II California Standards Test (CST).	ACTION
ITEM 4 (PDF; 10KB; 4pp.)	Standardized Testing and Reporting (STAR) Program: Approval of Contract Amendment for New Item Development.	INFORMATION ACTION
ITEM 5 (PDF; 78KB; 2pp.)	Standardized Testing and Reporting (STAR) Program: Approval of Performance Standards (Levels) for the Grade 5 Science California Standards Test (CST). • Last Minute Blue (PDF; 116KB; 7pp.)	INFORMATION ACTION
ITEM 6 (PDF; 411KB; 44pp.)	Special Education, Standardized Testing and Reporting (STAR) Program: Approval of scope of work for the 2004-2005 California Alternate Performance Assessment (CAPA).	INFORMATION ACTION
ITEM 7 (PDF; 76KB; 2pp.)	Standardized Testing and Reporting (STAR) Program: Approval of 2004 District Apportionment Amounts.	INFORMATION ACTION
ITEM 8 (PDF; 169KB; 7pp.)	Golden State Seal Merit Diploma: Adopt Proposed Title 5 Regulations. • Last Minute Blue (PDF; 41KB; 6pp.)	INFORMATION ACTION
ITEM 9 (PDF; 123KB; 10pp.)	California English Language Development Test (CELDT): Update including, but not limited to, 2003 Preliminary Annual Assessment Results. • Last Minute Blue (PDF; 32KB; 2pp.)	INFORMATION ACTION
ITEM 10 (PDF; 72KB; 2pp.)	California High School Exit Examination (CAHSEE): Including, but not limited to, Program Update.	INFORMATION ACTION
ITEM 11 (PDF; 178KB; 10pp.)	General Education Development (GED): Approve Commencement of the Rulemaking Process for Amendments to Title 5 Section 11530(e). • Last Minute Blue (PDF; 14KB; 1pp.)	INFORMATION ACTION

ITEM 12 (PDF; 97KB; 6pp.)	*No Child Left Behind (NCLB) Act of 2001:* Including, but not limited to, a report on the February NCLB Liaison Team meeting, Highly Qualified Teacher issues, and supplemental educational service provider.	INFORMATION ACTION
ITEM 13 (PDF; 104KB; 7pp.)	*No Child Left Behind (NCLB) Act of 2001* : Ed-Flex.	INFORMATION ACTION
ITEM 14 (PDF; 126KB; 7pp.)	*No Child Left Behind (NCLB) Act of 2001:* Proposed Changes to California 's Accountability Workbook. • Last Minute Blue (PDF; 58KB; pp.)	INFORMATION ACTION
ITEM 15 (PDF; 137KB; 10pp.)	*No Child Left Behind (NCLB) Act of 2001:* Identifying Title I-funded Local Educational Agencies (LEAs) for Program Improvement.	INFORMATION ACTION
ITEM 16 (PDF; 126KB; 7pp.)	*No Child Left Behind (NCLB) Act of 2001:* Title IX, Persistently Dangerous Schools (PDS): Adopt revisions to the definition used in designating Persistently Dangerous Schools.	INFORMATION ACTION
ITEM 17 (PDF; 77KB; 2pp.)	*No Child Left Behind (NCLB) Act of 2001:* Title I Committee of Practitioners: Approval of Appointments.	INFORMATION ACTION
ITEM 18 (PDF; 69KB; 20pp.)	*No Child Left Behind (NCLB) Act of 2001:* Local Educational Agency Plans. • Last Minute Blue (PDF; 30KB; 2pp.)	INFORMATION ACTION
ITEM 19 (PDF; 97KB; 4pp.)	*No Child Left Behind (NCLB) Act of 2001* : Supplemental Educational Service Providers required by Title I Section 1116(e). • Last Minute Blue (PDF; 24KB; 2pp.)	INFORMATION ACTION
ITEM 20 (PDF; 200KB; 12pp.)	California State Plan (1999-2004) for the Workforce Investment Act, Title II: Adult Education and Family Literacy Act: Extension for one year and approval of performance goals for 2004-2005. • Last Minute Blue (PDF; 175KB; 9pp.)	INFORMATION ACTION

ITEM 21 (PDF; 89KB; 6pp.)	Curriculum Commission: Appointment of Instructional Materials Advisory Panel (IMAP) member and Content Review Panel (CRP) experts for the 2004 Healthy Primary Adoption.	INFORMATION ACTION
ITEM 22 (PDF; 155KB; 15pp.)	Instructional Materials: Approve Commencement of the Rulemaking Process for Amendments to Title 5, Sections 9515 and 9517, and Addition of Section 9517.1 for Follow-up Adoptions. • Last Minute Blue (PDF; 151KB; 7pp.)	INFORMATION ACTION

*** PUBLIC HEARING ***

A Public Hearing on the following agenda item will commence no earlier than 2:00 p.m. The Public Hearing will be held after 2:00 p.m. as the business of the State Board permits.

ITEM 23 (PDF; 110KB; 15pp.)	Curriculum Commission: Approval of Criteria for Evaluating K-8 Science Instructional Materials for 2006 Primary Adoption. • Last Minute Blue (PDF; 59KB; 12pp.)	INFORMATION ACTION PUBLIC HEARING

*** END OF PUBLIC HEARING ***

ITEM 24 (PDF; 71KB; 1pp.)	Mathematics and Reading Professional Development Program (AB 466) (Chapter 737, Statutes of 2001): Including, but not limited to, Approval of Training Providers and Training Curricula.	INFORMATION ACTION
ITEM 25 (PDF; 66KB; 1pp.)	Mathematics and Reading Professional Development Program (AB 466): Approval of Requests for Local Educational Agency (LEA) Reimbursement for 2003-04.	INFORMATION ACTION
ITEM 26 (PDF; 98KB; 4pp.)	The Principal Training Program (AB 75): Approval of Local Educational Agencies (LEAs) and Consortia applications for funding and information on Evaluation Process for the Principal Training Program.	INFORMATION ACTION
ITEM 27 (PDF; 92KB; 5pp.)	The Principal Training Program (AB 75): Approval of Training Providers.	INFORMATION ACTION
ITEM 28 (PDF; 85KB; 4pp.)	Funding Approval for the California Healthy Kids Resource Center for State Fiscal Year 2003-2004.	INFORMATION ACTION

ITEM 29 (PDF; 104KB; 7pp.)	Teaching As A Priority Block Grant Program: Approval of Evaluation in Accordance with *Education Code* Section 44735(h).	INFORMATION ACTION
ITEM 30 (PDF; 64KB; 1pp.)	Special Education: Approve Extension of the Submission Date for Special Education Local Plan Area (SELPA) Annual Budget and Service Plans.	INFORMATION ACTION
ITEM 31 (PDF; 246KB; 15pp.)	Special Education: Adopt Regulation 3088.1 and 3088.2 regarding withholding funds to enforce special education compliance.	INFORMATION ACTION

ADJOURNMENT OF DAY'S SESSION

Thursday, March 11, 2004 - 8:00 a.m.± (Upon adjournment of Closed Session if held)

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

- REPORT OF THE SUPERINTENDENT (unless presented on the preceding day)
- SPECIAL PRESENTATIONS
- Public notice is hereby given that special presentations for informational purposes may take place during this session.
- ITEMS DEFERRED FROM PRECEDING DAY
- Any matters deferred from the previous day's session may be considered.

The State Board of Education will also consider and take action as appropriate on the following agenda items:

ITEM 32 (PDF; 130KB; 12pp.)	Vision Testing: Adopt Proposed Amendments to *California Code of Regulations, Title 5, Education* , Division 1, Chapter 2, Subchapter 3, Article 4. • Last Minute Blue (PDF; 77KB; 8pp.)	INFORMATION ACTION
ITEM 33 (PDF; 99KB; 5pp.)	Immediate Intervention/Underperforming Schools Program (II/USP): Waiver Policy for higher-performing II/USP schools that do not make "significant growth" and are subject to state sanctions.	INFORMATION ACTION
ITEM 34 (PDF; 87KB; 5pp.)	Immediate Intervention/Underperforming Schools Program (II/USP): Proposed Intervention for (Cohorts I and II) schools that failed to show significant growth. • Last Minute Blue (PDF; 27KB; 3pp.)	INFORMATION ACTION
ITEM 35 (PDF; 67KB; 2pp.)	Immediate Intervention/Underperforming Schools Program (II/USP): School Assistance and Intervention Team (SAIT) Providers: Approve criteria for selection of SAIT Providers in 2004-05.	INFORMATION ACTION

ITEM 36 (PDF; 58KB; 1pp.)	Immediate Intervention/Underperforming Schools Program (II/USP): School Assistance and Intervention Team (SAIT): Approval of expenditure plan to support SAIT activities and corrective actions in "state-monitored" schools. • Last Minute Blue (PDF; 27KB; 3pp.)	INFORMATION ACTION
ITEM 37 (PDF; 95KB; 5pp.)	Proposed State Board of Education (SBE) Waiver Policy and Guidelines: Algebra I Graduation Requirement for Seniors in 2003-2004.	INFORMATION ACTION

WAIVER REQUESTS

CONSENT MATTERS

The following agenda items include waivers and other administrative matters that California Department of Education (CDE) staff have identified as having no opposition and presenting no new or unusual issues requiring the State Board's attention.

ADULT EDUCATION INNOVATION AND ALTERNATIVE INSTRUCTIONAL DELIVERY PROGRAM

ITEM WC-1 (PDF; 94KB; 4pp.)	Request by Alhambra School District to waive Education Code (EC) Section 52522(b) to increase their adult education state block entitlement of 5 percent to 7 percent for implementation of approved programs (Adult Education Innovation and Alternative Instructional Delivery Program). Waiver Number: 22-12-2003 (Recommended for APPROVAL WITH CONDITIONS)	ACTION
ITEM WC-2 (PDF; 83KB; 4pp.)	Request by Torrance Unified School District to waive Education Code (EC) Section 52522(b) to increase from 5 percent to 7 percent the proportion of their adult education state block entitlement that may be used to implement approved adult education innovation and alternative instructional delivery programs. Waiver Number: 27-12-2003 (Recommended for APPROVAL WITH CONDITIONS)	ACTION

CARL D. PERKINS VOCATIONAL & APPLIED TECHNOLOGY EDUCATION ACT

ITEM WC-3 (PDF; 68KB; 2pp.)	Request by Muroc Joint Unified School District for a waiver of Section 131(d)(1) of the Carl D. Perkins Vocational and Technical Education Act of 1998 (Public Law 105-332) Waiver Number: 24-12-2003 (Recommended for APPROVAL)	ACTION
ITEM WC-4 (PDF; 78KB; 4pp.)	Request by Lucerne Valley Unified School District for a waiver of Section 131(d)(1) of the Carl D. Perkins Vocational and Technical Education Act of 1998 (Public Law 105-332) Waiver Number: 25-12-2003 (Recommended for APPROVAL)	ACTION

FEDERAL WAIVERS – SAFE AND DRUG FREE

ITEM WC-5 (PDF; 74KB; 2pp.)	Request by Novato Unified School District to waive No Child Left Behind Act (NCLB); Title IV, Part A, Section 4115 (a)(1)(c) to use Safe and Drug Free Schools and Communities funds to support the cost of Bully-Proofing Your School, a K-8 program that offers a systems approach for handling bully/victim problems through the creation of a "caring community" approach. Waiver Number: Fed-11-2003 (Recommended for APPROVAL WITH CONDITIONS)	ACTION
ITEM WC-6 (PDF; 71KB; 2pp.)	Request by Novato Unified School District to waive No Child Left Behind Act (NCLB); Title IV, Part A, Section 4115 (a)(1)(c) to use Safe and Drug Free Schools and Communities funds to support the cost of Get Real About Violence, a researched-based, K-12, violence prevention program. Waiver Number: Fed-07-2003 (Recommended for APPROVAL WITH CONDITIONS)	ACTION
ITEM WC-7 (PDF; 75KB; 2pp.)	Request by Ross Valley School District to waive No Child Left Behind Act (NCLB); Title IV, Part A, Section 4115 (a)(1)(c) to use Safe and Drug Free Schools and Communities funds to support the cost of Bully-Proofing, a K-8 program that offers a systems approach for handling bully/victim problems through the creation of a "caring community". Waiver Number: Fed-14-2003 (Recommended for APPROVAL WITH CONDITIONS)	ACTION
ITEM WC-8 (PDF; 84KB; 3pp.)	Request by Simi Valley School District to waive No Child Left Behind Act (NCLB); Title IV, Part A, Section 4115 (a)(1)(c) to use Safe and Drug Free Schools and Communities funds to support the cost of Get Real About Violence, a violence prevention program for grades six through nine Waiver Number: Fed-15-2003 (Recommended for APPROVAL WITH CONDITIONS)	ACTION
ITEM WC-9 (PDF; 99KB; 3pp.)	Request by Los Angeles Unified School District to waive No Child Left Behind Act (NCLB); Title IV, Part A, Section 4115 (a)(1)(C) to use Safe and Drug Free Schools and Communities funds to support the cost of Take Charge of Your Life, a seventh and ninth grade prevention program Waiver Number: Fed-22-2003 (Recommended for APPROVAL WITH CONDITIONS)	ACTION
ITEM WC-10 (PDF; 99KB; 3pp.)	Request by Clovis Unified School District to waive No Child Left Behind Act (NCLB); Title IV, Part A, Section 4115 (a)(1)(C) to use Safe and Drug Free Schools and Communities funds to support the cost of Take Charge of Your Life, a seventh and ninth grade prevention program Waiver Number: Fed-18-2003 (Recommended for APPROVAL WITH CONDITIONS)	ACTION
ITEM WC-11 (PDF; 114KB; 5pp.)	Request by ten school districts for a retroactive waiver of Education Code (EC) Section 60119 regarding Annual Public Hearing on the availability of textbooks or instructional materials. The district had an audit finding for fiscal year 2002-2003 that they 1) failed to hold the public hearing, or 2) failed to properly notice (10 days) the public hearing and/or 3) failed to post the notice in the required three public places. 16-11-2003 – Mountain Union SD 17-12-2003 – Oxnard SD 20-01-2004 – Placer Union High SD 15-11-2003 – Santa Paula Elementary School District 09-10-2003 – Shaffer Elementary SD 31-12-2003 – Central SD 11-12-2003 – Hesperia Unified SD 29-12-2003 – San Ramon Valley SD 32-07-2003 – Lake Elsinore Unified SD 04-10-2003 – Turlock Joint Union High SD (Recommended for APPROVAL)	ACTION

STATE MEAL MANDATE (Summer School Session)

ITEM WC-12 (PDF; 84KB; 3pp.)	Request by various school districts to waive Education Code (EC) Section 49550, the State Meal Mandate during the Summer School Session. Waiver Number (see attached list of districts) (Recommended for APPROVAL)	ACTION

NONPUBLIC SCHOOL/AGENCY (annual certification)

ITEM WC-13 (PDF; 67KB; 2pp.)	Request by Los Angeles Unified School District to waive Education Code (EC) Section 56366.1(g), the August 1 through October 31 timeline on annual certification renewal application for nonpublic agency (NPA) Wayne Tashjian, Marriage and Family Therapist (MFT). Waiver Number: 16-12-2003 (Recommended for APPROVAL)	ACTION
ITEM WC-14 (PDF; 67KB; 2pp.)	Request by Santa Clarita Valley Special Education Local Plan Area (SELPA) to waive Education Code (EC) Section 56366.1(g), the August 1 through October 31 timeline on annual certification renewal application for nonpublic agency (NPA) Community Therapies. Waiver Number: 33-12-2003 (Recommended for APPROVAL)	ACTION

RESOURCE SPECIALIST

ITEM WC-15 (PDF; 86KB; 2pp.)	Request from the Mammoth Unified School District to waive Education Code (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 (32 max) for Jennifer McGraw assigned at Mammoth High School. Waiver Number: 7-10-2003 (Recommended for APPROVAL WITH CONDITIONS)	ACTION
ITEM WC-16 (PDF; 77KB; 2pp.)	Request by Clovis Unified School District to waive Education Code (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 (32 maximum) Linda Gillis/Sarah West assigned at Dry Creek Elementary School. Waiver Number: 32-12-2003 (Recommended for APPROVAL WITH CONDITIONS)	ACTION

NON-CONSENT (ACTION)

The following agenda items include waivers and other administrative matters that CDE staff have identified as having opposition, being recommended for denial, or presenting new or unusual issues that should be considered by the State Board. On a case by case basis public testimony may be considered regarding the item, subject to the limits set by the Board President or the President's designee; and action different from that recommended by CDE staff may be taken.

ALGEBRA I GRADUATION REQUIREMENT

ITEM W-1	Request by various districts to waive Education Code (EC) Section 51224.5(b), the requirement that all students graduating in the 2003-04 year be required to complete Algebra I to	ACTION

(PDF; 129KB; 4pp.)	be given a diploma of graduation. Waiver Number: (see attached list of districts) (Recommended for APPROVAL WITH CONDITIONS)	

ADMINISTRATIVE CREDENTIAL FOR COE SUPERINTENDENT

ITEM W-2 (PDF; 69KB; 2pp.)	Request by Sacramento County Office of Education (COE) to waive Education Code (EC) Section 1206 and1208, the requirement that a county superintendent must possess an administrative credential as a condition of holding the superintendent position. Waiver Number: 14-2-2004 (Recommended for APPROVAL WITH CONDITIONS)	ACTION

CHARTER SCHOOLS (full funding)

ITEM W-3 (PDF; 78KB; 4pp.)	Request by California Virtual Academy @ Kern Charter School for a waiver of Title 5 of the California Code of Regulations (5 CCR) Section 11963.4(b)(3) to allow the charter school to receive full funding with less than 50 percent (but more than 30 percent) of expenditures required for certificated staff costs due to the characteristics of a "Virtual Education Program." Waiver Number: 9-9-2003 (Recommended for DENIAL per EC 33051(a)(6))	ACTION
ITEM W-4 (PDF; 78KB; 4pp.)	Request by California Virtual Academy @ San Diego Charter School for a waiver of Title 5 of the California Code of Regulations (5 CCR) Section 11963.4(b)(3) to allow the charter school to receive full funding with less than 50 percent (but more than 30 percent) of expenditures required for certificated staff costs due to the characteristics of a "Virtual Education Program." Waiver Number: 10-9-2003 (Recommended for DENIAL per EC 33051(a)(6))	ACTION
ITEM W-5 (PDF; 85KB; 3pp.)	Request by California Virtual Academy @ Kern Charter School for a waiver of Education Code Section 51745.6 and Title 5, California Code of Regulations (5 CCR) sections 11704 and 11963.3(2) related to charter school independent study average daily attendance (ADA)-to-teacher ratios to allow a ratio that is 50 percent higher than the ratio required by these sections. (Prospective) Waiver Number: 11-9-2003 (Recommended for APPROVAL WITH CONDITIONS)	ACTION
ITEM W-6 (PDF; 85KB; 3pp.)	Request by California Virtual Academy @ San Diego Charter School for a waiver of Education Code Section 51745.6 and Title 5, California Code of Regulations (5 CCR) sections 11704 and 11963.3(2) related to charter school independent study average daily attendance (ADA)-to teacher ratios to allow a ratio that is 50 percent higher than the ratio required by these sections. (Prospective) Waiver Number: 8-9-2003 (Recommended for APPROVAL WITH CONDITIONS)	ACTION

EQUITY LENGTH OF TIME

ITEM W-7 (PDF; 79KB; 2pp.)	Request by Bonita Unified School District to waive Education Code (EC) Section 37202, equity length of time requirement, to allow a full day kindergarten pilot program at Allen Avenue, Fred Ekstrand Elementary, Gladstone, Grace Miller, La Verne Heights Elementary, and J. Marion Roynon Elementary School. Waiver Number: 1-9-2003 (Recommended for APPROVAL WITH CONDITIONS)	ACTION

FEDERAL WAIVERS – SAFE AND DRUG FREE

ITEM W-8 (PDF; 85KB; 3pp.)	Request by Clovis Unified School District to waive No Child Left Behind Act (NCLB), Title IV, Part A, Section 4115 (a)(1)(c) to use Safe and Drug Free Schools and Communities funds to support the cost of Here's Looking At You, a K-12 grade prevention program. Waiver Number: Fed-17-2003 (Recommended for DENIAL)	ACTION

HIRING PRACTICES – DISTRICT EMPLOYEE

ITEM W-9 (PDF; 68KB; 2pp.)	Request by Manhattan Beach Unified School District to waive portions of Education Code (EC) Section 45272(a), to allow the district to pass over staff in the top three hiring ranks in order to hire a substitute assistant who has been working in the district's Child Development Center. Waiver Number 28-12-2003 (Recommended for APPROVAL)	ACTION

IMMEDIATE INTERVENTION/UNDERPERFORMING SCHOOLS PROGRAM (II/USP)

ITEM W-10 (PDF; 86KB; 2pp.)	Request by Sacramento City Unified School District for Fruit Ridge Elementary School, in Cohort I of the Immediate Intervention/Underperforming Schools Program (II/USP) postponed from January 8, 2004 (Invalid API) to waive sanctions in portions of Education Code (EC) Section 52055.5(h), in effect to keep the school on "watch" for the 2003-04 school year. Waiver Number: 3-2-2004 (Recommended for APPROVAL WITH CONDITIONS)	ACTION
ITEM W-11 (PDF; 86KB; 3pp.)	Request by Burbank Unified School District for Providencia Elementary School, in Cohort I of the Immediate Intervention/Underperforming Schools Program (II/USP) deemed state monitored on Nov 12, 2003, (Valid API) to waive sanctions in portions of Education Code (EC) Section 52055.5(h) and remain on "watch" for the 2003-04 school year. Waiver Number: 6-12-2003 (Recommended for APPROVAL WITH CONDITIONS)	ACTION
ITEM W-12 (PDF; 87KB; 3pp.)	Request by San Jose Unified School District for Hester Elementary School, in Cohort I of the Immediate Intervention/Underperforming Schools Program (II/USP) deemed state-monitored on Nov 12, 2003, (Valid API) to waive sanctions in portions of Education Code (EC) Section 52055.5(h) and remain "on watch" for the 2003-04 school year. Waiver Number: 3-12-2003 (Recommended for DENIAL)	ACTION
ITEM W-13 (PDF; 94KB; 2pp.)	Request by Biggs Unified School District for Biggs Elementary School, in Cohort I of the Immediate Intervention/Underperforming Schools Program (II/USP), to waive the II/USP timeline for the School Assistance and Intervention Team (SAIT) of Education Code (EC) Section 52055.51(d)(e) to be restarted to begin on March 11, 2004 Waiver Number 18-2-2004 (Recommended for APPROVAL WITH CONDITIONS)	ACTION

INSTRUCTIONAL TIME PENALTY

ITEM W-14 (PDF; 82KB;	Request by Duarte Unified School District to waive Education Code (EC) Section 46201(d), the longer day instructional time penalty for fiscal year 2002-2003 at Andres Duarte Elementary School due to a shortage of 900 instructional minutes. Waiver Number: 12-7-2003	ACTION

2pp.)	(Recommended for APPROVAL WITH CONDITIONS)	
ITEM W-15 (PDF; 81KB; 2pp.)	Request by Lake Elsinore Unified School District to waive Education Code (EC) Section 46201(d), the longer day instructional time penalty for fiscal year 2002-2003 at Cottonwood Canyon Elementary School due to a shortage of 2,160 instructional minutes. Waiver Number 30-12-2003 (Recommended for APPROVAL WITH CONDITIONS)	ACTION

PETITION

ITEM W-16 (PDF; 78KB; 3pp.)	Petition request under Education Code (EC) Section 60421(d) and 60200(g) by Palo Alto Unified School District to purchase Instructional Resources (Ca. Edition of Full Option Science System (FOSS) K-5) using Instructional Materials Funding Realignment Program (IMFRP) monies Waiver Number: 15-1-2004 (Recommended for APPROVAL WITH CONDITIONS)	ACTION

END OF WAIVER REQUESTS

ITEM 38 (PDF; 68KB; 2pp.)	Assignment of Numbers for Charter School Petitions. • Last Minute Blue (PDF; 19KB; 2pp.)	INFORMATION ACTION
ITEM 39 (PDF; 54KB; 1pp.)	Appointment to Advisory Commission on Charter Schools. • Last Minute Blue (PDF; 92KB; 1pp.)	INFORMATION ACTION
ITEM 40 (PDF; 70KB; 2pp.)	Charter School Funding Requests Pursuant to Senate Bill (SB) 740 (Chapter 892, Statutes of 2001): Approval of Determination of Funding Requests. • Last Minute Blue (PDF; 58KB; 4pp.)	INFORMATION ACTION
ITEM 41 (PDF; 188KB; 9pp.)	Funding for Countrywide Charter Schools [Assembly Bill (AB) 1994]: Adopt Amendments to Title 5, California Code of Regulations.	INFORMATION ACTION
ITEM 42 (PDF; 70KB; 2pp.)	Request by the Academy of Culture and Technology for an Extension of Time to Meet State Board of Education Condition Related to SELPA Membership. • Last Minute Blue (PDF; 15KB; 1pp.)	INFORMATION ACTION
ITEM 43 (PDF; 71KB; 3pp.)	Request by the Ridgecrest Charter School for Renewal of its State Board of Education -- Approved Charter. • Last Minute Blue (PDF; 186KB; 16pp.)	INFORMATION ACTION

ITEM 44 (PDF; 87KB; 2pp.)	Legislative Update: Including, but not limited to, information on legislation.	INFORMATION ACTION
ITEM 45 (PDF; 72KB; 6pp.)	2003-04 Consolidated Applications – Update on Local Educational Agency (LEAs) that received Conditional Approval.	INFORMATION ACTION

Adjournment of Meeting

For more information concerning this agenda, please contact Rae Belisle, Executive Director of the California State Board of Education, or Deborah Franklin, Education Policy Consultant, at 1430 N Street, Room 5111, Sacramento, Ca, 95814; telephone (916) 319-0827; fax (916) 319-0175. To be added to the speaker's list, please fax or mail your written request to the above referenced address/fax number. This agenda is posted on the State Board of Education's Web site at http://www.cde.ca.gov/be/

Questions: State Board of Education | 916-319-0827

Last Reviewed: Friday, August 05, 2011

CALIFORNIA STATE BOARD OF EDUCATION

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Hon. Jack O'Connell

Executive Director
Rae Belisle

AGENDA

March 10-11, 2004

SCHEDULE OF MEETING

Wednesday, March 10, 2004
9:00 a.m. ±
STATE BOARD OF EDUCATION
Closed Session – IF NECESSARY
(The public may not attend.)

LOCATION

California Department of Education
1430 N Street, Room 1101
Sacramento, California
(916) 319-0827

The Closed Session (1) may commence earlier than 9:00 a.m.; (2) may begin at or before 9:00 a.m., be recessed, and then be reconvened later in the day; or (3) may commence later than 9:00 a.m.

CLOSED SESSION AGENDA

Under *Government Code* section 11126(e)(1), the State Board of Education hereby provides public notice that some or all of the pending litigation which follows will be considered and acted upon, as necessary and appropriate, in closed session:

- *Acevedo, et al. v. State of California, et al*., Sacramento County Superior Court, Case No. 03CS00827
- *Adkins, et al*. v. State of California, et al., Sacramento County Superior Court, Case No. 03CS00938
- *Aguayo, et al. v. State of California, et al*., Sacramento County Superior Court, Case No. 03CS00825
- *Amy* v. *California Dept. of Education, et al.,* Los Angeles County Superior Court, Case No. 99CV2644LSP
- *Boyd, et al.* v. *State of California, et al.,* Sacramento County Superior Court, Case No. 01CS00136
- *Brian Ho, et al.,* v. *San Francisco Unified School District, et al.*, United States District Court, Northern District of California, Case No. C-94-2418 WHO
- *Buckle, et al. v. State of California, et al*., Sacramento County Superior Court, Case No 03CS00826
- *California Association of Private Special Education Schools, et al., v. California Department of Education, et al.*, Los Angeles County Superior Court, Case No. BC272983
- *California Department of Education, et al.,* v. *San Francisco Unified School District, et al.,* San Francisco Superior Court, Case No. 994049 and cross-complaint and cross-petition for writ of mandate and related actions
- *California State Board of Education* v. *Delaine Eastin, the Superintendent of Public Instruction for the State of California*, Sacramento County Superior Court, Case No. 97CS02991 and related appeal

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For more information concerning this agenda, please contact Rae Belisle, Executive Director of the California State Board of Education, or Deborah Franklin, Education Policy Consultant, at 1430 N Street, Room 5111, Sacramento, CA, 95814; telephone (916) 319-0827; fax (916) 319-0175. To be added to the speaker's list, please fax or mail your written request to the above-referenced address/fax number. **This agenda is posted on the State Board of Education's website: www.cde.ca.gov/board.**

- *Californians for Justice Education Fund, et al. v. State Board of Education,* San Francisco City/County Superior Court, Case No. CPF-03-50227
- *Campbell Union High School District, et al.* v. *State Board of Education, et al.,* Sacramento Superior Court, Case No. 99CS00570
- *Chapman, et al. v. California Department of Education, et al.,* Alameda County Superior Court, Case No. 2002-049636
- *Chapman, et al.* v. *California Department of Education, et al.,* United States District Court, Northern District of California, Case No. C-01-1780 BZ
- *City Council of the City of Folsom* v. *State Board of Education*, Sacramento County Superior Court, Case No. 96-CS00954
- *Coalition for Locally Accountable School Systems* v. *State Board of Education*, Sacramento County Superior Court, Case No. 96-CS00939
- *Comité de Padres de Familia* v. *Honig*, Sacramento County Superior Court, Case No. 281124; 192 Cal.App.3d 528 (1987)
- *Crawford* v. *Honig*, United States District Court, Northern District of California, Case No. C-89-0014 DLJ
- *CTA, et al.* v. *Wilson,* United States District Court, Central District of California, Case No. 98-9694 ER (CWx) and related appeal
- *Daniel, et al.* v. *State of California, et al.,* Los Angeles Superior Court, Case No. BC214156.
- *Donald Urista, et al.* v. *Torrance Unified School District, et al.*, United States District Court, Central District of California, Case No. 97-6300 ABC
- *Dutton v. State of California, et al*. Sacramento County Superior Court, Case No. 03CS01723
- *Educational Ideas, Inc.* v. *State of California, et al.,* Sacramento County Superior Court, Case No. 00CS00798
- *Emma C., et al.* v. *Delaine Eastin, et al.*, United States District Court, Northern District of California, Case No. C 96 4179
- *EMS-BP, LLC, Options for Youth Burbank, Inc*. *et al. v. California Department of Education, et al.*, Sacramento County Superior Court, Case No. 03CS01078 / 03CS01079
- *Ephorm, et al.* v. *California Board of Education, et al.,* Los Angeles Superior Court, Case No. TC013485
- *Grant Joint Union High School District v. California State Board of Education, et al*. Sacramento County Superior Court, Case No. 03 CS 01087
- *Larry P.* v. *Riles*, 495 F.Supp 926 (N.D. Ca. 1979) aff'd in part, rev'd in part, 793 F.2d 969 (9th Cir. 1986)
- *Maureen Burch, et al.* v. *California State Board of Education*, Los Angeles County Superior Court, Case No. BS034463 and related appeal
- *McNeil* v. *State Board of Education*, San Mateo County Superior Court, Case No. 395185
- *Meinsen, et al.* v. *Grossmont Unified School District, et al.*, C 96 1804 S LSP, U.S. District Court, Southern District of California (pending)
- *Ocean View School District, et al. v SBE, et al*., Superior Court of San Francisco, Case No. CGC-02-406738
- *Pazmiño, et al*. v. *California State Board of Education, et al.*, San Francisco City/County Superior Court, Case No. CPF-03-502554
- *Porter, et al.,* v. *Manhattan Beach Unified School District, et al.*, United States District Court, Central District, Case No. CV-00-08402
- *Roxanne Serna, et al.,* v. *Delaine Eastin, State Superintendent of Public Instruction, et al*., Los Angles County Superior Court, Case No. BC174282
- *San Francisco NAACP* v. *San Francisco Unified School District, et al.*, United States District Court, Northern District of California, Case No. 78-1445 WHO
- *San Mateo-Foster City School District, et al.,* v. *State Board of Education*, San Mateo County Superior Court, Case No. 387127
- *San Rafael Elementary School District* v. *State Board of Education, et al.,* Sacramento County Superior Court, Case No. 98-CS01503 and related appeal
- *Shevtsov v. California Department of Education*, United States District Court, Central District of California, Case No. CV 97-6483 IH (CT)
- *Valeria G., et al.* v. *Wilson, et al.,* United States District Court, Northern District of California, Case No. C-98-2252-CAL; *Angel V.* v. *Davis*, Ninth Circuit No. 01-15219
- *Wilkins, et al.*, v. *California Board of Education, et al.,* Los Angeles Superior Court, Case No. TC014071
- *Williams, et al.* v. *State of California, et al.,* San Francisco Superior Court, Case No. 312236
- *Wilson, et al.* v. *State Board of Education, et al.,* Los Angeles Superior Court, Case No. BC254081

For more information concerning this agenda, please contact Rae Belisle, Executive Director of the California State Board of Education, or Deborah Franklin, Education Policy Consultant, at 1430 N Street, Room 5111, Sacramento, CA, 95814; telephone (916) 319-0827; fax (916) 319-0175. To be added to the speaker's list, please fax or mail your written request to the above-referenced address/fax number. **This agenda is posted on the State Board of Education's website: www.cde.ca.gov/board.**

California State Board of Education
AGENDA.....March 10-11, 2004

Under *Government Code* section 11126(e)(2), the State Board of Education hereby provides public notice that it may meet in closed session to determine whether, based on existing facts and circumstances, any matter presents a significant exposure to litigation [see *Government Code* section 11126(e)(2)(B)(ii)] and, if so, to proceed with closed session consideration and action on that matter, as necessary and appropriate [see *Government Code* section 11126(e)(2)(B)(i)]; or, based on existing facts and circumstances, if it has decided to initiate or is deciding whether to initiate litigation [see *Government Code* section 11126(e)(2)(C)].

Under *Government Code* section 11126(c)(14), the State Board of Education hereby provides public notice that it may meet in closed session to review and discuss the actual content of pupil achievement tests (including, but not limited to, the High School Exit Exam) that have been submitted for State Board approval and/or approved by the State Board.

Under *Government Code* section 11126(a), the State Board of Education hereby provides public notice that it may meet in closed session regarding the appointment, employment, evaluation of performance, or dismissal of employees exempt from civil service under Article VII, Section 4(e) of the California Constitution.

Under *Government Code* section 11126(a), the State Board of Education hereby provides public notice that it may meet in closed session regarding the appointment, employment, evaluation of performance, or dismissal of employees exempt from civil service under Article VII, Section 4(e) of the California Constitution.

Wednesday, March 10, 2004
9:00 a.m. ± (Upon Adjournment of Closed Session, if held)
STATE BOARD OF EDUCATION
Public Session

California Department of Education
1430 N Street, Room 1101
Sacramento, California
(916) 319-0827

Please see the detailed agenda for more information about the items to be considered and acted upon. The public is welcome.

Thursday, March 11, 2004
8:00 a.m. ±
STATE BOARD OF EDUCATION
Closed Session – IF NECESSARY
(The public may not attend.)

California Department of Education
1430 N Street, Room 1101
Sacramento, California
(916) 319-0827

Please see Closed Session Agenda above. The Closed Session (1) may commence earlier than 8:00 a.m.; (2) may begin at or before 8:00 a.m., be recessed, and then be reconvened later in the day; or (3) may commence later than 8:00 a.m.

Thursday, March 11, 2004
8:00 a.m. ± (Upon Adjournment of Closed Session, if held)
STATE BOARD OF EDUCATION
Public Session

California Department of Education
1430 N Street, Room 1101
Sacramento, CA 95814
(916) 319-0827

Please see the detailed agenda for more information about the items to be considered and acted upon. The public is welcome.

For more information concerning this agenda, please contact Rae Belisle, Executive Director of the California State Board of Education, or Deborah Franklin, Education Policy Consultant, at 1430 N Street, Room 5111, Sacramento, CA, 95814; telephone (916) 319-0827; fax (916) 319-0175. To be added to the speaker's list, please fax or mail your written request to the above-referenced address/fax number. **This agenda is posted on the State Board of Education's website: www.cde.ca.gov/board.**

ALL TIMES ARE APPROXIMATE AND ARE PROVIDED FOR CONVENIENCE ONLY
ALL ITEMS MAY BE RE-ORDERED TO BE HEARD ON ANY DAY OF THE NOTICED MEETING
THE ORDER OF BUSINESS MAY BE CHANGED WITHOUT NOTICE

Persons wishing to address the State Board of Education on a subject to be considered at this meeting, including any matter that may be designated for public hearing, are asked to notify the State Board of Education Office (see telephone/fax numbers below) by noon of the third working day before the scheduled meeting/hearing, stating the subject they wish to address, the organization they represent (if any), and the nature of their testimony. Time is set aside for individuals so desiring to speak on any topic NOT otherwise on the agenda (please see the detailed agenda for the Public Session). In all cases, the presiding officer reserves the right to impose time limits on presentations as may be necessary to ensure that the agenda is completed.

REASONABLE ACCOMMODATION FOR ANY INDIVIDUAL WITH A DISABILITY

Pursuant to the *Rehabilitation Act of 1973* and the *Americans with Disabilities Act of 1990*, any individual with a disability who requires reasonable accommodation to attend or participate in a meeting or function of the California State Board of Education (SBE), may request assistance by contacting the SBE Office, 1430 N Street, Room 5111, Sacramento, CA, 95814; telephone, (916) 319-0827; fax, (916) 319-0175.

For more information concerning this agenda, please contact Rae Belisle, Executive Director of the California State Board of Education, or Deborah Franklin, Education Policy Consultant, at 1430 N Street, Room 5111, Sacramento, CA, 95814; telephone (916) 319-0827; fax (916) 319-0175. To be added to the speaker's list, please fax or mail your written request to the above-referenced address/fax number. **This agenda is posted on the State Board of Education's website: www.cde.ca.gov/board.**

California Department of Education
SBE-003 (REV 01/20/04)
sbe

ITEM # 1

CALIFORNIA STATE BOARD OF EDUCATION

MARCH 2004 AGENDA

SUBJECT	
STATE BOARD PROJECTS AND PRIORITIES. Including, but not limited to, future meeting plans; agenda items; State Board office budget; staffing, appointments, and direction to staff; declaratory and commendatory resolutions; update on litigation; bylaw review and revision; review of the status of State Board-approved charter schools as necessary; election of State Board officers; and other matters of interest.	☒ **Action** ☒ **Information** ☐ **Public Hearing**

RECOMMENDATION

Consider and take action (as necessary and appropriate) regarding State Board Projects and Priorities, including, but not limited to, future meeting plans; agenda items; State Board office budget; staffing, appointments, and direction to staff; declaratory and commendatory resolutions; update on litigation; bylaw review and revision; review of the status of State Board-approved charter schools as necessary; election of State Board officers; and other matters of interest.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

At each regular meeting, the State Board has traditionally had an agenda item under which to address "housekeeping" matters, such as agenda planning, non-closed session litigation updates, non-controversial proclamations and resolutions, bylaw review and revision, election of State Board officers, and other matters of interest. The State Board has asked that this item be placed appropriately on each agenda.

SUMMARY OF KEY ISSUES

N/A

FISCAL ANALYSIS (AS APPROPRIATE)

N/A

ATTACHMENT

Current Board Member Appointments and Assignments
Memorandum on English Learner Advisory Committee Terms of Office
State Board Bylaws (as amended July 9, 2003).
Agenda Planner
Acronyms Chart
California Assessment System: 2003-04

California State Board of Education

Assignments and Appointments

MEMBER ASSIGNMENTS TO VOTING POSITIONS

California Postsecondary Education Commission (Ed. C. 66901(d) & (h))

State Board President	Reed Hastings
Alternate	Vacant

Joint Advisory Committee on Vocational Education
(Memorandum of Understanding between the SBE and the Board of Governors of the California Community Colleges)

Joe Nuñez
Vacant
Student Member

Screening Committee, State Board of Education (Art. VI, Sec. 1, SBE Bylaws)

Suzanne Tachney
Joe Nuñez
Vacant

MEMBER ASSIGNMENTS AS LIAISONS

Advisory Commission on Charter Schools (*See generally,* Ed. C. 47634.2)

Don Fisher
Vacant

Advisory Commission on Special Education (*See generally,* Ed. C. 33590)

Vacant
Vacant

California Association of Student Councils
(Student Advisory Board on Education)

	Student Member

Chapter 1 Committee of Practitioners (Title 1) (*See generally,* Title I, Sec. __ , NCLB)

	Vacant

Child Development Policy Advisory Committee

	Vacant
	Vacant

Child Nutrition and Physical Activity Advisory Council
(Child Nutrition Advisory Council) (*See generally,* Ed. C. 49533)

	Vacant

Commission on Teacher Credentialing (*See generally,* Ed. C. 44210)

	Suzanne Tacheny
	Vacant

Curriculum Development and Supplemental Materials Commission
(*See generally,* Ed. C. 33530)

	Vacant
	Vacant
Alternate	Vacant (alternate)

National Association of State Boards of Education

	Don Fisher
	Vacant

No Child Left Behind (NCLB) Liaison Team (*See generally,* Ed. C. 52058.1)

	Suzanne Tacheny

MEMBER ASSIGNMENTS AS REPRESENTATIVES (FUNCTION AREAS)

Accountability and Assessment	
	Reed Hastings
	Suzanne Tacheny
California School Information System	
	Don Fisher
No Child Left Behind (NCLB)	
	Joe Nuñez
	Suzanne Tacheny
State Legislation	
	Don Fisher
	Vacant
Alternate	Vacant (alternate)

MEMBER ASSIGNMENTS AS REPRESENTATIVES (SUBJECT MATTER AREAS)

English-Language Arts	
	Vacant
History-Social Science	
	Vacant
Mathematics	
	Joe Nuñez
	Vacant

Science

Vacant
Vacant

Visual and Performing Arts

Vacant

ACRONYMS CHART	
ACRONYMS	
AB	Assembly Bill
ACCS	Advisory Commission on Charter Schools
ACES	Autism Comprehensive Educational Services
ACSA	Association of California School Administrators
ADA	Americans with Disabilities Act
ADA	Average Daily Attendance
AFT	American Federation of Teachers
AP	Advanced Placement
API	Academic Performance Index
ASAM	Alternative Schools Accountability Model
AYP	Adequate Yearly Progress
BTSA	Beginning Teacher Support and Assessment
CAHSEE	California High School Exit Examination
CAPA	California Alternate Performance Assessment
CASB0	California Association of School Business Officials
CASH	Coalition for Adequate School Housing
CAT/6	California Achievement Test, 6th Edition
CCSESA	California County Superintendents Educational Services Association
CDE	California Department of Education
CELDT	California English Language Development Test
CFT	California Federation of Teachers
CHSPE	California High School Proficiency Exam
CNAC	Child Nutrition Advisory Council
COE	County Office of Education
ConAPP	Consolidated Applications
CRP	Content Review Panel
CSBA	California School Boards Association
CSIS	California School Information System
CST	California Standards Test
CTA	California Teachers Association
CTC	California Commission on Teacher

	Credentialing
EL	English Learner
ELAC	English Learner Advisory Committee
	ACRONYMS CHART
ACRONYMS	
ESL	English as a Second Language
FAPE	Free and Appropriate Public Education
FEP	Fluent English Proficient
GATE	Gifted and Talented Education
GED	General Education Development
HPSGP	High-Priority School Grant Program
HumRRO	Human Resources Research Organization
IDEA	Individuals with Disabilities Education Act
IEP	Individualized Education Program
II/USP	Immediate Intervention/Underperforming Schools Program
IMAP	Instructional Materials Advisory Panel
IMFRP	Instructional Materials Fund Realignment Program
LEA	Local Educational Agency
LEP	Limited English Proficient
NAEP	National Assessment of Educational Progress
NEA	National Education Association
NCLB	No Child Left Behind Act of 2001
NPS/NPA	Non Public Schools/Non Public Agencies
NRT	Norm-Referenced Test
OSE	Office of the Secretary for Education
PAR	Peer Assistance and Review Program for Teachers
PSAA	Public School Accountability Act
ROP	Regional Occupation Program
RLA/ELD	Reading/Language Arts/English Language Development
SABE/2	Spanish Assessment of Basic Education, 2nd Edition
SAIT	School Assistance and Intervention Team

SARC	School Accountability Report Card
SAT 9	Stanford Achievement Test, 9th Edition
SB	Senate Bill
SEA	State Educational Agency
SELPA	Special Education Local Plan Area
SBCP	School Based Coordination Program
SBE	State Board of Education
	ACRONYMS CHART
ACRONYMS	
SSPI	State Superintendent of Public Instruction (Jack O'Connell)
STAR	Standardized Testing and Reporting Program
TDG	Technical Design Group (PSAA Advisory Committee)
USD	Unified School District
USDE	United States Department of Education
UTLA	United Teachers-Los Angeles
WIA	Workforce Investment Act

AGENDA PLANNER 2004-2005

MARCH 10-11, 2004 BOARD MEETING.....SACRAMENTO

Other Dates of Interest to the State Board:

- Quality Education Committee meeting, Sacramento, March 2-3
- CAHSEE contract (July 1, 2004 - September 30, 2007) award announced March 8
- Advisory Commission on Charter Schools, Sacramento, March 18

APRIL 2004
NO MEETING SCHEDULED

Other Dates of Interest to the State Board:

- CELDT contract request for proposals to be released April 1
- 2004 Health Adoption, training for instructional materials advisory panel and content review panel, Sacramento, April 6-8
- Curriculum Development and Supplemental Materials Commission, Sacramento, April 9
- Advisory Commission on Charter Schools, Sacramento, April 15
- CAHSEE SB 954 study, selection of independent consultant for April 20
- Advisory Commission on Special Education, Sacramento, April 22-23

MAY 12-13, 2004.....SACRAMENTO

Board Meeting

- Board Meeting Schedule, evaluation of every-other month meeting schedule
- Instructional Materials, adopt maximum weight standards for textbooks
- STAR performance standards for Grade 5 Science CST, public hearing and adoption
- CAHSEE, update/action as necessary
- CELDT, update/action as necessary
- No Child Left Behind Act, initial reconstitution of list of approved of supplemental educational service providers for 2004-05 school year
- Brown v. Board of Education, honoring the anniversary of the decision
- Consolidated Applications, report on districts that received conditional approval, including their progress toward compliance

Other Dates of Interest to the State Board:

- Advisory Commission on Charter Schools, Sacramento, May 20
- Curriculum Development and Supplemental Materials Commission, Sacramento, May 20-21
    - Quality Education Committee meeting, Sacramento, May 25-26

JUNE 2004
NO MEETING SCHEDULED

Other Dates of Interest to the State Board:

- Annual report on archives of approved AB 466 provider materials, draft due June 15
- Advisory Commission on Special Education, Sacramento, June 24-25
- Title I Committee of Practitioners, Sacramento, date to be determined
- Expiration of 2003-04 school year list of approved NCLB supplemental educational services providers

AGENDA PLANNER 2004-2005

JULY 7-8, 2004.....SACRAMENTO

Board Meeting

- STAR, update/action as necessary
- CAHSEE, update/action as necessary
- CELDT, update/action as necessary
- No Child Left Behind Act, update/action as necessary
- Consolidated Applications for 2004-05, for approval

Other Dates of Interest to the State Board:

- 2004 Health Adoption, deliberations of Instructional Materials Advisory Panels and Content Review Panels, Sacramento, July 19-23
- Quality Education Committee meeting, Sacramento, July 28-29

AUGUST 2004
NO MEETING SCHEDULED

Other Dates of Interest to the State Board:

- API and AYP data releases
- Model content standards for physical fitness, hearings on draft standards

SEPTEMBER 8-9, 2004.....SACRAMENTO

Board Meeting

- Biennial Report to the Legislature of State Board Activities, for approval
- STAR, update/action as necessary
- CAHSEE, update/action as necessary
- CELDT, update/actions as necessary
- No Child Left Behind Act, update/action as necessary
- Consolidated Applications for 2004-05, for approval

Other Dates of Interest to the State Board:

- Model content standards for physical fitness, hearings on draft standards
- Curriculum Development and Supplemental Materials Commission, Sacramento, September 16-17
- 2004 Health Adoption, Public Hearing at Curriculum Commission meeting
- Title I Committee of Practitioners, Sacramento, date to be determined
- Quality Education Committee meeting, Sacramento, September 29-30
- CELDT contract with CTB expires September 14
- CAHSEE Independent Evaluation contract with HumRRO expires September 30

OCTOBER 2004
NO MEETING SCHEDULED

Other Dates of Interest to the State Board:

- Curriculum Commission recommendations on 2004 Health Adoption, for information only

AGENDA PLANNER 2004-2005

NOVEMBER 9-10, 2004 (TUESDAY/WEDNESDAY).....SACRAMENTO

Board Meeting

- STAR, update/action as necessary
- CAHSEE, update/action as necessary
- CELDT, update/action as necessary
- No Child Left Behind Act, update/action as necessary
- 2004 Health Adoption, Public Hearing and Board action on Curriculum Commission recommendations for instructional materials adoption
- 2005 History-Social Science Adoption, appointment of members to content review panel and instructional materials advisory panel
- Model content standards for physical education, presented for adoption
- Student Advisory Board on Education, presentation of recommendations
- Interviews of candidates for 2005-06 Student Member of the State Board
- Presentation of Presidential Awards for Excellence in Mathematics and Science Teaching

Other Dates of Interest to the State Board:

- Curriculum Development and Supplemental Materials Commission, Sacramento, November 18-19

DECEMBER 2004
NO MEETING SCHEDULED

Other Dates of Interest to the State Board:

- Quality Education Committee meeting, Sacramento, December 1-2
- CAHSEE contract with ETS for testing through June 2004 expires December 13
- SABE/2 contract with CTB expires December 31
- GED contract with ETS expires December 31

JANUARY 12-13, 2005.....SACRAMENTO

Board Meeting

- STAR, update/action as necessary
- CAHSEE, update/action as necessary
- CELDT, update/action as necessary
- No Child Left Behind Act, update/action as necessary
- Update on SAIT process at McCabe, Rubidoux, and O'Farell schools
- Career Technical Education standards for adoption
- 2007 Primary Mathematics Adoption, adoption of criteria for evaluating instructional materials
- Mathematics Framework minor revisions, for approval
- Teacher of the Year presentations
- United States Senate Youth presentations

Other Dates of Interest to the State Board:

- STAR program authorization repealed under ECS 60601, January 1
- Quality Education Committee meeting, Sacramento, January 19-20

AGENDA PLANNER 2004-2005

FEBRUARY 2005
NO MEETING SCHEDULED

Other Dates of Interest to the State Board:

MARCH 9-10, 2005.....SACRAMENTO

Board Meeting

- STAR, update/action as necessary
- CAHSEE, update/action as necessary
- CELDT, update/action as necessary
- No Child Left Behind Act, update/action as necessary
- 2008 Primary Reading/Language Arts/English Language Development Adoption, adoption of criteria for evaluating instructional materials
- Reading/Language Arts Framework minor revisions, for approval

Other Dates of Interest to the State Board:

APRIL 2005
NO MEETING SCHEDULED

Other Dates of Interest to the State Board:

- 2005 History-Social Science Adoption, training of instructional materials advisory panel and content review panel, Sacramento, April 4-8

MAY 11-12, 2005.....SACRAMENTO

Board Meeting

- STAR, update/action as necessary
- CAHSEE, update/action as necessary
- CELDT, update/action as necessary
- No Child Left Behind Act, update/action as necessary
- No Child Left Behind Act, initial reconstitution of list of approved of supplemental educational service providers for 2005-06 school year

Other Dates of Interest to the State Board:

- SB 964 report due to Legislature, May 1

JUNE 2005
NO MEETING SCHEDULED

Other Dates of Interest to the State Board:

- STAR CAPA contract with ETS expires June 15
- STAR CST/CAT6 contract with ETS expires June 30
- Expiration of 2004-05 school year list of approved NCLB supplemental educational services providers

AGENDA PLANNER 2004-2005

JULY 6-7, 2005.....SACRAMENTO

Board Meeting

- STAR, update/action as necessary
- CAHSEE, update/action as necessary
- CELDT, update/action as necessary
- No Child Left Behind Act, update/action as necessary
- Consolidated Applications for 2005-06, for approval

Other Dates of Interest to the State Board:

- 2005 History-Social Science Adoption, deliberations of instructional materials advisory panel and content review panel, Sacramento, July 11-14

AUGUST 2005
NO MEETING SCHEDULED

Other Dates of Interest to the State Board:

- API and AYP data releases

SEPTEMBER 7-8, 2005.....SACRAMENTO

Board Meeting

- STAR, update/action as necessary
- CAHSEE, update/action as necessary
- CELDT, update/action as necessary
- No Child Left Behind Act, update/action as necessary
- Consolidated Applications for 2005-06, for approval

Other Dates of Interest to the State Board:

- 2005 History-Social Science Adoption, Public Hearings at Curriculum Commission meeting, Sacramento, date to be determined

OCTOBER 2005
NO MEETING SCHEDULED

Other Dates of Interest to the State Board:

NOVEMBER 9-10, 2005.....SACRAMENTO

Board Meeting

- STAR, update/action as necessary
- CAHSEE, update/action as necessary
- CELDT, update/action as necessary
- No Child Left Behind Act, update/action as necessary
- 2005 History-Social Science Adoption, Public Hearing and Board action on Curriculum Commission recommendations for instructional materials adoption
- Student Advisory Board on Education, presentation of recommendations
- Interviews of candidates for 2006-07 Student Member of the State Board
- Presentation of Presidential Awards for Excellence in Mathematics and Science Teaching

AGENDA PLANNER 2004-2005

NOVEMBER 9-10, 2005 CONTINUED
Other Dates of Interest to the State Board:

DECEMBER 2005
NO MEETING SCHEDULED

Other Dates of Interest to the State Board:

STATE OF CALIFORNIA ARNOLD SCHWARZENEGGER, *Governor*

CALIFORNIA STATE BOARD OF EDUCATION

1430 N Street, Suite 5111
Sacramento, CA 95814
(916) 319-0827
(916) 319-0175 (fax)

February 20, 2004

TO: Members, State Board of Education

FR: Deborah Franklin, Education Policy Consultant

RE: Terms of Office for English Learner Advisory Committee

On December 9, 1999, the State Board of Education (State Board) established the English Learner Advisory Committee (ELAC). The role of the ELAC is to provide the State Board with information, guidance, and advice on issued related to English learners.

The terms of office for ELAC members were initially set for three years. Each State Board member recommended an individual to serve on the ELAC, with the Board President appointing the committee chair. The full Board voted to appoint the members and to fill vacancies as they arose. Because the terms of office of the initial ELAC members were not staggered, the terms of all ELAC members expired in December 2003.

There are now 11 vacancies to fill and each State Board member is encouraged to recommend educators who have demonstrated knowledge regarding the educational needs of English learners. These educators should be prepared to review policies, funding decisions, data sources related to English learners, and to provide the State Board with advice as to how to focus resources better towards the goal of improving educational services for these students.

The earlier appointment process does not provide for any continuity on the ELAC. Thus, State Board staff recommends that the State Board amend the appointment process to allow for staggered terms of office. For purposes of establishing staggered terms, State Board staff suggests that in 2004 only, six ELAC members be appointed to three-year terms and five members be appointed to two-year terms. The chair of the committee would be appointed to one of the three-year terms. The term of office for full-term appointments made in 2006 and beyond would be three years.

If the State Board chooses to amend the appointment process, a revision of the original ELAC terms of office will be presented for action at the May 2004 State Board meeting. Board Members are encouraged to submit their recommendations to the Executive Director in April so that new ELAC members may be appointed at the May meeting.

CALIFORNIA ASSESSMENT SYSTEM
2003-04

STAR Program										
CSTs	**CAPA**	**CAT/6**	**SABE/2**	**CELDT**	**CAHSEE**	**K–12/CSU Placement Assessments**	**Physical Fitness**	**CHSPE**	**GED**	**NAEP**
Standards-based	Standards-based	Norm-referenced	Norm-referenced	Standards-based	Standards-based	Standards-based	Criterion-referenced	Criterion-referenced	Criterion-referenced	Criterion-referenced
Grades 2–11	**Grades 2–11**	**Grades 2–11**	**Grades 2–11**	**Grades K–12**	**Grades 10–12**	**Grade 11***	**Grades 5, 7, 9**	**Ages 16 and up***	**Ages 18 and up***	**Grades 4, 8**
English-Language Arts Mathematics **Grades 4, 7** Written Composition **Grades 8, 10, 11** History-Social Science **Grades 5, 9–11** Science	English-Language Arts Mathematics (for students with severe cognitive disabilities)	**Grades 2–8** Reading/Language Spelling Mathematics **Grades 9–11** Reading/Language Mathematics Science	Reading Spelling Language Mathematics	**K–1** Listening Speaking **Grades 2–12** Listening Speaking Reading Writing	Language Arts Mathematics 2003–04 **Grade 10 only** (required)	CSTs in English-Language Arts Mathematics (augmented with additional CSU standards-based questions)	Aerobic Capacity Body Composition Abdominal Strength and Endurance Trunk Extensor Strength and Flexibility Upper Body Strength and Endurance Flexibility	Reading Writing Mathematics	Reading Writing Mathematics Science Social Science	2004 Reading Math Foreign Language
Results Individual School District County State	**Results** Individual School District County State	**Results** Individual School District County State	**Results** Individual School District County State	**Results** Individual School District County State	**Results** Individual School District County State	**Results** Individual	**Results** Individual School District County State	**Results** Individual School District	**Results** Individual	**Results** National State

*Voluntary for students

Prepared by the California Department of Education
September 2003

Legend:

CSTs = California Standards Tests
CAPA = California Alternate Performance Assessment
CAT/6 = California Achievement Tests, Sixth Edition Survey
SABE/2 = Spanish Assessment of Basic Education, Second Edition
CELDT = California English Language Development Test
CAHSEE = California High School Exit Examination
CHSPE = California High School Proficiency Exam
GED = General Educational Development
NAEP = National Assessment of Educational Progress

ITEM # 2

CALIFORNIA STATE BOARD OF EDUCATION

MARCH 2004 AGENDA

SUBJECT	
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.	☐ **Action** ☒ **Information** ☐ **Public Hearing**

RECOMMENDATION

Listen to public comment on matters not included on the agenda.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

N/A

SUMMARY OF KEY ISSUES

N/A

FISCAL ANALYSIS (AS APPROPRIATE)

N/A

ATTACHMENT

None

CALIFORNIA STATE BOARD OF EDUCATION

MARCH 2004 AGENDA

SUBJECT	
Standardized Testing and Reporting (STAR) Program: Including, but not limited to, approval to allow Grade Eleven Students enrolled in Integrated Mathematics 3 to take the Algebra II California Standards Test (CST)	☒ **Action**
	☒ **Information**
	☐ **Public Hearing**

RECOMMENDATION

Approve allowing grade eleven students completing Integrated Mathematics 3 courses to take the Algebra II California Standards Test (CST) in order to participate in the California State University's Early Assessment Program (EAP) for mathematics.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

Collaborating with the California Department of Education (CDE) and the California State University (CSU) to create a high school test for college placement has been mentioned at several State Board of Education (SBE) meetings (i.e., November 2002 and March 2003). A letter dated October 15, 2003, signed by the State Superintendent of Public Instruction, SBE President, and the Chancellor of the California State University, detailed the Early Assessment Program (EAP). This voluntary program, offered to eleventh grade students, is intended to inform participating students about their readiness for college-level work in English and/or mathematics.

SUMMARY OF KEY ISSUES

The 2004 Standardized Testing and Reporting (STAR) Program will include the optional CSU Early Assessment of Readiness for College Mathematics augmentation. Eleventh grade students may choose to respond to fifteen optional multiple-choice questions offered at the end of the Algebra II and Summative High School Mathematics CSTs.

CSU representatives developed the augmentation through extensive review of the Algebra II and Summative High School Mathematics CST blueprints. Because of the extensive review required to develop the augmentation and the limited number of students enrolled in Integrated Mathematics 3 courses, the CSU representatives determined that the Early Assessment of Readiness for College Mathematics would not be administered as an augmentation to the Integrated Mathematics 3 CST.

Further discussion with the CSU representatives determined that grade eleven students completing Integrated Mathematics 3 courses should be allowed to participate in the Early Assessment of Readiness for College Mathematics.

Current SBE policy allows students to take only the CST for the course in which they are enrolled or have completed. In order to provide grade eleven students completing Integrated Mathematics 3 the opportunity to participate in the Early Assessment of Readiness for College Mathematics, the Department recommends that these students

be given the option of taking the Algebra II CST. Students who do not choose to participate in the Early Assessment of Readiness for College Mathematics will take the Integrated Mathematics 3 CST.

FISCAL ANALYSIS (AS APPROPRIATE)

No additional costs would be incurred by this change, because the change will not increase the number of tests to be administered. The contractor is required to send districts fifteen percent more tests than are ordered. The Algebra II CST overage includes a sufficient number of tests to supply what may be required.

ATTACHMENT

None.

CALIFORNIA STATE BOARD OF EDUCATION

MARCH 2004 AGENDA

SUBJECT	
Standardized Testing and Reporting (STAR) Program: Approval of Contract Amendment for New Item Development	☒ **Action** ☒ **Information** ☐ **Public Hearing**

RECOMMENDATION

Approve amending the Educational Testing Service (ETS) contract to fund the necessary continued item development for the California Standards Tests (CSTs) to support test development for 2005 and 2006. The amount needed for item development for the remainder of the contract is $3,374,672.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

The State Board of Education (SBE) approved the development of standards-based tests to assess students' achievement of the California Content Standards that were adopted by the SBE during December 1997 (English-language arts and mathematics) and October 1998 (science and history-social science).

During April 2002, SBE designated ETS as the contractor for the California Standards Test (CST) and the nationally normed test components of the STAR program. SBE approved a three-year contract with ETS during June 2002. The contract included an emphasis on continuing the development of the CSTs.

ETS developed an Item Utilization Plan that provided information about the status of the CST Item Bank in response to the SBE's plan to have the California Department of Education begin publicly releasing items from the CSTs. The Item Utilization Plan was presented to the SBE at the November 2003 meeting.

SBE has approved releasing to the public, twenty-five percent of the questions that were used on the spring 2003 CSTs.

SUMMARY OF KEY ISSUES

During June 2002, the SBE approved $11,067,648 for CST item and test development during years two and three of the ETS three year STAR contract. The Department of Finance approved the contract costs in June 2002, but subsequently reduced the funding for CST item and test development to $1,407,000 for fiscal years 2003-04 and 2004-05 (a total of $2,814,000). The CST item and test development appropriation for 2003-2004 and 2004-05 was reduced by a total of $8,253,648. These reductions necessitated a decrease of the ongoing CST item development. However, consistent with the necessary requirement for science testing in the No Child Left Behind Act (NCLB), 5th and 8th grade item development for science will not be reduced.

Item development begins approximately two years before tests are administered. That

is item development for the spring 2006 tests will begin during spring 2004. The following is a summary of the activities that go into developing the final test forms:

- 18 – 24 months before testing—items are written and reviewed (Jan. through July 2004 for spring 2006 tests)
- 18 months before testing—Content Review Panels (CRPs) review items for accuracy and alignment with content standards and recommend those to be field tested
- 14 – 15 months before testing—contractor constructs field test forms
- 10 – 12 months before testing—students complete tests with field test items embedded in them
- 8 – 10 months before testing—field test item statistics are analyzed and items are selected for the spring test
- 6 – 7 months before testing—test forms are developed and reviewed by CRPs and Department staff

Item development for the spring 2007 CSTs is not included in the current ETS contract.

The STAR component of the approved Item Utilization Plan cannot be implemented without ongoing CST item development to replace items that are released publicly. However, the number of CST items to be developed can be reduced to the minimum number needed to support test development for 2005 and 2006. This minimal item development will require a restoration of test development funds to a funding level of $3,374,672 for the remainder of the contract. The contract ends December 31, 2005.

FISCAL ANALYSIS (AS APPROPRIATE)

There have been ongoing discussions with the Department of Finance related to the amount needed to replace part of the funding cut from the STAR budget for 2003-2004 and 2004-2005.

The $1,407,000 appropriated for fiscal year 2003-04 was used for item and test development from July 1, 2003 through December 31, 2003. A total of $3,374,672 is needed to continue CST item development through the end of the contract. Of this amount, $1,967,672 would be funded from Title VI monies ($1,432,224 for 2003-2004 and $535,448 for 2004-2005). The remaining $1,407,000 would be funded with the state General Funds for test development currently in the 2004-2005 proposed budget. Funding is contingent on the Department of Finance approval.

ATTACHMENT

Attachment 1: Scenario 2–Item Utilization Plan (2 Pages)

Scenario 2–Item Utilization Plan
1,548 New Field Tested Items; 2,380 Operational Items

COSTS:
Table D. Scenario 2 Costs

COMPONENTS	TOTAL COSTS	FY 03-04 1/1/04-6/30/04 COSTS	FY 04-05 7/1/04-6/30/05 COSTS
New Item Development	1,003,316	1,003,316	0
Composition of Items for Operational Forms and Stat Analysis	1,276,034	127,600	1,148,434
Released Items	116,625	0	116,625
Item Bank Maintenance	136,617	68,308	68,309
CRP Meetings and Travel	316,000	158,000	158,000
FIELD TESTING OF 1567 CYCLE 1& 2 ITEMS	376,080	0	376,080
REVISION TO SCIENCE REPORTING CLUSTERS	150,000	75,000	75,000
TOTAL FOR SECTION A IN SOW	**3,374,672**	**1,432,224**	**1,942,448**
Total NCLB	432,433	220,000	212,433
TOTAL Less NCLB	2,942,239	1,212,224	1,730,015

Cost Per New Item	**$648**

DISCUSSION:

- This scenario represents the number of items to be field tested each year as specified in the item utilization plan as approved by the State Board of Education.
- This scenario also represents Educational Testing Service (ETS) recommendations for immediate development that will address the most serious of the remaining critical standards and provide better range of difficulty and component coverage.
- ETS makes this recommendation because even after the 2004 field-tested items are placed in the bank, a few standards will remain critical and a few more will have become critical owing to recent CRP decisions (e.g., changes in science reference sheets).
- While Scenario 2 will not eliminate the problem of critical standards, it will reduce the problems sufficiently to allow 2005 and 2006 forms to be built with 50 percent retention, with possibly greater retention in a few standards in 2006.

Because Scenario 2 postpones the solution of fully eliminating critical standards, ETS suggests that the state return to the full RFS requirements for development as soon as possible within the state budget.

CALIFORNIA STATE BOARD OF EDUCATION

MARCH 2004 AGENDA

SUBJECT	
Standardized Testing and Reporting (STAR) Program: Approval of Performance Standards (Levels) for the Grade 5 Science California Standards Test (CST)	☒ **Action**
	☒ **Information**
	☐ **Public Hearing**

RECOMMENDATION

Review and approve the performance standards (levels) for the Grade 5 Science California Standards Test and direct staff to hold regional public hearings on the proposed performance standards (levels).

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

- The State Board of Education (SBE) approved the development and administration of a grade 5 science CST in December 2001 and approved the test blueprint in October 2002.

- SBE adopted science performance standards (levels) for biology, chemistry, earth science, and physics in November 2001 and for integrated/coordinated sciences 1, 2, 3, and 4 in January 2003.

SUMMARY OF KEY ISSUES

The *No Child Left Behind (NCLB) Act of 2001*, requires that, not later than the 2007-2008 school year, each state administers three standards-based science tests every year, one within each of the following grade spans: 3-5, 6-9, and 10-12. These tests will measure the science concepts and skills that students should know and be able to do at the grades assessed.

California *Education Code* Section 60642.5 requires a science test be administered in at least one elementary or middle school grade level, as selected by SBE. At the December 2001 meeting, SBE approved the development of a science CST to be administered at grade 5, covering the grade 4 and 5 science standards. Subsequently, the test blueprint was approved at the October 2002 SBE meeting.

Educational Testing Service (ETS) administered the grade 5 science field tests in spring 2003 and will implement the grade 5 science operational testing in spring 2004. This will also meet the NCLB requirement to administer a standards-based science test in grade span 3-5.

California *Education Code* Section 60605 requires SBE to adopt statewide performance standards (levels) in core curriculum areas of reading, writing, mathematics, history/social science, and science and to conduct regional hearings prior to the adoption of the performance levels.

In February 2004, a performance standards (levels) setting panel, comprised of Content Review Panel (CRP) members, community members, and additional grade 4 and grade 5 teachers was convened. The panel used the Bookmark Method to set cut scores and determine the 5 performance levels (far below basic, below basic, basic, proficient, and advanced) for the grade 5 science test. The Bookmark Method also was used in August 2001 for setting performance levels for the mathematics, high school science, and history-social science CSTs, as well as for the California High School Exit Examination (CAHSEE), and the California English Language Development Test (CELDT).

California *Education Code* Section 60641 requires that individual results of each pupil tested in STAR be reported to the pupil's school and teacher and be reported in writing to the pupil's parent or guardian. In 2004, after the administration and scoring of the grade 5 science tests, the performance levels will be reported to schools, teachers, parents, and students.

FISCAL ANALYSIS (AS APPROPRIATE)

The cost incurred for completing the performance standards (levels) setting is $60,424. The cost for refining reports to include the science results to schools, teachers, and parents is $75,000 for 2003-2004 and $75,000 for 2004-2005. Funding is linked to SBE's approval of the STAR contract amendment for new item development.

ATTACHMENT

The proposed performance standards (levels) for the grade 5 Science California Standards Test will be provided in a Last Minute Memorandum.

State of California **Department of Education**

LAST MINUTE MEMORANDUM

DATE: March 2004

TO: MEMBERS, STATE BOARD OF EDUCATION

FROM: Geno Flores, Deputy Superintendent
Assessment and Accountability Branch

RE: Item No. 5

SUBJECT: Standardized Testing and Reporting (STAR) Program: Approval of Performance Standards (Levels) for the Grade 5 Science California Standards Test (CST)

The State Superintendent of Public Instruction (SSPI) recommends that the State Board of Education (SBE) approve performance standards (levels) for the Grade 5 CST in science.

California *Education Code* Section 60605 requires SBE to adopt statewide performance standards (levels) in core curriculum areas of reading, writing, mathematics, history/social science, and science and to conduct regional hearings prior to the adoption of the performance standards (levels).

In February 2004, Educational Testing Service (ETS) conducted a performance standard (level) setting for the Grade 5 CST in science. The Performance Level Setting Panel was comprised of fourth and fifth grade teachers, Content Review Panel (CRP) members, and community members, representing California's various regions and diversity, as well as English learners and special education students.

Results from the 2003 census Grade 5 science field test were the basis for the performance standard (level) setting. ETS used the Bookmark Method to set cut scores and determine the five performance standards (levels) for the Grade 5 CST in science. The Bookmark Method is a three-round standard (level) setting process that requires panelists to independently examine test items and place bookmarks at the points at which they consider students have demonstrated sufficient knowledge and skills to be minimally competent at each performance level. After round one, two additional standard setting sessions and discussion follow. The group discussion provides panelists the opportunity to discuss their placements.

The Bookmark Method also was used to set the 2001 performance standards (levels) for the mathematics, high school science, and history-social science CSTs, as well as for the California High School Exit Examination (CAHSEE), and the California English Language Development Test (CELDT).

The SSPI recommendation is based on analyses conducted by the California Department of Education (CDE) and ETS, and differs from the panel's recommendation primarily for two reasons.

The first reason regards setting the cut score between Far Below Basic and Below Basic, which is based on the lowest score above chance performance. With the panel's recommendation, a student could achieve Below Basic by guessing at random to every test question. The SSPI recommendation adjusts the Below Basic cut score to ameliorate this situation.

Secondly, given the panel's recommendation, the percentage of students that would score Advanced on the science test is substantially lower than the percentages of students that would score Advanced on the other elementary CSTs. The SSPI recommendation adjusts the cut score to be more in line with the other adopted CST cut scores.

Attachment 1: Superintendent's Recommendation for the Performance Standards (Levels) Grade 5 California Standards Test in Science with Predicted Student Impact Data (1 Page)

Attachment 2: Predicted Student Impact Data for the Proposed Performance Standards (Levels) for the Grade 5 California Standards Test in Science Based on the Superintendent's Recommendation (1 Page)

Attachment 3: Performance Standard (Level) Percentages for Current California (CSTs) English Language Arts, Mathematics, and Science (1 Page)

Attachment 4: Performance Standard (Level) Setting Panel's Recommendation for the Performance Standards (Levels) for the Grade 5 California Standards Test in Science with Predicted Student Impact Data (1 Page)

Attachment 5: Cut Point Comparison for Grade 5 Students in English-Language Arts, Math, and Science State Board Adopted Cut Points for ELA and Math and SSPI and PLSP Recommendations for Science with Predicted Student Impact (1 Page)

California Department of Education
Superintendent's Recommendation for the Performance Standards (Levels)
Grade 5 California Standards Test in Science with Predicted Student Impact Data

	Far Below Basic	Below Basic	Basic	Proficient	Advanced
# Items Correct	**<17**	**17**	**24**	**36**	**48**
% of Students	12%	21%	43%	21%	3%
% of Items Correct	<28%	28%	40%	60%	80%

California Department of Education
Predicted Student Impact Data for the Proposed Performance Standards (Levels)
for the Grade 5 California Standards Test in Science
Based on the Superintendent's Recommendation

	Far Below Basic	Below Basic	Basic	Proficient	Advanced	Proficient or Advanced
# Items Correct	**<17**	**17**	**24**	**36**	**48**	**36>**
All Students	12% 54,805	21% 96,697	43% 198,675	21% 99,474	3% 13,296	24% 112,770
Male	11% 26,910	20% 46,600	42% 98,403	23% 54,233	4% 8,708	27% 62,941
Female	12% 28,251	22% 49,957	44% 100,056	20% 45,255	2% 4,533	22% 49,758
Asian	7% 2,605	15% 5,454	40% 14,876	32% 11,762	7% 2,632	39% 14,394
Hispanic	17% 36,277	27% 57,113	43% 92,267	12% 26,538	1% 1,367	13% 27,905
African American	16% 6,191	26% 9,956	43% 16,288	13% 5,081	1% 283	14% 5,364
White	5% 8,266	13% 20,040	43% 65,129	33% 50,810	6% 8,426	39% 59,236
Economically Disadvantaged	17% 42,085	27% 66,556	43% 107,909	12% 31,931	1% 1,694	13% 33,625
English Learners	22% 27,267	31% 38,100	40% 49,084	7% 9,065	1% 284	8% 9,349
Special Education	22% 8,662	28% 10,692	37% 14,230	12% 4,719	2% 558	14% 5,277

California Department of Education
Performance Standard (Level) Percentages for Current California Standards Tests (CSTs)
English Language Arts, Mathematics, and Science*

	Far Below Basic		Below Basic		Basic		Proficient		Advanced	
	Range Across Grades or Disciplines	Grade 5	Range Across Grades or Disciplines	Grade 5	Range Across Grades or Disciplines	Grade 5	Range Across Grades or Disciplines	Grade 5	Range Across Grades or Disciplines	Grade 5
Mathematics										
% of Students	7%-15%	10%	26%-35%	31%	27%-33%	29%	17%-28%	23%	4%-13%	7%
% of Items Correct	<31%	<32%	31%-37%	32%	45%-58%	48%	60%-74%	63%	80%-88%	83%
English language arts										
% of Students	12%-18%	12%	19%-24%	22%	29%-38%	38%	20%-24%	21%	7%-11%	7%
% of Items Correct	<30%	<31%	30%-37%	31%	43%-52%	43%	66%-73%	66%	80%-88%	81%
Science										
% of Students	8%-20%	N/A	15%-23%	N/A	38-46%	N/A	15%-24%	N/A	4%-10%	N/A
% of Items Correct	<30%	N/A	30%	N/A	40%	N/A	63%	N/A	80%	N/A

* Performance standards (levels) adopted by SBE November 2001, based on Spring 2001 results

California Department of Education
Performance Standard (Level) Setting Panel's
Recommendation for the Performance Standards (Levels)
Grade 5 California Standards Test in Science with Predicted Student Impact Data

	Far Below Basic	**Below Basic**	**Basic**	**Proficient**	**Advanced**
# Items Correct	**<11**	**11**	**20**	**33**	**51**
% of Students	3%	17%	46%	33%	1%
% of Items Correct	<18%	18%	33%	55%	85%

California Department of Education
Cut Point Comparison for Grade 5 English-Language Arts, Math, and Science
State Board Adopted Cut Points for ELA and Math
and SSPI and PLSP Recommendations for Science with Predicted Student Impact Data

	ELA*		Math*		SSPI Recommendation		PLSP Recommendation	
Grade 5 Cut Points	**Percent Correct**	**Percent of Students**	**Percent Correct**	**Percent of Students**	**Percent Correct**	**Percent of Students**	**Percent Correct**	**Percent of Students**
Far Below Basic	<31	12	<32	10	<28	12	<18	3
Below Basic	31	22	32	31	28	21	18	17
Basic	43	38	48	29	40	43	33	46
Proficient	66	21	63	23	60	21	55	33
Advanced	81	7	83	7	80	3	85	1

* Based on grade 5 Spring 2001 results

ITEM #

CALIFORNIA STATE BOARD OF EDUCATION

MARCH 2004 AGENDA

SUBJECT	
Standardized Testing and Reporting (STAR) Program: Approval of scope of work for the 2004-2005 California Alternate Performance Assessment (CAPA)	☒ **Action**
	☒ **Information**
	☐ **Public Hearing**

RECOMMENDATION

Approve the extension of the CAPA contract through December 31, 2005, and direct the State Board's Testing Liaisons and Executive Director to work with the Department staff to finalize the CAPA Scope of Work.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

The CAPA is an alternate assessment for students with significant disabilities who are unable to take the California Standards Tests, even with accommodations or modifications. Educational Testing Service (ETS) has had a two-year contract to develop, administer, and report the CAPA. This contract expires June 15, 2004.

In July 2003, the Board approved the performance standards for the CAPA English-Language arts and mathematic content areas. The Board approved the CAPA student report at its September 2003 meeting.

SUMMARY OF KEY ISSUES

Federal regulations require that an alternate assessment be offered for students with significant cognitive disabilities and the results from this assessment be included in the state's accountability system. The CAPA was developed through a contract with ETS and administered statewide for the first time in 2003. Since CAPA is part of the STAR Program, the continuity in the administration and reporting is vital. The 2004-2005 scope of work delineates the activities required of the contractor to continue the development of CAPA, administer the assessment in 2005, and report test results to districts, parents, and the public. These activities are closely aligned to the contract requirements for the STAR Program. An extension of the current contract with ETS will ensure the continuity of the STAR Program.

FISCAL ANALYSIS (AS APPROPRIATE)

The Department of Finance has authorized $2.2 million from federal Title VI funds to support the 2004-05 administration of the CAPA.

ATTACHMENT

Attachment 1: CAPA Scope of Work 2004-05 (42 pages)
Attachment 2: CAPA/STAR Integration Contract (1 page)

Scope of Work

2004-2005

Developed by the California Department of Education and Educational Testing Service

Table of Contents

Component 1: Test Development 5

A. Instrument Design 5
Quantities of Items 6
Materials with Items 9

B. Item Reviews and Other Committees 9
CAPA Meeting Logistics 9
Security During Development and Review 10
Item Writing Committee 11
Content Review Committee 11
Sensitivity Reviews 13
Internal Sensitivity Review 13
Statewide Pupil Assessment Review (SPAR) Panel 13

C. Generation of New Items and the Item Pool 13
Item Attrition 13
1. Committee Rejection 14
2. Field Test Survival Rates 14
3. Released Items 14
Electronic Item Banking System 14

E. Reliability Issues 17

F. Statistical Analysis 18

G. Standard Setting 20

H. Technical Manual 21

Component 2: Administration, Scoring, Reporting 23

A. Overall Test Administration Plan 23

B. Test Material Production 24
Materials 24
Examiner's Manual 24
Answer Document 25
Design 25
Production 25

C. Ordering, Packaging and Shipping 26
CDS Master File 26
Ordering 26
Pre-ID Services 26
Packaging and Shipping Materials 27
District Shipments 27
School Shipments 28

D. Return of Materials 28
Scorable Documents 28
Non-scorable Materials 29

E. Scanning and Scoring 29
Demographic Editing 31
District Corrections of Demographic Data 31
Scoring 32
Wrong Level Scoring 32

F. Reporting 33
Report Verification 33
Reporting Results to Schools, Districts, and Counties 33
CAPA Student Report 34
Printing and Packaging Reports 35
Inaccurate or Incomplete Reports or Files 35
Reports for CDE 35
Internet Reporting 35

Component 3: Communication and Program Support 38

A. Personnel and Organization 38
ETS Departments and Subcontractors 38

B. Communication Activities 39

C. California STAR Technical Assistance Center 40

D. Training 41
Pre-Test Workshops 41
Post-Test Training 41
Examiner Training 42

E. Web Sites 42

List of Tables

Table 1. CAPA Levels and Content 6
Table 2. CAPA Item Development Inventory 7
Table 3. Number of Items Developed for 2005 by Strand 8
Table 4. Administrative Timeline 23
Table 5. Required Reports 34
Table 6 Internet Sequence 36

List of Figures

Figure 1. Item Bank Equilibrium 14

Component 1: Test Development

The California Alternate Performance Assessment (CAPA) must be of the highest technical quality and follow professional guidelines outlined in the Standards for Educational and Psychological Testing (AERA. APA, NCME, 1999). That technical quality includes the appropriateness of the instrument to the students for whom it is designed. For the past two years, Educational Testing Service (ETS) has worked closely with the California Department of Education (CDE) and California practitioners to develop an alternate assessment for the Standardized Testing and Reporting (STAR) Program that reflects a fair assessment for students with significant cognitive disabilities. It is critical that CAPA maintains the validity and reliability standards set in the first two years of development. ETS has formed a team with the appropriate expertise to ensure that CAPA test development adheres to the highest professional standards and effectively serves its unique testing population.

A. Instrument Design

ETS will develop five (5) operational test forms in 2005, one for each of the five CAPA levels. Operational tests will be developed in the content areas of English language arts, mathematics and science. ETS will develop a science field test for grade-8. Students taking CAPA Levels I – V will be assessed in English Language Arts (ELA) and mathematics. Students in grades 5 and 10 will be tested in science.

In the content areas of ELA, mathematics, and science, there will be eight (8) operational items per level assessed, and possibly one (1) field test item. There will be multiple versions of each test form distributed throughout the state; each version of the ELA, mathematics, and science portions will have eight common items and one unique field test item. The science field test for 8th graders will have 72 unique field test items. The field test items associated with each content area will create an item pool large enough to support the construction of operational forms for the three content areas. As described above, the field tests will produce items for the operational tests that meet strict content and psychometric requirements. Table 1 shows the content areas for each level.

Table 1. CAPA Levels and Content

CAPA Level	Grade	Operational Content	Field test Content
I	2-11*	English Language Arts, mathematics	Science (Grades 5 & 10 only)
II	2-3	English Language Arts, mathematics	
III	4-5	English Language Arts, mathematics	Science
IV	6-8	English Language Arts, mathematics	
V	9-11	English Language Arts, mathematics	Science

*Students with profound disabilities – eligibility determined by the student's Individualized Education Program.

Quantities of Items

ETS is responsible for developing items in the correct proportions so that the resulting item bank represents a distribution of items across all performance indicators and in the proportion required by the test blueprints. If the required number of items for any CAPA performance indicator is not being developed within the appropriate time frame, ETS will identify the number and kind of items needed and will give additional item writing assignments to highly experienced writers.

Table 2 indicates the number of items written at the 2003 item writing workshop and reviewed at the 2003 content review. It also gives the number of items being tested in 2004 and 2005 for English-Language Arts, mathematics, and science.

Table 3 shows the number of items that need to be developed for the 2005 forms by strand.

Table 2. CAPA Item Development Inventory

	ELA	Math	Science
Number of items written at Item Writer Workshop	» **180**	» **220**	» **270**
Number of items reviewed during Content Review	Level I: 34 Level II: 17 Level III: 24 Level IV: 37 Level V: 34 **Total: 146**	Level I: 21 Level II: 23 Level III: 32 Level IV: 34 Level V: 24 **Total: 134**	Level I: 46 Level III: 66 Level V: 66 **Total: 178**
Number of items being prepared for Field Test	Level I: 15 Level II: 12 Level III: 19 Level IV: 22 Level V: 15 **Total: 83**	Level I: 14 Level II: 14 Level III: 24 Level IV: 21 Level V: 15 **Total: 88**	Level I: 24 Level III: 54 Level V: 34 **Total: 112**
For Field Test Ready Items*	» **42**	» **33**	**78**
Number of Operational Ready Items (Field Tested in 2002)	Level I: 1 Level II: 7 Level III: 6 Level IV: 2 (3) Level V: 1 (2) (1)	Level 1: 3 Level 2: 11 Level 3: 3 (5) Level 4: 4 (1) Level 5: (3) (1)	None
2004 Operational	**8 Operational items** per level – 5 Anchors and 3 Operational Ready Items per level (5 Levels)	**8 Operational items** per level – 5 Anchors and 3 Operational Ready Items per level (5 Levels)	
2004 Field Test	1 new field test item per 8 versions per 5 levels = **40 Field Test items**	1 new field test item per 8 versions per 5 levels = **40 Field Test items**	All new Field Test items: » **112**
2005 Operational	8 Operational items per level – 5 Anchors and Operational Ready items per level (5 levels)		8 Operational items for Levels I,III,V – from 2004 field test
2005 Field Test	1 new field test item per version per 5 levels		All new field test items for grade 8, addressing Levels IV

* This number reflects the amount of stimulus cards in production. The actual number of stimulus cards in the 2004 stimulus card packet will be about half the amount shown.

Table 3. Number of Items Developed for 2005 by Strand

English Language Arts	
Strand	**Number Of Items To Be Develop for 2005**
Reading/Word Analysis	25
Sight Word Reading	45
Reading Comprehension	70
Writing/Writing Strategies	40
Listening	45
Speaking Applications	60
Mathematics	
Strand	Number Of Items To Be Develop for 2005
Number Sense	40
Counting and Money	25
Algebra and Functions	10
Measurement and Geometry	70
Statistics, Data Analysis and Probability	15
Science	
Strand	**Number Of Items To Be Develop for 2005**
Investigation and Experimentation	50
Physical Science	55
Life Science	30
Earth Science	15

Key features of each test item include:

- Task Preparation
  A description of how to administer the item, including the presentation of materials. When applicable the task preparation will provide specific scoring specifications and specific adaptations for students with sensory or motor disabilities.
- Cues and directions
  The exact words the examiner uses to elicit a response from the student
- Scoring rubric
  Level I has a 5-point scoring rubric that emphasizes the student's degree of independence in attempting or completing a task. The 4-point scoring rubric for Levels II-V indicates the breadth and quality of the student's response. For Levels II-V the rubric is customized for each item by listing specific scoring criteria.

Materials with Items

Some items require stimulus cards and/or manipulative materials. ETS will design and produce the applicable stimulus cards, which the Test Creation System (TCS) will generate. In addition, districts will receive lists of manipulatives required for the administration of each version so districts can purchase which manipulatives that they need.

B. Item Reviews and Other Committees

The development and review of CAPA items is a collaborative partnership between the ETS CAPA Test Development team, the CDE and committees composed of California teachers, school administrators, special education student advocates, parents, and other educational stakeholders. ETS will convene the following committees to help develop new items and review, decline, and recommend proposed items:

- Item writing committee
- Content review committee

ETS will set up, coordinate, and facilitate these committees to the extent possible.

CAPA Meeting Logistics

ETS Program Management will meet all of the requirements for meeting logistics for the CAPA test development committees including:

- Identifying and arranging suitable accommodations and meeting space, including necessary A/V equipment
- Communicating with prospective committee members
- Handling all travel arrangements and reimbursing all allowable expenses for committee participants
- Collating, packing and shipping all meeting materials

ETS item development coordinators will prepare all meeting materials, such as agendas and training materials. The CDE will review and approve the materials in a timely manner. ETS will also develop the particular formats for presentation of the items with

the CDE's approval. ETS staff will prepare the items for the CAPA Content Review Committee meetings in three-ring binders. Each item will be presented on a single page and its appearance will closely resemble its appearance in a final published booklet. Any accompanying artwork, graphics and stimulus materials, including passages, will be included. Items may be presented to the committee members with the answer key marked or not marked, at the discretion of the CDE. The academic content standard being assessed by the item will be printed at the top of the page. ETS program management staff will print, collate, and package all meeting materials to be used by meeting facilitators and committee participants.

Security During Development and Review

During the development process, ETS staff members consistently follow these established security procedures, which represent best practices in the industry:

- Only authorized individuals will have access to test content at any step in the development, review, and data analysis processes
- ETS will keep in locked storage all hard-copy test content, computer disk copies, art, film, proofs, and plates when not in use
- ETS will shred working copies of secure content once they are no longer needed during the development process
- ETS will maintain careful control over all written communications with item writers and reviewers. Use of secure, traceable methods of delivery, such as express delivery service with a record of delivery will be kept for all mailings.

In addition, ETS requires any developers or reviewers to maintain security. During the development process, ETS staff members will consistently follow these established security procedures, which represent best practices in the industry:

- All individuals who participate in the content and bias/sensitivity reviews during the development process must sign the confidentiality/nondisclosure agreement before they receive access to any test content.
- Implications of signing the confidentiality/nondisclosure form for each committee member's personal behavior are explained before any materials are distributed.
- All copies of materials used during the review meetings are sequentially numbered. Individual committee members sign out for a specific numbered copy. Copies cannot be removed from the meeting room during the review process.
- All materials are collected and inventoried at the end of each meeting before individuals are allowed to leave the review room.
- Review committee members are permitted to write notes only in the review books and on evaluation sheets, which ETS' staff will collect.
- Committee members are not allowed to bring computers or similar devices into the review rooms.
- Rooms containing secure materials are kept locked when not in use

Item Writing Committee

This committee will develop on-demand performance items for the CAPA item bank, based on the subset of content standards identified for CAPA and the related CAPA performance indicators. Based on the inventory of items across levels, content, and standards, the Item Writing Committee will produce new items for future development. This committee will meet for two days in July 2004 in Sacramento. Item writers will receive an honorarium of $100 per day or the district of employment will be reimbursed for substitute costs. ETS will recruit experienced CAPA item writers in addition to new item writers who apply and whom the CDE approves. ETS will be responsible not only for meeting logistics as described above, but also reimbursements for travel and lodging. ETS CAPA assessment specialists will oversee the item writing process.

In selecting the pool of item writers, ETS will seek appropriate balance and diversity. ETS will provide the CDE with the names and documentation of writers' qualifications for all item writers selected to write items for the program.

ETS will produce training materials for the item-writing committee meeting that includes an overview of the scope and purpose of the program, an overview of the California Content Standards, test and item specifications, including general and specific guidelines for item and rubric writing. The packet will also include sample items and any other materials requested by the CDE.

ETS will provide the committee members with an item-writing template. Prior to the meeting, ETS staff will determine the performance indicators in each content area and assign the writers for level. Previous inventory analysis done of the item pool statistics review will determine the performance indicators.

ETS will give the item writers a complete set of item specifications for all levels and contents subject to CDE approval. This document will guide item-writing and will be updated and revised after the item-writing workshop with recommendations from the participants.

Participants will also have a set of manipulatives and stimulus cards. One goal of the program is to utilize manipulatives from previous CAPA operational tests for new items and to limit the addition of new manipulatives. Item writers may use existing for new item development or develop new stimulus cards.

On the first day of the item-writing meeting, each participant will receive an ID number that matches the ID number on the materials they receive. ETS will record the ID numbers of each participant and the set of materials they receive. Participants will be required to sign a security agreement, notifying them of the confidentiality of the materials used in the item-writing process and prohibiting the removal of the materials from the meeting area. To ensure that all materials are accounted for, ETS will verify the participant IDs and material IDs at the end of each day and at the conclusion of the item-writing workshop.

Content Review Committee

The content review committee will review CAPA test items for the items' match to the standards and performance indicators, technical quality, and suitability for the students assessed. At the first meeting of this committee, participants will review the previous year's items and their statistical data. At the second meeting of this committee, they will review new items in the item writing pool. The first meeting will be in late June 2004, and the second meeting will be in early August. ETS will be responsible for meeting

logistics as described above and reimbursements for travel and lodging. ETS will recruit members of the 2003 content review committee.

The criteria for evaluating items will include overall technical quality, match to the California Content Standards, match to the construct being assessed by the standard, difficulty range, clarity, correctness of the answer, as well as more global issues, including appropriateness, difficulty, and readability. The committee will also be trained on how to make recommendations for revising items. The guidelines for reviewing items are summarized below.

Does the item—

- Have clear criteria for a performance or constructed response?
- Measure the content standard?
- Match the test item specifications?
- Align with the construct being measured?
- Test worthwhile concepts or information?
- Reflect good and current teaching practices?
- Have a prompt that gives the student a full sense of what the item is asking?
- Use developmentally appropriate language?
- Call for responses that are plausible and reasonable?
- Avoid clues to students, such as absolutes or words that, when repeated, constitute an appropriate response?
- Reflect content that is free from bias against any person or group?

Is the stimulus (if any) for the item—

- Required in order to answer the item?
- Likely to be interesting to students?
- Clearly and correctly labeled?
- Providing all the information needed to answer the item?

Does the rubric for the item—

- Cover a full range of stages of mastery with respect to achievement and independence?
- Use clearly-defined, non-overlapping stages of mastery?
- When possible, match rubrics for items with similar structure and/or content?
- Reflect an appropriate difficulty for the necessary level?

All items developed become the property of the CDE. Ownership is defined as those items that are taken to the committee for review.

Sensitivity Reviews

Internal Sensitivity Review

ETS assessment specialists who are specially trained to identify and eliminate performance items that contain content or instruction that could be construed to be offensive to or biased against members of specific ethnic, racial, or gender groups will conduct the next level of review. These trained staff members will review every item before it is prepared for committee review.

Statewide Pupil Assessment Review (SPAR) Panel

The CDE convenes this panel monthly to review all test items proposed for California statewide pupil assessment programs. This review guarantees that questions or items not solicit disclosure of a pupil's, or his or her parents'/ guardians' personal beliefs or evaluates the pupil's personal behavioral characteristics. ETS will be responsible for preparing proposed CAPA items for the SPAR committee and making a test development specialist available for questions or clarifying issues that the committee may have. ETS will delete or revise items as specified by the SPAR panel recommendations.

C. Generation of New Items and the Item Pool

The item development process will support the development and maintenance of a high-quality item pool for every content area of the CAPA. For operational forms, the content requirements of the test blueprint will govern the selection of items. Each operational item will also meet stringent psychometric requirements.

Items selected for operational forms will span a range of difficulty (average item score) and will be selected so that the forms parallel previous operational forms in test difficulty unless otherwise specified by the CDE. ETS will also include items that are easier and more difficult in order to increase the range of achievement that CAPA measures and to provide more meaningful and accurate scores for students at a wider range of performance levels. The CDE will provide any available information on form values for previous forms.

Item Attrition

The development plan includes an overage of items in each of the content areas. The overage in item development will allow for the elimination of any item that might be rejected during any phase of the item development process including ETS internal reviews, reviews by the CDE, and reviews by the committees of California educators including the content, community, and the SPAR Panel.

The items must be of sufficient quality to yield a sound psychometric design, to ensure curricular and instructional validity, and to lead to scores that are valid and reliable. Validity and reliability are subject to prevailing standards and what is feasible for students with disabilities. The item development plan takes into consideration the expectation that some items will need to be replaced each year.

The goal is to provide the CDE with more than 250 items across 5 levels and 2-3 content areas that are a true measure of knowledge or skill, an engaging task for students, and an example of reasonable assessment.

At least three factors can contribute to item attrition:

1. Committee Rejection

When committees review items, they may recommend that they not be used. In this case, the CDE could reject items.

2. Field Test Survival Rates

ETS develops statistics on each field test item to determine whether to use that item in an operational test. The average item score is impacted by how well the scoring rubric worked in a field test. This will be calculated after the 2004 administration.

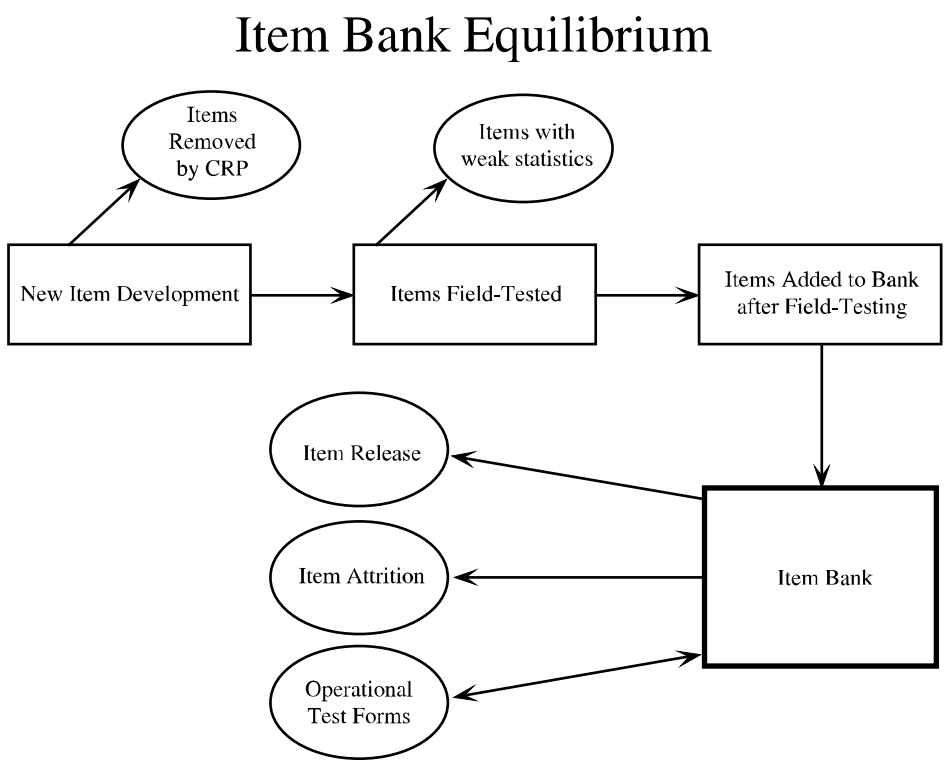
3. Released Items

A third item attrition factor is the numbers of items expected to be released to the public on an annual basis. Due to the uniqueness of this assessment and the student population, there are limited ways of writing test items. This impacts the release of items.

ETS plans to reuse at least five anchor items at each level and each content area. Two items or 25% of CAPA items will be released each year. ETS will work with the CDE to select the released items and rotate the level and content area of the released items to give a variety of items, but minimize depletion of any level or content area.

Figure 1 summarizes the inputs and outputs that create equilibrium in an item bank.

Figure 1. Item Bank Equilibrium



Electronic Item Banking System

ETS will incorporate CAPA items into the ETS-developed electronic database that includes STAR and CAHSEE items. The item bank will support future development of

CAPA operational forms. Each item will be in a separate PDF file. The database will include technical and other information about each item. It will also include:

- The item itself with any graphics or reading passages
- Dates of field testing
- Dates of live administration
- Form placement, and item statistics from each field-test and operational administration.

This will be a Structured Query Language (SQL) database and it will provide additional fields of data such classifications, any relevant difficulty estimates, any relevant fairness information and any relevant copyright information. The CDE will own the database, which will be refreshed as test items are developed, field tested, and used operationally. The SQL database will be integrated into the CAHSEE/STAR electronic item bank stored on the CDE internal network.

ETS will design and develop an electronic item bank that will meet all of the CDE requirements, including sufficient items for five years of test administration. The item bank will be in SQL 2000. The new item bank will permit the CDE staff to participate in the development and evaluation of CAPA test forms and review and report on the statistics and other data about items and forms. ETS will maintain the item bank on an ongoing basis throughout the life of the contract and provide the CDE with the latest versions of the item bank, on a CD ROM or through FTP transfer (at the CDE's option), on a schedule to be determined by the CDE.

The file for each item will contain:

- Item ID that links each item to the instructional level strand concept, and standard; representations of each item as it appears in the test booklets
- Full text
- Any artwork or other graphic images for stems
- Any artwork or other graphic images, or information for stimuli or props
- Content and standard codes, including CAPA levels
- Item author
- Answer keys
- Rubric
- Copyright information
- Item type
- Form information
- Status
- Data on stimuli with more than one associated item, with links to their associated items through a unique stimulus ID
- Data on set stimuli including their text, graphics, copyright information, length

- Community and content item reviewers' recommendations, including dates reviewed by each type of committee (entered after each panel meeting)
- SPAR Panel rejection/revision recommendations and comments, with dates (entered after the CDE has provided the information in a Word document or similar electronic file)
- Date of final CDE approval of the item
- All other documentation related to item development and field-test and operational statistics by administration
- Reason for removing items from the active database and the date of such removal
- Whether and when to release an item to the public

In addition, all items in the current CAPA item bank will be moved into the integrated item bank in July, 2004. The accuracy and completeness of the transfer of current and other items will be confirmed in two ways:

- Electronically comparing data from the current CAPA item bank to the corresponding data in the new item bank
- Printing the contents of the two databases and manually comparing the results

The SQL system delivered to the CDE will also include facilities for form construction, summary data for new forms and summary information about the contents of the item bank. In addition, the database will accommodate additional fields that the CDE requests or that will store historical information about individual items.

ETS will perform the following steps to design and build the electronic item bank

- Analyze the current CAPA item bank data dictionary to determine content, structure, and data definitions (July 2004)
- Design the needed user functions (ongoing)
- Obtain review and approval of the database structure and functions by the CDE and develop the functional capabilities
- Obtain approval of the database structure and functions by the CDE and develop the functional capabilities
- Develop and document database maintenance and updating procedures
- Design reports and forms for CDE and ETS staff
- Develop interfaces to other ETS systems as needed
- Conduct acceptance testing with the CDE
- Transfer any existing CDE items into the database and verify the accuracy and completeness of the transfer as described above (July 2004)

ETS will maintain statistics by administration for each item. We will link these data to the item data through the unique item ID. Historical data and statistics will include such data as instructional level, field-test date, operational test date, form position and item statistics such as p-value, index of reliability, mean square fit, equated item difficulty, point item-total correlation, scaled item difficulty, inter-rater reliability (for constructed response items), score point distributions, and bias analysis. ETS will add preliminary

item statistics to the database no more than eight weeks after completing a field-test or six weeks after completing the final student file for an operational test. ETS will verify the data two weeks after a final data file is available from each field-test or operational test administration.

E. Reliability Issues

Score reliability is an essential component to any assessment. ETS will adhere to reliability standards as set forth in the *Standards for Educational and Psychological Testing* and in accordance to what is feasible for the population of students with significant cognitive disabilities. Performance assessments present their own unique reliability issues that must be addressed. (This, of course, is coupled with the variance among this population of students in general.) One such issue is the agreement of multiple raters when scoring the same performance. The CAPA scoring rubrics are designed to include specific behavioral descriptors for each score point, which will serve to minimize subjectivity in the rating process and thereby facilitate score comparability and reliability.

To help ensure score reliability, raters must be adequately trained in the use of the scoring rubrics. Because of the critical nature of adequate rater training, ETS will consult with the CDE as needed to ensure information and resources are available for use in the rater training.

To provide sufficient data for the estimation of rater reliability while minimizing the cost in terms of teacher and student administration time, districts should routinely double-rate 10% of examinees in each content area to continuously monitor rater reliability. The raters should be trained school staff who are licensed or certificated and familiar with the characteristics of students with special needs. For students who are rated by two raters, the rating assigned by the primary rater, or examiner, will be used in the calculation of the students content category.

Coefficient alpha, inter-rater reliability, and standard errors of measurement will be reported for each content category score. Generalizability analyses will be conducted to estimate variance due to the student by task interaction and, when multiple raters are used, to estimate rater variance. Decision studies will be performed to estimate the generalizability coefficient for the design and to provide information as to the optimal number of tasks, and raters necessary to achieve a generalizability coefficient of at least 0.80.

Assessment design procedures are intended to minimize the changes in the assessment that need to be made from one year to the next. While some changes will be necessary due to the rotation of items or content areas, it is intended that procedures, rubrics, and most of the item stimuli themselves will remain constant from one year to the next, thereby enabling the comparability of the CAPA assessment from year to year.

ETS will maintain 5 common items from year to year and version to version within each assessment level. These 5 common items will be used to equate the CAPA forms from year to year so that score comparability is maintained. To ensure high-quality calibrations for the constructed response tasks, ETS will use the proprietary version of the PARSCALE computer program. This program allows for flexible estimation of item parameters for polytomously scored items. For the constructed response items, the fitted model will be the Rasch generalized partial credit model.

All CAPA forms will have embedded field test sections and ETS will calibrate the field test items simultaneously with the operational items and link them to the operational scale through a common-item equating design. The general process for calibrating and scaling the embedded field test items will be similar for each administration. The specific steps that will be completed for the calibration of items will be:

1. Conduct preliminary item analyses for all items, confirming that the statistical performance of all items is satisfactory. Before calibrating the items, remove items identified as flawed or requiring revision (e.g., negative item-total correlation).
2. Simultaneously calibrate the field test items with the operational items, employing the Rasch generalized partial-credit model for all tasks.
3. Evaluate model-data fit. ETS will evaluate fit statistics in conjunction with plots of model-data fit that are generated by the GENASYS system. ETS will evaluate items flagged for potential misfit with respect to their impact on test specifications, psychometric quality and coverage of academic content standards and strands.
4. Link the item parameter estimates for the field test items to the operational scale through a set of anchor or linking items consisting of operational items from previous administrations. Equate 2004 forms to the 2003 form using the Rasch partial credit model. Note that in standard one-parameter model analyses, this consists of setting the mean of the anchor item parameters based on the new calibrations equal to the mean of the anchor item parameters in the previous calibrations.

ETS scaled the English-language arts and Mathematics CAPA following the 2003 administration. ETS used the raw scale cuts identified in the June 2003 standard setting for each test level to determine the scaled score range for each performance level: advanced, proficient, basic, below basic, and far below basic. In 2004/2005 ETS will need to hold a standard setting to determine the raw scale cuts for Science. The current CAPA scale and the new Science scale adhere to the following guidelines:

- Is non-vertical
- May be used to equate forms within years
- Must be able to be used to equate forms from year to year
- Is unique so that it is not misinterpreted as relating to any nationally administered test. The scale does relate to the scale used for the California Standards Tests.
- Has the proficient level set at a scale score of 35 and the basic level set at a scale score of 30

F. Statistical Analysis

ETS will carry out most of the ongoing psychometric work for the California Alternate Performance Assessment (CAPA) using a statistical analysis system called GENASYS, which is proprietary software developed by ETS. The GENASYS system contains components for establishing testing program statistical information, processing examinees, traditional item analyses, and IRT analyses. The GENASYS system has been developed to analyze both items scored right/wrong (selected-response items) and items scored for partial credit (constructed-response items) as is the type in CAPA.

ETS staff will verify the output from the scoring programs to ensure the accuracy of the scoring process. After each operational administration, they will run a set of preliminary item analyses based on a sample of the early answer document receipts. The preliminary item analyses will be used to assure the accuracy of the scoring. A minimum of 1,000 answer sheets at each assessment level from a heterogeneous sample of different schools (i.e., diverse in geography and demographic characteristics) will be used. They will institute a set of flags that will-automatically identify items with questionable performance characteristics. Item flagging rules supported by the GENASYS system include:

- Items with P-values above or below a specified threshold (e.g., above 3.2 or below 1.2 at Level I; above 4.0 or below 1.5 at Levels II - V)
- Item-total correlations below a specified threshold (e.g., 0.60)
- A greater number of high ability test takers receive a lower rating than received the highest ratings (generally the top 20 percent of scores is used to define this high ability group)
- A significant percentage (e.g., greater than 5 percent) omits the item
- A significant percentage (e.g., greater than 5 percent) do not reach the item

Content specialists will examine all flagged items, to verify that the items in the published test book were correct and unambiguous.

In addition to preliminary item analyses derived statistically, ETS will compare hand scoring for a small sample of student answer sheets to the scanned results to confirm the accuracy of scanning and scoring.

After scoring, ETS will subject all test items to extensive statistical analyses. These analyses will show which items are at an appropriate difficulty level for the testing population and are free from any form of differential item difficulty for subgroups of the state's population. Additionally, ETS content specialists will confirm the item-to-standard match for each of the content areas.

For all items the following sets of statistical analyses will be completed:

- Item analysis
- Differential Item Functioning (DIF) Studies
- Calibration, scaling, and equating

To assist psychometricians in overall evaluations of field-test items, the GENASYS system provides a comprehensive item evaluation module that incorporates information from a variety of analyses. The interface for this item evaluation module includes graphical plots of response options, plots of the item characteristic curve (ICC), information about the percentages of students receiving various ratings, the IRT statistics for the item, and classical statistics for the item (e.g., average item score, correlation with a criterion score). The evaluation module also includes an interface for statisticians to enter flags that indicate poor or questionable functioning directly into the GENASYS database.

The CAPA tasks will be calibrated using the Rasch generalized partial credit model. Each task will be evaluated using fit statistics in conjunction with plots of model-data fit that are generated by the GENASYS system. Tasks flagged for potential misfit will be

evaluated with respect to their impact on test specifications, psychometric quality and coverage of academic content standards.

Following each administration of the CAPA, ETS will review classical test theory statistics for all items. Tasks will be flagged that do not meet strict psychometric criteria as described above. Both the research and test development staff will carefully review these items. Test development-staff, together with the CDE, will review all field-test items and make recommendations for revisions.

ETS will also routinely analyze additional information about the constructed response tasks. This information includes:

- Percentage of scores awarded at each score point
- Number and percentage of exact agreement between raters
- Number and percentage of adjacent agreement between raters
- Number and percentage of non-adjacent scores between raters
- Rater reliability indices

DIF analyses will be carried out for all major subgroups of the testing population, using the Mantel-Haenszel (MH) statistic. The CDE will provide a list of these subgroups. ETS and the CDE will evaluate items that exhibit significant differential item functioning and will determine whether continued operational use of the items is acceptable. Alternatively, items exhibiting DIF may be revised for additional field testing or removed from the item pool. Such decisions will depend on the nature of the DIF observed and the availability of alternate items with similar content and statistical characteristics.

The criterion for DIF that ETS uses is a statistic on the equated delta scale (MH D-DIF). Based on the absolute value of the MH D-DIF statistics and the related statistical significance test, items are classified into three categories:

- MH D-DIF not significantly different from zero or absolute value less than 1.0. (Category A)
- MH D-DIF significantly different from zero and absolute value of at least 1.0, yet either less than 1.5 or not significantly greater than 1.0. (Category B)
- MH D-DIF significantly greater than 1.0 and absolute value 1.5 or more. (Category C)

Based on the Mantel-Haenszel and standardization analyses, ETS will classify items into one of these three categories according to rules that have been successfully used at ETS for over 10 years. The three categories carry the labels A, B and C. Category A contains items with negligible DIF. Category B contains items with slight to moderate values of DIF, and Category C contains items with moderate to large values of DIF. Test development staff will review items classified in Category C to consider any identifiable characteristics that may have contributed to the differential item functioning. Consistent with ETS DIF procedures, ETS will exclude any field-test Category C items from operational use.

G. Standard Setting

To enable the reporting of scale scores for the Science content area when it becomes operational in 2005, a standard setting will need to be conducted. The purpose of the standard setting is to determine the raw score points to be used as cutpoints for reporting

of CAPA science scores in the following performance levels: Far Below Basic, Below Basic, Basic, Proficient, Advanced.

For consistency with the ELA and Math cutpoints established in 2003, the standard setting will use the Performance Profile Method. ETS will work with the CDE to recruit approximately 30 panelists at each grade level to participate in the standard setting. ETS will make arrangements for the lodging of panelists, meals, meeting rooms, and other logistics necessary for the standard setting meeting using the current CDE guidelines for cost and reimbursement to panelists. Panelists should be representative of the population of the state of California and have knowledge of science and students with significant cognitive disabilities.

Once a date for the two-day standard setting session is identified and prior to the standard setting session, ETS will provide the necessary standard setting plan and any other needed documentation to the CDE for approval by the California State Board of Education. Following the standard setting session, ETS will produce a technical report, which documents the standard setting session and its results. The standard setting technical report will be provided to the CDE for approval and ultimately shared with the California State Board of Education for discussion. Following the required public hearings, the California State Board will be asked to adopt the resulting cutpoints so that score reporting for the 2005 CAPA may occur.

H. Technical Manual

ETS will produce an annual technical manual for CAPA. The manual will include:

- Summary data tables
- Narrative interpretation and analysis of the data
- Areas where the data indicate that the tests are not meeting industry standards and improvement is needed, if any are found
- Recommendations for improving the tests where improvement needs are indicated
- Summary data tables

At a minimum, the manual must include the following information:

- The number of students with valid scores on each test
- The characteristics of the students tested at each grade level including:
    - Total number tested
    - Percent of English language learners:
    - Percent of economically disadvantaged students
- Descriptive statistics for each test including means, standard deviations, median p-values and range of p-values, and median polyserials.
- Validity Evidence
    - Information about performance level reporting including the distribution of scores among the performance levels.
        - Reliability and Standard Errors of Measurement
    - For each content area score, estimates of reliabilities and standard errors of measurement
    - Standard errors of measurement at the performance level cut points
    - Probability of misclassification

    - Inter-rater reliability
    - Generalizability analyses
    - Sample size
- DIF Analysis by
    - Gender
    - Ethnicity
- Scaling procedures
- Standard setting results and documentation

ETS will submit the 2005 Technical Manual to the CDE by October 1, 2005.

Component 2: Administration, Scoring, Reporting

ETS, along with its subcontractors, will print, package, distribute, and collect testing materials for districts to administer the CAPA. ETS further will verify scoring, produce reliable statistics, and work with the CDE to create meaningful reports that accumulate data for parents, teachers, schools, districts, and policy-makers.

A. Overall Test Administration Plan

ETS will work with the CDE and California schools to provide meaningful and timely results for the CAPA program. All eligible California examiners and students will benefit from the appropriate content, test booklets and forms designed with simplicity, ease of understanding, and security in mind.

ETS and its subcontractor will be responsible for printing all materials and scannable documents, implementing pre-identification procedures, packing and shipping answer documents, and test booklets, receiving and accounting for answer documents and test booklets, and following-up on any missing documents. In addition, ETS will scan the CAPA answer documents, and resolve answer document edits.

The timeline in Table 16 shows an overview of the major tasks and times to administer CAPA. Details appear in the next requirement. The assumption of this time line is that CAPA has a unique testing window that's the same for all districts. If CAPA follows the same window as STAR CSTs and CAT/6, based on the districts' completion of 85% of instruction days, then these dates will vary by district and parallel the CST and CAT/6 timeline.

Table 4. Administrative Timeline

Administration Task	Timeline 2004-05
Take orders for operational tests	November 2004
Pre-ID of operational answer sheets	January 2005
Print examiner's manual, stimulus cards, and answer documents	January 2005
Package examiner manuals, stimulus cards and answer documents	February 2005
Ship testing materials to districts	March 2005
Retrieve scorable and non-scorable testing	May 2005

Administration Task	Timeline 2004-05
materials	
Score tests	May-June 2005
Analyze both operational and field test results	May 2005
Initial results reported on the web site	August 2005
Ship student reports and master list summaries to districts	June – September 2005
Process demographic corrections	September – October 2005
Prepare technical report	October 2005

B. Test Material Production

After CDE has approved test items and forms proved, the next step is to print the materials, test production. ETS will work with the CDE and ETS' subcontractors to design and produce the materials, including materials to accommodate the special needs of teachers such as large print Braille.

The materials produced specifically for CAPA include examiner's manuals and answer documents. The STAR District Coordinator and Test Site Coordinator manuals include CAPA chapters. The Student Group Identification sheet (SGID) covers both CST and CAT/6 and CAPA tests.

Materials

Examiner's Manual

Each examiner's manual will include test directions for administering the test, assessments for all content areas within a level, and scoring rubrics for interpreting student performance. There may be multiple versions of the examiners manual because of embedded field test items that differ from version to version.

If ETS prints multiple versions, the cover of each manual will have a barcode keyed to one of each version of the assessment. ETS will package manuals with corresponding stimulus cards to be used during the assessments. Based on an analysis of students and school districts, the estimate for printing is 24,000 of each manual annually; print specifications are approximately 78 pages, self-cover, 8-1/2 x 11, 50# white offset paper, black ink only, saddle-stitch binding, paper banded in quantities approved by the CDE. ETS will shrink-wrap each Examiner's Manual and matching set of stimulus cards.

ETS will print and distribute large print and Braille versions of the examiner manuals for districts requesting these versions for examiners who are visually impaired.

Answer Document

The STAR Scoring and Processing Centers will work with the CDE and ETS to design the scannable CAPA answer document, including student demographic pages. The same scannable answer documents will also be used for collecting demographic information for those students who are eligible for CAPA but who are not assessed due to absence or parental exemption. Most of the demographic fields collected on the CAPA answer document will be identical those included on the STAR multiple choice answer document. The CAPA answer folder will have additional fields to identify the CAPA level and the version number. There will also be a place for the examiner or observer to indicate their role and to sign confirming that they have been trained in CAPA examiner procedures. The CDE will approve the final layout of the demographic pages.

ETS's subcontractor will print one global answer document for all tests annually. This will be a four-page scannable document with three pages of print. Raters will manually enter student identification information and the student's ratings or scores. If the school or district Pre-IDentified student information, the document will carry a Pre-ID bar code with identifying information. The STAR Scoring and Processing Centers will be responsible for producing the answer document required for this program in sufficient quantities to test all students in Levels I – V.

Design

To design CAPA materials, ETS staff and designers, and the STAR Scoring and Processing Centers staff and designers will work together with CDE and other stakeholders to better understand the nuances of the administration processes and to confirm content specifications. ETS will:

- Work with test developers and other key individuals to make sure that the design and layouts of testing materials facilitate the measurement process.
- Work with the STAR Scoring and Processing Centers staff to make sure that scannable documents and other forms meet the required tolerances and can be processed accurately and efficiently.
- Submit drafts of all materials to the CDE for approval.
- Prepare revised versions of materials based on feedback from the CDE and any other stakeholders involved in the process.
- Submit all approved materials for production.

Production

The production phase for any material or form will go through five critical stages that include:

- Submission of final print specifications and/or mock-up to ETS for the examiner's manual and stimulus cards to ETS Publications
- Submit final print specifications to STAR Scoring and Processing Centers for the answer document
- Receipt and approval of proofs.
  ETS staff will review all proofs to verify grammar, spelling, punctuation, content, and layout. Other personnel, such as scanning staff at STAR Scoring and Processing Centers will verify scannability. ETS will submit proofs to the CDE for approval

after ETS and the STAR Scoring and Processing Center staff have first ascertained that they are consistent with the specifications provided.

- Printing of the materials. ETS does not give the "OK to print" until all parties have signed off on the content and layout of the document.
- Receipt of all materials at the STAR Scoring and Processing Centers.
  The STAR Scoring and Processing Center staff inspect materials to verify covers, proper coding, colors, pagination, etc. before accepting the materials.

C. Ordering, Packaging and Shipping

ETS has set up a web STAR management system for all its STAR Programs that includes ordering, Pre-ID, and materials tracking features. The STAR Processing Center packages and distributes materials, based on orders received from the STAR management system. In the STAR management system, districts are listed according to their County-District-School (CDS) code, which CDE assigns.

CDS Master File

California assigns county, district, and school codes to each testing entity as appropriate. All counties are identified by a two-digit county code with valid numbers being 01 – 58 and 99. Districts are identified by a two-digit county code and a five-digit district code. Schools are identified by a two-digit county, five-digit district, and seven-digit school code (xx xxxxx xxxxxxx). The CDE will forward to ETS and any appropriate subcontractors an updated master CDS code file as needed. ETS will use the file to ensure that all appropriate districts have ordered CAPA test materials. ETS is required to report all test results using each testing entities' unique CDS number. No modifications may be made to the CDS file unless they are expressly authorized by the CDE.

Ordering

District STAR coordinators will place orders on the ETS order system. The STAR Technical Assistance Center (TAC) will work with the districts to collect enrollment data and security agreements. The enrollment collection process is designed for TAC to approve district enrollment orders if the district has submitted an original security agreement. Once approves an enrollment order, that order must be locked to prevent changes to that order. STAR Scoring and Processing Centers will edit CAPA enrollment orders with edit criteria defined by ETS.

Pre-ID Services

If districts opt for pre-identification of demographic fields on answer documents, they will receive CAPA answer docs as a result of their upload of all district students in the STAR management system. ETS' subcontractor will print plain or pre-identified answer documents.

Districts will have the option of either utilizing a secure web-based system or submitting a structured computer file to provide the Pre-ID data. The Pre-ID file will be used to print the barcode information directly on the answer documents. The districts will have two options for Pre-ID. Districts can submit one file for the district (all enrollment orders included) or submit one file per enrollment order. Districts will be charged once per student Pre-ID for this service, whether districts send all student Pre-ID files at the same time or by administration.

If a district decides to leave field 211 (designating CAPA) blank for schools to hand-grid during testing, districts will receive no Pre-IDentified answer documents for those students. The examiner or test site coordinator would have to hand-grid all demographic fields on blank CAPA answer documents.

Packaging and Shipping Materials

According to the orders that each district enters into the system, the STAR Processing Center will box orders for each school and then send all boxes to the district. District coordinators should send the materials to schools at least 14 days before testing so administrators can review the materials.

The STAR Processing Center will determine the method for shipping materials to districts, except when errors or delays at the packing and shipping center require expedited shipping carriers to ensure on time delivery.

Districts that submit test orders to the California Technical Assistance Center by November 30, 2004 and submit clean Pre-ID files within ETS-specified timelines will receive priority for processing. ETS will attempt to meet the requested delivery dates for districts that submit orders after December 10 and/or do not meet the timelines for submitting clean Pre-ID files, but ETS is not obligated to do so.

The STAR Processing Center will package materials and clearly label for each school/program/building. They will ship the materials to a single district address for distribution within each district. If a district receives two or more pallets of materials, that district will also receive a pallet map. The STAR Processing Center will print and enclose packing lists and master file sheets.

District Shipments

Each district will receive at least one box of materials. Box 1 of each district or county office shipment will include:

- Return freight kits for scorable and non-scorable materials
- Directions to site coordinators for inventorying the materials and notifying the TAC of any missing materials or shortages
- A set of packing lists for all school shipments within the district or county office,
- A packing list for the district/county overage with materials listed in the order in which they are packed
- Reminders about maintaining the materials in secure-locked central storage

Other boxes will contain overages of examiner's manuals and blank answer docs to fill site requests.

ETS is authorized to charge districts for freight kits that are lost after delivery. ETS and STAR Scoring and Processing Centers will immediately notify affected districts of any delays in shipments including but not limited to backordered materials. ETS will fill backorders based on district testing dates. ETS will charge districts that order excessive materials.

All delivery carriers must have shipment tracking capabilities. The California Technical Assistance Center staff will verify shipment and delivery dates of materials for all districts.

Districts will inventory materials upon receipt and notify the California Technical Assistance Center of any errors, shortages, or additional materials required. Errors and shortages in orders will be filled and shipped to districts within two business days of notification. The STAR Processing Center will process requests for additional materials will to be processed as long as shipments to other districts are not delayed.

School Shipments

Box 1 of each school shipment will include:

- Return freight kits for scorable and non-scorable materials
- Directions to site coordinators for inventorying the materials and notifying the district coordinator of any missing materials or shortages
- A packing list with materials listed in the order in which they are packed
- Reminders about maintaining the materials in secure-locked central storage

Other boxes will contain examiner's manuals and answer folders.

Multiple versions of each examiner's manual may be distributed throughout the state; each version of the ELA and Math portions will have common items and one or more unique field test item.

D. Return of Materials

The STAR Scoring and Processing Center is responsible for retrieving all scorable and non-scorable materials from districts. Districts are required to have all scorable and non-scorable materials available for pickup no more than five working days after the last testing date for all regular and make-up testing in the district. All non-scorable materials must be picked up within five days of completing all regular and make-up testing for the last test administration period. ETS will include information to contact return freight carriers in coordinators' freight kits. Each district STAR coordinator will to contact the district's assigned carrier and arrange for pickup within the required five-day period for the district. ETS is responsible for paying the freight costs for pick up and return of all materials.

The TAC will monitor the receipt of materials from districts at the STAR Scoring Center and notify CDE of districts that did not have their materials picked up five days after completing testing in the regular CAPA test window. CDE will notify the district superintendent in writing that the district is delinquent in returning materials and request that the district schedule a pick up of the materials within 24 hours.

Scorable Documents

The District STAR Coordinator's Manual will include specific directions for packaging and returning all answer documents to be scored. The directions will include specific information for packaging documents for students for whom demographic only documents are submitted. Coordinators will receive return address labels and directions about how to arrange for having the materials picked up. Districts will return all scannable (scorable) materials will be returned to the STAR Scoring Center via express service to expedite the processing of scorable materials. The STAR Processing Center will verify all returned shipments for completeness and notify districts of any shipment discrepancies.

The STAR Processing Center will store all scored CAPA materials until January 30 each year, after which time they will destroy the scorable documents in a secure manner.

Non-scorable Materials

The District STAR Coordinator's Manual CAPA chapter will include specific directions for packaging and returning all non-scorable documents, including return address labels and directions about how to arrange for pick up. Secure non-scorable materials will be picked up from school districts for return to the STAR Scoring Center no more than five working days after the last authorized testing date for any district. Districts will return all non-scorable materials via ground delivery in order to minimize shipping costs. The STAR Processing Center will complete the check-in of secure, non-scorable materials quickly to maximize resolution of missing documents before score reporting.

The STAR Processing Center will scan the barcodes on each Examiner's Manual and stimulus card. They will compare these counts to the counts of materials sent to the schools/districts. If used scorable materials are found, they will be forwarded the same day to the STAR Scoring Center for processing and scoring. If SABE/2 materials are found, they will be forwarded the same day to CTB\McGraw-Hill for processing and scoring. The secure and non-secure materials should be separated and the secure materials will be separated by grade level and type. Secure materials include the CAPA Examiner's Manual and the CAPA stimulus cards, including large print and Braille versions.

All secure materials including large print versions that were shipped to each district must be accounted for at the school level.

The STAR Processing Center will check in secure materials through a rigorous security process. A report of secure materials not received, a "Missing Security Document" report, will be generated and sent to ETS staff to conduct follow-up activities with personnel at the schools identified with missing materials. Based on ETS findings, the California CAPA security database counts will be updated and a final electronic Missing Security Document report will be issued to the CDE and ETS within ten working days after completion of check-in of secure materials. The STAR Processing Center will generate a report of secure materials not received and send it to ETS staff who will conduct follow-up activities with personnel at the schools identified with the missing materials.

The electronic tracking system is to be updated to show the date on which each district's materials were received so that CDE can verify the status for each district.

All answer documents will be examined for accuracy and completeness, and to ensure that they are not damaged. Before documents are released for scanning, quality checks will be completed to~~:~~

- Ensure school's materials are complete and not missing materials
- Ensure system is complete and not missing schools or materials
- Verify school and codes against Receiving Log
- Review condition of answer documents to ensure they are suitable for optical scanning

E. Scanning and Scoring

The STAR Scoring Center will be receiving and scanning all of the answer documents. STAR Scoring and Processing Center is responsible for verifying that all electronic

scanners and scanning programs are operating properly. Quality checks for both equipment and program accuracy must meet the highest industry standards for electronically processing test documents. Test sets of sample documents must be scanned and the results analyzed to ensure that scanners are properly calibrated and that all gridded and bar-coded information is being read correctly.

The STAR Scoring Center will use ISO 9000 quality-control procedures relating to forms design and printing to ensure that documents can be accurately scanned. Stringent quality control procedures and regular preventative maintenance will be performed to maintain properly functioning scanners. Measures to control scanner quality include:

- Diagnostics tool in scan programs that must be completed before processing
- Scanner accuracy that prints every 500-1,000 documents to manually check accuracy of the scanner
- At least one (1) Blank Diagnostic Sheet (BDS) Quality Check Sheet contained in each batch scanned
- At least one (1) Multi-Sheet Quality Check Sheet contained in each batch scanned
- Manual inspection of stacks scanned for readable PAS (Print-after-Scan) number
- Automatic check of page ID codes to verify that pages scanned in order
- Automatic document form type integrity verification to prevent recognition by the scan program of incorrectly placed documents in the batch
- Use of PC monitors to display quality controlled image samples
- Defined record discrepancies flagged for correction in pre-edit
- Identification of damaged documents, torn and crumpled sheets, document misfeeds, and paper jams. In these events, the scanner will stop automatically. The operator or the editing staff must make any needed corrections to the documents being scanned.

A staff person experienced in testing will validate the CAPA scoring program. The staff will hand grid a test deck using the actual school identification header sheets for every test and form. The test deck will contain up to 25 answer documents for each test and form. ETS testing staff will check each of the item responses for key accuracy. They will grid one or more of these types of keys and test completeness validations. The term "foil," as used below, means "item response bubble."

- All response foil one
- All response foil two
- All response foil three
- All response foil four
- All response foil five
- Random marks
- Entirely blank
- Missing items
- Test completeness algorithm
- Unique test requirement

Demographic Editing

As answer documents are scanned, the data will be transcribed directly to CAPA data files. After scanning, a three-step data editing process will be performed to verify that all data on the project database are complete and accurate. During this process, the data will be edited per the agreed-upon editing specifications. The first quality control step will consist of a complete computer editing of the data to account for all documents and to check for all possible "suspects" or omissions. At this point ETS will verify that the batch's data are being properly and correctly scanned.

The STAR Scoring processing Center is responsible for completing demographic edits and preparing all required reports including the Internet subgroup reports for all districts that have all materials to be scored available for pickup on or before the designated date, if the districts:

- Submit all materials in a processable condition with the exception of passing demographic edits; and either
- Pass demographic edit checks without alerts; or
- Respond to any requests for demographic information and provide all information in a correct format within the 72-hour period.

If districts submit answer documents for scoring after the deadline and the documents are not in a processable condition and the district does not provide demographic data within 72 hours, ETS will complete the scoring process to ensure that the districts have an "all students" report in the August 15 Internet posting. ETS will continue to work with districts to complete the demographic edits and provide all required reports including the Analysis of Variables Reports. The final Internet report will include subgroup data for these districts provided corrections made by the district are received and processable by the deadline for submitting that information.

The STAR Processing Center will process documents for these districts as they are received using all regular scoring and reporting procedures; if the documents are not processable on receipt, they will be processed after all requirements in the scoring specifications are completed. The student scores will be included in a student data file to be delivered to the CDE. A second Internet report will also be delivered to the CDE. If these districts have not provided complete demographic data by the specified deadline, ETS will include an all student report in the September Internet report and will continue working with the district(s). Complete subgroup data for these districts will then be included in the November Internet report.

Except as provided in subdivision (c), ETS will score all processable answer documents identified for pick up during the specified period and produce all required individual student reports and include the student scores in the final Internet report to be delivered to the CDE.

District Corrections of Demographic Data

Demographic fields need to be correct to pass editing and to meet Academic Performance Index (API) and Adequate Yearly Progress (AYP) requirements. Districts have the opportunity to make data corrections at several points:

- Uploading Pre-ID
  Districts have to have clean data or their files will not be accepted.
- After Pre-ID is sent

ETS will edit all Pre-ID files and verify that all required student demographic information, including name, birth date, gender, school and grade, are entered for each record. In addition, missing data for the following demographic fields must not exceed the school tolerances identified:

Demographic Area	Missing Data may not Exceed
Primary Ethnicity	5%
Language Fluency	3%
Counted in October CBEDS	3%
Special Education Services	3%
National School Lunch Program	3%

- After reporting
  Districts may notice demographic errors when they review reports, and the Accountability department may notify districts of changes to meet API. In this case, districts can choose to pay ETS $600 and $.15 per each student in the district to re-edit their demographic fields.

Scoring

Both scale scores and performance level scores are reported for CAPA. Scale scores range from 15 – 60, similar to the CST scale scores of 150 – 600. In 2003 a standard setting was held to determine cutpoints for performance level scoring of English-language arts and Mathematics. The standard setting identified the raw score cutpoints for the CAPA performance levels. These raw score cuts were transformed to the CAPA scale using a linear transformation which fixed the basic cut at a scale score of 30 and the proficient cut at a scale score of 35 to be consistent with the CST cuts of 300 and 350. Performance level scoring consists of 5 performance levels consistent with the CST performance levels: Far Below Basic, Below Basic, Basic, Proficient, Advanced. ETS will provide score key and conversion specifications to Pearson. Once scanning and scoring are complete, ETS will review a select sample of cases from the datafile for quality control purposes to ensure that scoring has been performed correctly.

ETS, Pearson Educational Measurement, and the Grow Network will work together to create a comprehensive schedule and plan for the verification of data and reports, and for the handoff deadlines which must be met to remain on schedule.

Approximately 20 percent of CAPA examinees will have two answer documents, which must be matched for scoring. One document should have the examiner field gridded, while the other document should have the observer field gridded. For scoring purposes, responses on the examiner document will be used for score reporting. Responses on the observer document will be used in conjunction with responses on the examiner document to monitor inter-rater reliability. If only an observer document is found for a student, the observer document becomes the examiner document and is used for scoring purposes.

ETS will work with Pearson and the CDE to develop a resolutions plan to handle answer documents with missing or inconsistent data. The resolutions plan should contain at a minimum procedures for handling answer documents with no gridded test level, with no grade gridded, and with a grade gridded which does not match the test level gridded.

Wrong Level Scoring

The student's grade determines the age-appropriate CAPA level. Examiners grid the level for a student on the answer document according to the following guidelines:

- Level I : grades 2 - 11
- Level II: grades 2 and 3
- Level III: grades 4 and 5
- Level IV: grades 6, 7 and 8
- Level V: grades 9, 10 and 11

If no grade level is indicated, the rule is to take the student's age as specified by the gridded date of birth and subtract 5 years; Age – 5 = grade, based on the above guidelines. Any test outside of Level 1 that does not comply with the grade level will be scored as "Far Below Basic."

F. Reporting

After scoring is completed, the STAR Scoring center sends data to Stat Analysis for Standard setting. The STAR Scoring Center will provide the raw data from the CAPA assessment to the ETS psychometricians. ETS will work with STAR Scoring Center and the CDE to turn this raw data into information that is useful to the CDE, the SBE, other state policy makers, students, parents, teachers, and administrators in California. The information will be used to develop policy recommendations for the SBE and reports that may be placed on the Web site.

Report Verification

The STAR Scoring Center will prepare a comprehensive schedule and test plan for the verification of reports. The plan must include verifying unit and system testing score and report programs. To validate the score and report programs, STAR Scoring Center will grid actual answer document test decks for each test and form, and in addition will create test files containing hundreds of student test records for each test and form. Based upon the test plan, ETS will build the test files to contain every possible type of district, school, level and student testing condition. The CDE will review pilot reports.

Reporting Results to Schools, Districts, and Counties

Starting with the 2004 administration, CAPA data will be merged with STAR data for reporting. If the district tests multiple STAR administrations, the CAPA data will be merged with the final STAR administration for aggregation and reporting. Shipping of reports to districts will begin on a date that has been agreed upon with the CDE. All reports will be in districts by a date that has been agreed upon with the CDE, except as provided in subdivision E.4 (c) and (d). CAPA reports will be sent to the student's district of service.

Each shipment of reports for schools, districts, and counties will include a diagram showing how the reports are packaged to assist the district with report distribution. All reports will be assembled according to grade, school, and district. School sets of reports will be assembled and shipped to the district for distribution to schools.

If for any reason, it becomes necessary to produce revised reports due to an error caused by ETS, all of the reports will be clearly identified as "revised" with a revision date.

Table 5. Required Reports

Report	Format	# Copies	School	District	County **
Student Report	Separate/customized, produced by Grow	2	2*		
Student Record Label	On same report with STAR	1	1		
Student Master List	Integrated with STAR	2	1	1	
Student Master List Summary	Integrated with STAR	2	1	!	
Subgroup Summary	Integrated with STAR	2	1	1	
Student Data File	Like STAR, data will be extracted and sent to CDE with student information	1		1	

* 1 copy for parent/guardian and 1 copy for current teacher
** County offices of education for schools operated by the county

ETS, the STAR Scoring and Processing Center and Grow will have joint responsibility in defining the reports. The reports will be developed as followed:

- Grow will create and print the CAPA Student Report.
- CAPA data will be integrated into the Student Master List, the Student Record Label, the Student Master List Summary, and the Subgroup Summary.
- The STAR Scoring and Processing Center will aggregate the student data.
- The STAR Scoring and Processing Center will transfer aggregated data to ETS for creation of the Web reporting file.
- The STAR Scoring and Processing Center will generate all state, county, and district reports, integrated into the STAR reports.
- ETS will extract the Web reporting file.

CAPA Student Report

The CAPA Student Report will meet the following specifications:

- The reports will be one pages in length with information on both sides
- The CAPA scores will be shown on page one as a vertical bar graph for ELA and a vertical bar graph for mathematics indicating a student's performance on a scale of "far below basic" through "advanced" performance levels.

- Page one will also present a brief letter to parents from the state superintendent, demographic information identifying the student, and three guidelines for parents to help their children.
- Page two will include a primer on CAPA levels with a graphic showing the match between grade level and CAPA level, and definitions of each of the five performance levels for ELA and mathematics separately.

Printing and Packaging Reports

The STAR Scoring and Processing Center is responsible for printing and packaging all reports. School, district, and county reports will be packaged in folders by grade level. The CDE and ETS will jointly determine the order of the reports within folders.

Reports will be boxed and labeled by school with the boxes for all schools within each district shipped to the district STAR coordinator for distribution within the district. Box 1 for each school is to include a list of the reports included in the shipment with the purpose and distribution requirement for each. The district reports will be boxed separately.

ETS will include a pallet map with each shipment for districts that receive more than one pallet of reports.

Inaccurate or Incomplete Reports or Files

When a district notifies ETS pursuant to Title 5, California Code of Regulations section 857(d) that complete and accurate reports or files were not received, ETS shall remedy the inaccurate or incomplete reports and files and submit a report to the CDE and the district detailing the resolution of each inaccurate or incomplete report. If the error was caused by ETS or an ETS subcontractor and district notification is received no later than the specified deadline, the file will be corrected for inclusion in the August 15 Internet file. Errors reported after the specified deadline but before the last date allowable will be corrected for the September student data file and Internet Report.

Reports for CDE

CDE will receive electronic versions of the county reports and raw student data files. In addition, ETS will send to CDE a list of all districts who tested CAPA and the number of CAPA students in each district to assist with apportionment payments.

Internet Reporting

Note: ETS' completion of this task will have to be part of a new or extended contract.

CAPA data will be reported with STAR data on the Web site hosted by the CDE. To the extent possible, CAPA reports will be integrated with, or formatted similarly to the STAR reports. ETS will develop Internet reports (HTML report pages) for the site that display school, district, county, and state data for all students, by identified demographic subgroup, by level, by content area, by specified reporting group (performance level).

The static backup component of the site will contain all help, index, and primary subgroup report pages for the current year data.

ETS will provide CAPA research files in several formats as an integrated component of the Internet site to allow users to conduct their own complex analyses and customized reporting. The data will be the same data presented in the Internet reports. To protect student confidentiality, ETS will not include scores for any group of ten or fewer

students. The research files will be available in the same formats and structures as STAR files to the maximum extent possible.

Administrative functionality for CAPA will be comparable to STAR to the maximum extent possible

ETS will deliver the Internet report data to CDE according to the following schedule:

- Prototype File – The first Internet file will be the first delivery of the Internet site. The file will include all HTML help pages, indexes, and include all required site functionality. The data used for this file is to be synchronous with student file "V1" below.
- 2nd Internet File – The second Internet file will include all changes identified from the prototype file and be synchronous with student file "V2". This file will include all components of the final site including research files.
- 3rd Internet File – The third Internet file will include all changes identified from the second Internet file and be synchronous with student file "V3."
- First Internet Posting – The First Internet Posting file is the official file to be released to the public on August 15, 2005, (or another date specified by the CDE) . This file is to be synchronous with student file "P1."
- Second Internet Posting – The Second Internet Posting file includes all data in the First Internet Posting plus data for schools not included in that posting because their testing dates were too late for inclusion or because they had not completed all scoring specification requirements for supplying missing data. This file is to be synchronous with student file "P2."
- Final Internet File – The Final Internet File includes all data in the Second Internet Posting plus all corrections and additions of missing districts to the "P2" August Internet File. This file is to be synchronous with the "2005 Final" student file.

Table 6 Internet Sequence

Deliverable Title	Associated Student Data file	Description
Prototype	V1	Pilot district data
2nd Internet File	V2	Internet file and research file for all districts for which processing is completed by June 9, 2005 with inclusion of preliminary HTML pages provided by CDE
3rd Internet File	V3	Internet file and research file for all districts for which processing is completed by June 23, 2005 with inclusion of edited HTML pages provided by CDE by June 24, 2005
1st Internet Posting File	P1	Research and Internet files for first posting. Date of posting set by statute. To the extent possible, ETS will include results for student tests that are scored during July in the August files.
2nd Internet Posting File	P2	Internet files for second posting. Includes data for all districts including those with testing dates too late for

Deliverable Title	Associated Student Data file	Description
		scores to be included in 1st Internet Posting.
Final Internet Posting File	2005 Final	Final Internet Files for final posting – includes all corrections to 2nd Internet Posting and is the final posting of the score data.

Internet Report delivery dates will be determined by the CDE.

Errors in the final student data files due to contractor error) will require ETS to reissue a "corrected" final Internet Posting file at no cost.

Any electronic transfer of CAPA student level records between the ETS and the CDE or an individual school district/LEA must be in accordance with CDE approved security standards already established.

Component 3: Communication and Program Support

ETS will facilitate communication among ETS's various departments, CDE, subcontractors and districts. This communication will promote understanding of CAPA and contribute to greater efficiency in the completion of tasks and administration of CAPA.

A. Personnel and Organization

Most of the communication will occur between the CDE CAPA Program Director and the ETS STAR Associate Director. The ETS STAR Associate Director will keep the STAR/CAPA program coordinator informed of all informal communication. The STAR/CAPA Program Coordinator (located in Sacramento) will be the first back-up if the ETS STAR Associate Director is not available. If both the director and coordinator are unavailable, the administrative assistant will be notified to contact the appropriate coordinator as the third person in line for informal communication. ETS STAR Associate Director, STAR/CAPA Program Coordinator, and administrative assistant are all part of the program management team.

ETS Departments and Subcontractors

In addition to overseeing all parts of CAPA, the ETS STAR program management team is also responsible for written communication, including manuals, startest.org, training, and communication with districts. Besides program management, other ETS departments who help execute the CAPA program include:

- **Test development**: creating all items, running reviews, and putting together test forms; creating and maintaining item bank
- **Operations**: printing of testing materials, including special versions such as Braille
- **Psychometrics**: analyzing data, equating, standard-setting, writing technical manual
- **IS&T**: cleaning, extracting, and transferring data; maintaining STAR web management system

ETS regularly updates and distributes a list of the STAR team members responsible for the tasks and/or deliverables specified in each component. The contact list includes names, e-mail addresses, fax numbers, telephone numbers, and roles. ETS commits staffing for this scope of work as part of the STAR Program, including (1) senior decision-making executive staff person, who maintains an office in Sacramento to facilitate timely decision-making in the program and (2) sufficient staffing in the STAR Technical Assistance Center.

Any changes to staff named as key personnel will be subject to the prior written approval of the CDE. Such approval will not be unreasonably withheld.

ETS employees two sub-contractors:

- **Pearson**: printing answer documents; packaging and shipping all testing materials to districts; retrieving and checking in testing materials; scanning, scoring and creating reports

- **Grow**: creating student reports for parents

ETS has given to the CDE STAR Director evidence that ETS has evaluated the capacity of each subcontractor to complete the task(s) or deliverable(s) for which each has been subcontracted.

B. Communication Activities

CDE members and ETS will keep in touch through weekly STAR conference calls and as-needed phone calls and e-mail messages. Communications regarding the tasks and deliverables in this SOW will be between CDE and ETS. Subcontractors may be included, as needed, in meetings and/or conference calls related to this SOW.

All external written communications, including e-mail from ETS or its subcontractors related to the CAPA Program components (CAPA technical issues; Internet and electronic reporting including the CAPA electronic item data bank; and administration, scoring, reporting, and program support), must be directed to the designated CDE contact and copied to Richard Diaz, CDE STAR program manager. All written communications including e-mail from CDE to ETS must be directed to the ETS designee for the component and copied to George Powell, ETS Director, STAR Testing Program.

ETS is responsible for the following communication activities:

- **Operational communications** among the CDE and ETS staff members responsible for each component of the program.
  ETS program director and CDE's STAR manager will be notified in writing immediately of any anticipated problems related to program operations.

- **Weekly STAR telephone conferences** to discuss the ongoing operations of the CAPA program.
  The CDE CAPA program director, and CDE's STAR manager will participate in these calls. By agreement of both CDE and ETS, any call may be limited to discussing only pre-specified components, or may be cancelled. ETS is responsible for writing and distributing agendas and minutes of all these weekly conference calls.

- A three-day **planning meeting** in Sacramento each year for the purpose of scheduling and planning all operational aspects of the STAR program.
  The CAPA meeting will be integrated to the maximum extent possible into the annual STAR planning meeting. If additional meetings are needed, to the extent possible, they will be conducted as videoconferences.

- **Quarterly reports** as part of the STAR Program that summarize accomplishments during the previous three months, along with a description of the plans for the following quarter.
  ETS will use "exception reporting" in order to minimize the burden on contractor and CDE staff members. Once detailed plans and time lines are approved, only exceptions will be identified. If tasks are on time and within budget, they will not be mentioned in these reports. The quarterly report may also include any problems, program changes, or program evaluation information that is significant to the program that does not otherwise constitute a "program exception." These reports will be sent to CDE's STAR Manager who will forward the reports to appropriate CDE and SBE staff.

ETS agrees that CDE owns all data and performance statistics related to individual student records. ETS will support CDE in protecting the confidentiality of such data in order to ensure the privacy of individual student records.

C. California STAR Technical Assistance Center

ETS will continue to incorporate CAPA responsibilities into the STAR Technical Assistance Center to provide services to California district STAR coordinators. The assistance center operates from 7 a.m. to 5 p.m. Pacific Time, Monday through Friday, except for the California school holidays specified in Education Code section 37220(a). Assistance center coordinators are assigned to specific districts and their primary responsibility is to assist the STAR district coordinators with all aspects of the program.

STAR Technical Assistance Center representatives will have knowledge of the CAPA Examiner's Manuals and Answer Documents for all of the instructional levels and subjects. Representatives will know and have a list of the ancillary materials that districts may request. All ETS phone staff will have an alpha listing of the schools as well as a numerical CDS listing to assist with verifying the callers. Representatives will log and track callers.

During peak call volume times, ETS will add temporary professional customer service staff in order to efficiently handle all incoming calls. The core full-time staff will train and supervise the temporary staff. The core staff will be available for resolution of difficult or unusual requests or questions

The STAR Technical Assistance Center is responsible for:

- Providing knowledgeable answers to questions. These staff will be available both via telephone and the customer service e-mail address provided on the STAR web site. These project staff are located at ETS offices in Concord, California.
- Having sufficient staff to ensure that all requests for assistance are handled within 24 hours of when they are received. ETS will report to CDE in its quarterly reports on the assistance center's telephone and e-mail response performance.
- Providing toll-free telephone access. ETS has a STAR Program toll-free phone number staffed during weekday work hours (7 a.m. to 5 p.m. Pacific Time).
- Providing a toll-free fax number for those district STAR coordinators who prefer written communications with the project staff.

The STAR Technical Assistance Center staff is responsible for annually:

- Contacting all charter schools to determine which are testing as independent charters
- Collecting the names and contact information for STAR district coordinators from district superintendents and independent charter school directors during August and September and forwarding this information to the CDE in a Microsoft Access database no later than October 31.
- Collecting CAPA orders from districts and independent charter schools no later than December 31
- Verifying school/district material orders, test dates, testing administrations, delivery dates and return shipment information. Ensuring that all dates are within regulatory requirements.

- Entering verified district and site information into electronic files
- Responding to district coordinator questions about ordering materials, Pre-ID procedures, deliveries, test administration, packaging and returning materials
- Monitoring the receipt and editing of Pre-ID files
- Ensuring that District CAPA Coordinator Security Agreements are received before any materials are shipped to districts
- Monitoring material distribution and following up with district shipments that do not arrive
- Notifying district STAR coordinators of any changes in shipping schedules
- Assisting district STAR coordinators in responding to edit alerts triggered by answer documents
- Following up on alerts to districts
- Monitoring the return of materials from districts through August/September
- Monitoring distribution and receipt of reports through August/September
- Assisting district STAR coordinators with report interpretation

D. Training

CAPA is integrated into Pre- and Post-Test STAR workshops for district coordinators, as well as into the District STAR Coordinator and STAR Test Site Coordinator manuals. In addition, the CAPA Program will be responsible for providing resources to train examiners.

Pre-Test Workshops

The purpose of pre-test training is to clarify the participation criteria for the CAPA Program and to prepare district STAR/CAPA coordinators to train test site coordinators on the procedures for receiving, administering, packaging, and returning test materials as securely as possible. In addition, participants will learn what is new in the CAPA program. ETS will work with CDE to set up and coordinate a minimum of 20 pre-test workshops throughout the state for district STAR coordinators. ETS will:

- Arrange for locations and equipment for the 20 meetings
- Notify district STAR coordinators of the meeting dates and locations
- Arrange for ETS staff members to coordinate and present the sessions with CDE staff
- Prepare pre-test training materials for the meetings, including slides, discussion and video clips. If a new video is made, it will include information on CAPA.

Post-Test Training

ETS will coordinate post-test workshops with CDE to help district STAR coordinators interpret reports and results. A minimum of five workshops will be scheduled throughout the state. ETS will:

- Work with CDE to arrange locations and notify district STAR/CAPA coordinators.
- Prepare post-test training materials.
- Arrange for ETS staff to coordinate and present the sessions with CDE staff.

Examiner Training

Examiners, including observers, must be certificated or licensed school personnel and receive training on administering CAPA. On the answer document, examiners and observers must verify that they received training and that the test was administered accordingly. Examiners/observers can receive training in one of two ways:

1. Attending a face-to-face local training given by trainer trained by the CDE, possibly given through the pre-test workshops or through web casts.
2. Viewing the web cast and practicing with video or DVD

E. Web Sites

ETS creates and supports www.startest.org targeted primarily at STAR district coordinators. One of the tabs is devoted to CAPA. This web site supports districts with the most current information and alerts districts to changes. Information on this web site will include a feedback form, links to external Web sites of interest, and information regarding the following:

- Workshops, including downloadable training materials
- Key administrative dates
- STAR and CAPA program calendar
- Instructions and forms, including how to order materials and how to order Pre-ID services
- District and test site coordinator manuals
- Reports

ETS will work with CDE to maintain the web site and to provide program support. ETS may make information about the CAPA available at this site or may link to a CDE site for information about the test. Any information related to the CAPA Program that is to be posted on a contractor maintained site must be submitted to CDE for review and receive written approval before being posted. Any site(s) maintained by ETS or a subcontractor must be free of advertising. The content of any web site(s) maintained by ETS must be consistent with CDE STAR/CAPA web sites.

In addition, ETS develops and maintains the STAR management web site. Districts have their own unique logon and password. Through this site, districts:

- Set up testing administrations
- Enter orders
- Receive messages about the status of their testing materials
- May upload Pre-ID files
- Track their orders

CAPA/ STAR Integration Contract
Projected Costs by Billing Period
(dollars)

Line No.	Billing Period:	6/16/2004 6/30/2004	7/1/2004 9/30/2004	10/1/2004 12/31/2004	1/1/2005 3/31/2005	3/31/2005 6/30/2005	6/30/2005 9/29/2005	9/30/2005 12/31/2005	Total Costs
	Cost Categories								
1	ETS Staff Costs	$ 12,502	$147,454	$ 121,924	$ 34,792	$ 34,792	$ 73,774	$ -	$ 425,238
2	ETS Staff Travel Costs	$ -	$ 7,000	$ 7,000	$ -	$ -	$ -	$ -	$ 14,000
3	Consultant Travel	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -
4	Data Processing Costs	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -
5	Other Project Direct Costs	$ -	$ 30,000	$ 30,000	$ 27,087	$ 27,087	$ 27,087	$ -	$ 141,262
6	Sub Contracted Costs (Non OH)	$ -	$ -	$ 67,341	$ 286,810	$ 191,210	$ 283,350	$ -	$ 828,711
7	Indirect Costs at 20.5%	$ 2,563	$ 37,813	$ 46,384	$ 71,481	$ 51,883	$ 78,763	$ -	$ 288,888
8	**Total Costs**	**$ 15,065**	**$222,267**	**$ 272,649**	**$ 420,171**	**$ 304,973**	**$ 462,975**	**$ -**	**$ 1,698,099**

JGC 2/19/04

CALIFORNIA STATE BOARD OF EDUCATION

MARCH 2004 AGENDA

SUBJECT	
Standardized Testing and Reporting (STAR) Program: Approval of 2004 District Apportionment Amounts	☒ **Action**
	☒ **Information**
	☐ **Public Hearing**

RECOMMENDATION

Approve the following 2004 STAR district apportionment amounts:

- $ 0.32 for completing demographic information for each student not tested with the CSTs and the CAT/6 Survey
- $ 2.52 per student for completing demographic information and administering the CSTs and CAT/6 Survey
- $ 2.44 per student for administering the SABE/2
- $ 5.00 per student for administering the CAPA

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

The State Board of Education (SBE) annually approves the amount to be apportioned to districts to offset the costs associated with administering the tests within the STAR Program.

SUMMARY OF KEY ISSUES

- California *Education Code* Section 60640(h)(1) specifies that the State Superintendent of Public Instruction shall apportion funds to school districts to enable school districts to administer the tests within the STAR Program.
- California *Education Code* Section 60640(h)(2) states that SBE shall annually establish the amount of funding to be apportioned to school districts for each test administered.
- The apportionment for the California Standards Tests (CSTs) and the *California Achievement Tests, Sixth Edition Survey* (CAT/6 Survey) is unchanged from 2003.
- The *Spanish Assessment of Basic Edition, Second Edition* (SABE/2) apportionment for grades 2 and 3 is $ 0.24 less than in 2003 to reflect changes in the pre-ID costs for SABE/2.
- Including an apportionment for the California Alternate Performance Assessment (CAPA) within the STAR Program is new and reflects the integration of CAPA into the Program. Districts received a $5.00 apportionment for administering the CAPA in 2003 that was not paid as part of the STAR Program.

The current budget includes funds to pay these apportionments.

FISCAL ANALYSIS (AS APPROPRIATE)

The funding of the STAR apportionments has been approved by the Department of Finance (DOF) and is included in the approved 2003-04 STAR budget. A total of $12,348,000 has been approved by DOF to fund the 2004 the CST-CAT/6 Survey apportionment. This amount includes the $0.32 for submitting demographic information for students who are not tested. A total of $321,600 has been approved for the SABE/2 apportionment, and $500,000 has been approved for the CAPA apportionment.

ATTACHMENT

None

ITEM #8

CALIFORNIA STATE BOARD OF EDUCATION

MARCH 2004 AGENDA

SUBJECT	
Golden State Seal Merit Diploma: Adopt Proposed Title 5 Regulations	☒ **Action**
	☒ **Information**
	☐ **Public Hearing**

RECOMMENDATION

Consider comments received during the public comment period and at the public hearing and take action to adopt the regulations.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

The State Board of Education (SBE) approved the Notice of Proposed Rulemaking, the proposed Title 5 Regulations for the Golden State Seal Merit Diploma, and the beginning of the 45-day comment process at its meeting on January 7, 2004.

SUMMARY OF KEY ISSUES

The Golden State Seal Merit Diploma is an honors diploma intended to recognize high school graduates who have mastered the high school curriculum. To earn the Golden State Seal Merit Diploma, students must demonstrate mastery of the curriculum in at least six subject areas, including mathematics, English-language arts, science, United States history, and two subject areas of the students' choice. Golden State Examinations were identified as the means by which students may demonstrate mastery. (*Education Code sections* 51450 – 51452)

AB 1266, Chapter 573, Statutes of 2003, repealed the Golden State Examination program. *Education Code Section* 51452 allows the SBE to designate examinations deemed appropriately rigorous to demonstrate mastery of the curriculum.

At its January 2004 meeting, SBE approved proposed Title 5 Regulations for the Golden State Seal Merit Diploma. The proposed regulations detail the use of California Standards Test scores and Golden State Examination results as the means of demonstrating mastery of the high school curriculum.

The Notice of Proposed Rulemaking and proposed Golden State Seal Merit Diploma Regulations were published on January 23, 2004, and the public hearing is set for 9 a.m., on March 9, 2004. Written public comments may be submitted until 5 p.m. on March 8, 2004. California Department of Education will summarize and present the public comments at the March 10, 2004, SBE meeting.

If SBE makes revisions to the proposed regulations at this meeting, the revised regulations will be sent out for an additional 15-day comment period. If this occurs, there

may need to be a special SBE meeting to receive and review public comments and adopt the amended regulations in order to allow schools to identify eligible seniors and award Golden State Seal Merit Diplomas at 2004 graduation ceremonies.

FISCAL ANALYSIS (AS APPROPRIATE)

CDE reviewed the proposed regulations and determined that there are no additional costs associated with them.

ATTACHMENT

Attachment 1: Fiscal Analysis (5 pages)*
Attachment 2: Title 5. EDUCATION, California State Board of Education, Notice of Proposed Rulemaking, Golden State Seal Merit Diploma (4 pages)
Attachment 3: Proposed Regulations, Title 5. EDUCATION, Division 1. State Department of Education, Chapter 2. Pupils, Subchapter 3.75. Standardized Testing and Reporting Program, Article 2.5, Section 876 (1 page)

A summary of the comments received during the public comment period and at the public hearing will be submitted as a Last Minute Memorandum.

* This attachment is not available for web viewing. A printed copy is available for viewing in the SBE Office.

STATE OF CALIFORNIA ARNOLD SCHWARZENNEGER, *Governor*

CALIFORNIA STATE BOARD OF EDUCATION
1430 N Street, Room 5111
Sacramento, CA 95814

TITLE 5. EDUCATION

CALIFORNIA STATE BOARD OF EDUCATION

NOTICE OF PROPOSED RULEMAKING

Golden State Seal Merit Diploma

[Notice published January 23, 2004]

The State Board of Education (State Board) proposes to adopt the regulations described below after considering all comments, objections, or recommendations regarding the proposed action.

PUBLIC HEARING

Staff will hold a public hearing beginning at **9:00 a.m. on March 9, 2004**, at 1430 N Street, Room 1801, Sacramento. The room is wheelchair accessible. At the hearing, any person may present statements or arguments, orally or in writing, relevant to the proposed action described in the Informative Digest. The State Board requests that any person desiring to present statements or arguments orally notify the Regulations Adoption Coordinator of such intent. The Board requests, but does not require, that persons who make oral comments at the hearing also submit a summary of their statements. No oral statements will be accepted subsequent to this public hearing.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Regulations Adoption Coordinator. The written comment period ends at **5:00 p.m. on March 8, 2004**. The Board will consider only written comments received by the Regulations Adoption Coordinator or at the Board Office by that time (in addition to those comments received at the public hearing). Written comments for the State Board's consideration should be directed to:

Debra Strain, Regulations Adoption Coordinator
California Department of Education
LEGAL DIVISION
1430 N Street, Room 5319
Sacramento, California 95814
E-mail: dstrain@cde.ca.gov
Telephone: (916) 319-0860
FAX: (916) 319-0155

AUTHORITY AND REFERENCE

Authority: Sections 33031, 51450 and 51451, Education Code.

Reference: Sections 51450, 51451 and 51452, Education Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

California Education Code Section 33031 states, "The board shall adopt rules and regulations not inconsistent with the laws of this state (a) for its own government, (b) for the government of its appointees and employees, (c) for the government of the day and evening elementary schools, the day and evening secondary schools, and the technical and vocational schools of the state, and (d) for the government of other schools, excepting the University of California, the California State University, and the California Community Colleges, as may receive in whole or in part financial support from the state.

The rules and regulations adopted shall be published for distribution as soon as practicable after adoption.

The purposes of the proposed regulations are to specify the California Standards Tests and scores that students may use to qualify a student for the Golden State Seal Merit Diploma, and to provide for phase out of the use of Golden State Examinations for the same purpose. These regulations are needed because that the Golden State Examinations that were used previously to identify students eligible to receive the diploma were eliminated by the Legislature. However, the laws related to awarding Golden State Seal Merit Diplomas remain intact.

DISCLOSURES REGARDING THE PROPOSED ACTION

Mandate on local agencies and school districts: None

Cost or savings to any state agency: None

Costs to any local agency or school district which must be reimbursed in accordance with Government Code section 17561: None

Other non-discretionary cost or savings imposed on local educational agencies: None

Cost or savings in federal funding to the state: None

Significant, statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states: None

Cost impacts on a representative private person or businesses: The State Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Adoption of these regulations will not:

(1) create or eliminate jobs within California;
(2) create new businesses or eliminate existing businesses within California; or

(3) affect the expansion of businesses currently doing business within California.
Significant effect on housing costs: None

Effect on small businesses: The proposed regulations would not have a significant adverse economic impact on any business because they only apply to Local Educational Agencies and their subgrantees.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code Section 11346.5(a)(13), the State Board must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of the

State Board, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

The State Board invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations at the scheduled hearing or during the written comment period.

CONTACT PERSONS

Inquiries concerning the substance of the proposed regulations should be directed to:

Vicki Perez, Associate Governmental Program Analyst
Standards and Assessment Division
California Department of Education
1430 N STREET, 5TH FLOOR
Sacramento, CA 95814
E-mail: vperez@cde.ca.gov
Telephone: (916) 445-8765

Requests for a copy of the proposed text of the regulations, the Initial Statement of Reasons, the modified text of the regulations, if any, or other technical information upon which the rulemaking is based or questions on the proposed administrative action may be directed to the Regulations Adoption Coordinator, or to the backup contact person, Najia Rosales, at (916) 319-0860.

AVAILABILITY OF INITIAL STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Regulations Adoption Coordinator will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at her office at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations, and the initial statement of reasons. A copy may be obtained by contacting the Regulations Adoption Coordinator at the above address.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

Following the public hearing and considering all timely and relevant comments received, the State Board may adopt the proposed regulations substantially as described in this notice. If the State

Board makes modifications that are sufficiently related to the originally proposed text, the modified text (with changes clearly indicated) will be available to the public for at least 15 days before the State Board adopts the regulations as revised. Requests for copies of any modified regulations should be sent to the attention of the Regulations Adoption Coordinator at the address indicated above. The State Board will accept written comments on the modified regulations for 15 days after the date on which they are made available.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, a copy of the Final Statement of Reasons may be obtained by contacting the Regulations Adoption Coordinator at the above address.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Rulemaking, the Initial Statement of Reasons, the text of the regulations in underline and strikeout, and the Final Statement of Reasons, can be accessed through the California Department of Education's website at http://www.cde.ca.gov/regulations.

REASONABLE ACCOMMODATION FOR ANY INDIVIDUAL WITH A DISABILITY

Pursuant to the *Rehabilitation Act of 1973* and the *Americans with Disabilities Act of 1990*, any individual with a disability who requires reasonable accommodation to attend or participate in a meeting or function of the California State Board of Education (SBE), may request assistance by contacting Vicki Perez, Standards and Assessment Division, 1430 N Street, Sacramento, CA, 95814; telephone, (916) 445-8765; fax, (916) 319-0967.

Title 5. EDUCATION

Division 1. State Department of Education

Chapter 2. Pupils

Subchapter 3.75. Standardized Testing And Reporting Program

Add Article 2.5 and Section 876 to read:

Article 2.5. Golden State Seal Merit Diploma

§ 876. Golden State Seal Merit Diploma.

For the purposes of the Golden State Seal Merit Diploma:

(a) "Demonstration of mastery" or "demonstrate mastery" means earning a scaled score of 370 or above on a California Standards Test (CST), as set forth in Education Code Section 60642.5, or a performance level of recognition, honors, or high honors on a Golden State Examination (GSE).

(b) Mastery must be demonstrated on six separate GSEs or high school level CSTs, not including the Algebra I CST, General Mathematics CST, and Integrated Mathematics 1 CST.

(c) Students may not use both a CST and the GSE in the same course of study to demonstrate mastery of the curriculum under Education Code Section 51452.

NOTE: Authority cited: Sections 33031, 51450 and 51451, Education Code. Reference: Sections 51450 , 51451 and 51452, Education Code.

12-16-03

State of California **Department of Education**

LAST MINUTE MEMORANDUM

DATE: March 9, 2004

TO: MEMBERS, STATE BOARD OF EDUCATION

FROM: Geno Flores, Deputy Superintendent
Assessment and Accountability Branch

RE: Item No. 8

SUBJECT: Golden State Seal Merit Diploma: Adopt Proposed Title 5 Regulations

Background

At its January 2004 meeting, the State Board approved commencement of the rulemaking process for adopting proposed Title 5 Regulations for the Golden State Seal Merit Diploma. The public comment notice was published on January 23, 2004 and a public hearing was held on March 9, 2004.

Report on Public Hearing

Consistent with the requirements of the Administrative Procedure Act, the public hearing regarding the proposed amendments was scheduled for Tuesday, March 9, at the California Department of Education, 1430 N Street, Room 1801, Sacramento, California, beginning at 9 a.m. An audiotape of the public hearing was made, and Maryanna Rickner will provide a copy of the audiotape to any State Board member desiring a copy.

The public hearing was called to order at 9 a.m. on the prescribed date and at the prescribed location. No one was present to provide comments at the public hearing. The public hearing was adjourned at 10:03 a.m.

Two comments were received during the public comment period that ended at 5:00 p.m. on Monday, March 8, 2004. The two comments have been summarized and responses provided to the Board in this memorandum.

Summary of Public Comments/Key Issues

A summary of the comments and responses follows.

Staff Recommendation

Recommend that the State Board adopt the regulations with no changes.

Summary and response to comments received during the Initial Notice Period of January 23, 2004 through March 8, 2004, and the Public Hearing, March 9, 2004.

Comment:

The following e-mail was received from Karen Ashim:

I have been reading the proposed changes in the GSE with great interest. I commend the state for using the CST scores for the GSE. As a former testing coordinator for our school, I am very happy to see that the number of test days will be lessened by this change.

However, I do not see in the on-line proposed regulations if students will need to pass specific tests as they did in the past (i.e. US History, a math, a science, a reading or writing). Will there be requirements that state which tests or groups of tests have to be passed? Also, are the optional tests in Economics, Government, and Spanish being eliminated altogether?

Response:

Education Code Section 51451, which cites the qualifications for the Golden State Seal Merit Diploma, has not changed. Students must demonstrate mastery in at least six subject matter areas, four of which shall be mathematics, English language arts, science, and United States history, with the remaining two subject matter areas selected by the student.

AB 1266, Chapter 573, Statutes of 2003, repealed the Golden State Examination (GSE) program. Golden State Examinations, including the examinations in economics, government/civics, and second-year Spanish language, will no longer be given. However, previously earned GSE results may be used to qualify for the Golden State Seal Merit Diploma. The proposed regulations allow students to use GSE results, specified California Standards Test scores, or a combination of the two to qualify for the Golden State Seal Merit Diploma.

Comment:

The following e-mail was received from Karen Ashim:

One of my concerns is that the GSE Spanish will no longer be offered, and as far as I know, there are no CST/STAR tests for Spanish. The ELD population is the group these changes will hurt the most.

Would the state consider using the Advance[d] Placement passing scores for subject test areas to enhance the numbers of students being eligible for the Merit Diploma? This would certainly help our Spanish speakers as well as all other students.

Response:

The Golden State Seal Merit Diploma is intended to recognize students who demonstrate mastery of California's high school curriculum. Both the Golden State Examinations (GSE) and California Standards Tests (CSTs) were developed specifically to measure student achievement of the California Academic Content Standards. Advanced Placement (AP) exams, however, are national examinations that were not developed specifically to be aligned with the California Academic Content Standards. Also, whereas the CSTs are administered to all students, not every school offers AP courses or gives the AP exams, and the exams are voluntary for students at a cost.

Finally, allowing students to use AP scores in addition to CST scores could increase the burden on school districts due to the increased record keeping and tracking that would be required to identify students eligible to receive the merit diploma. The California Department of Education and the State Board of Education are attempting to minimize the burden on students and districts that may accompany testing.

Attachments:
Attachment 4: Final Statement of Reasons (3 Pages)

FINAL STATEMENT OF REASONS

UPDATE OF INITIAL STATEMENT OF REASONS

SECTION 876.

The regulations allow the use of specified California Standards Test (CST) scores, in addition to the use of previously earned Golden State Examination (GSE) scores, to qualify for the Golden State Seal Merit Diploma. One comment received requested further clarification on the subject areas required to qualify for the Golden State Diploma. *Education Code* section 51451, which cites the required subject areas, did not change and was not addressed in the regulations.

One comment received requested consideration for using Advanced Placement (AP) exam passing scores as an additional means of qualifying for the Golden State Diploma. However, AP exams were not developed specifically to be aligned to California Academic Content Standards, are not offered at all schools, are voluntary to students at a cost, and would increase the workload on schools and districts.

SUMMARY AND RESPONSE TO COMMENTS RECEIVED DURING THE INTITIAL NOTICE PERIOD OF JANUARY 23, 2004 THROUGH MARCH 8, 2004.

Comment: The following e-mail was received from Karen Ashim:
I have been reading the proposed changes in the GSE with great interest. I commend the state for using the CST scores for the GSE. As a former testing coordinator for our school, I am very happy to see that the number of test days will be lessened by this change.

However, I do not see in the on-line proposed regulations if students will need to pass specific tests as they did in the past (i.e. US History, a math, a science, a reading or writing). Will there be requirements that state which tests or groups of tests have to be passed? Also, are the optional tests in Economics, Government, and Spanish being eliminated altogether?

Response: *Education Code* Section 51451, which cites the qualifications for the Golden State Seal Merit Diploma, has not changed. Students must demonstrate mastery in at least six subject matter areas, four of which shall be mathematics, English language arts, science, and United States history, with the remaining two subject matter areas selected by the student.
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longer be given. However, previously earned GSE results may be used to qualify for the Golden State Seal Merit Diploma. The proposed regulations allow students to use GSE results, specified California Standards Test scores, or a combination of the two to qualify for the Golden State Seal Merit Diploma.

Comment: The following e-mail was received from Karen Ashim:
One of my concerns is that the GSE Spanish will no longer be offered, and as far as I know, there are no CST/STAR tests for Spanish. The ELD population is the group these changes will hurt the most.

Would the state consider using the Advance[d] Placement passing scores for subject test areas to enhance the numbers of students being eligible for the Merit Diploma? This would certainly help our Spanish speakers as well as all other students.

Response: The Golden State Seal Merit Diploma is intended to recognize students who demonstrate mastery of California's high school curriculum. Both the Golden State Examinations (GSE) and California Standards Tests (CSTs) were developed specifically to measure student achievement of the California Academic Content Standards. Advanced Placement (AP) exams, however, are national exams that were not developed specifically to be aligned with the California Academic Content Standards. Also, whereas the CSTs are administered to all students, not every school offers AP courses or gives the AP exams, and the exams are voluntary for students at a cost. Finally, allowing students to use AP scores in addition to CST scores could increase the burden on school districts due to the increased record keeping and tracking necessary to identify students eligible to receive the merit diploma. The California Department of Education and the State Board of Education are attempting to minimize the burden on students and districts that may accompany testing.

ALTERNATIVES DETERMINATION

The State Board has determined that no alternative would be more effective in carrying out the purpose for which the regulation is proposed.

LOCAL MANDATE DETERMINATION

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

REGULATIONS TO BECOME EFFECTIVE UPON FILING

Education Code section 51452 currently cites the use of Golden State Examination (GSE) results as the means by which students may qualify for the

Golden State Seal Merit Diploma. Budget cuts to the GSE program in spring 2003 reduced the number of Golden State Examinations given from thirteen exams to three exams. AB 1266, Chapter 573, Statutes of 2003 repealed the GSE program. Consequently, without the implementation of the proposed regulations to allow students to use specified California Standards Test scores, seniors graduating in 2004 cannot qualify for the Golden State Seal Merit Diploma. In order for eligible seniors to receive the Golden State Seal Merit Diploma at graduation ceremonies beginning in May, the proposed regulations need to become effective upon filing.

ITEM # 6

CALIFORNIA STATE BOARD OF EDUCATION

MARCH 2004 AGENDA

SUBJECT	
California English Language Development Test (CELDT): Including, but not limited to, 2003 Preliminary Annual Assessment Results	X Action
	X Information
	☐ Public Hearing

RECOMMENDATION

The following item is provided to the State Board of Education (SBE) for information and action as deemed necessary and appropriate.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

Results of the 2002 California English Language Development Test (CELDT) annual assessment were presented to SBE at the March 2003 meeting.

Background

Federal law, *No Child Left Behind* (Title III) and State law (California *Education Code* sections 313, 60810, and 60812) require a state English language proficiency test that school districts must give to students whose home language is not English. In 1997, Assembly Bill 748 authorized the CELDT. Senate Bill 638 Alpert (Chapter 678/1999) expanded and refined the legislative requirements.
The CELDT was developed to:

- identify students as English learners (EL),
- monitor the annual progress of EL students toward acquiring English proficiency in listening, speaking, reading, and writing.
- be used as one of the criteria in the reclassification of students from EL to fluent English proficient (FEP).

Districts are required to administer the CELDT for initial identification to all students, whose home language is not English and for whom there is no record of prior English language proficiency assessment, within 30 calendar days after they first enroll in a California public school. Districts also are required to administer the CELDT annually to all English learners until they are proficient in English.

The CELDT covers four skill areas: listening, speaking, reading, and writing. Students in kindergarten and grade one are assessed in listening and speaking. Students in grades two through twelve are assessed in all four skill areas. The CELDT is aligned to the English language development (ELD) standards adopted by the State Board of Education.

In May 2001, SBE approved cut scores for five proficiency levels: Beginning, Early Intermediate, Intermediate, Early Advanced, and Advanced. CELDT results show the proficiency level students attained in each skill area and overall.

2003 Annual Assessment of the CELDT
The following information is provided by CTB/McGraw-Hill (CTB), the CELDT contractor, as a brief summary of some of the important issues.

Improved Form C test design
Significant differences of the 2003 CELDT (Form C) from the 2002 version of the CELDT (Form B) eased the administration burden without compromising the integrity of the test by reducing one-on-one testing time for speaking, using new scoring rubrics that included samples and scoring rationales and revising the individual listening test to group administered.

SUMMARY OF KEY ISSUES

CTB provided the California Department of Education (CDE) with preliminary annual assessment results for Year 3 of the CELDT Program. Approximately, 1.3 million students were administered the annual CELDT.

Upon receiving the data files, CDE prepared the tables included in Attachment 1 and listed below.

1. Frequency and Percent of Students by Grade Span and CELDT Annual Administration Year
2. Percent of Students by CELDT Overall Proficiency Level for Matched Student Cohort (This matched student cohort is based on students' 2003 annual assessment test results and the prior year CELDT results supplied on students' answer document by the district.)
3. Percent of Students by Grade Span and CELDT Listening/Speaking Proficiency Level
4. Percent of Students by Grade Span and CELDT Reading Proficiency Level
5. Percent of Students by Grade Span and CELDT Writing Proficiency Level
6. Percent of Students by Grade Span and CELDT Overall Proficiency Level
7. Percent of Students Who Met CELDT Criteria for Possible Reclassification by Grade Span

The development of a public access Web site for the CELDT results will also be underway pursuant to the requirements of California *Education Code* Section 60812 and should be available in the month of March.

In order to ensure accurate reporting for Title III of the No Child Left Behind Act, CDE is securing a contract amendment that would allow districts to correct CELDT demographic data prior to the reporting of the Annual Measurable Achievement Objectives (AMAO).

FISCAL ANALYSIS (AS APPROPRIATE)

This item is informational and does not request a SBE decision. Accordingly, there are no fiscal consequences associated with this item.

ATTACHMENT

Attachment 1: California English Language Development Test (CELDT) Preliminary 2003 Annual Assessment Results (8 Pages)

California English Language Development Test (CELDT)
Preliminary 2003 Annual Assessment Results

The analyses presented in this report were based on the 2003 CELDT annual assessment (AA) **preliminary** data provided to the California Department of Education (CDE) by CTB/McGraw-Hill.

List of Tables

Table #	Table Title	Page
1	Frequency and Percent of Students by Grade Span and CELDT Annual Administration Year	2
2	Percent Of Students by CELDT Overall Proficiency Level For Matched Student Cohort	3
3	Percent of Students by Grade Span and CELDT Listening/Speaking Proficiency Level	4
4	Percent of Students by Grade Span and CELDT Reading Proficiency Level	5
5	Percent of Students by Grade Span and CELDT Writing Proficiency Level	6
6	Percent of Students by Grade Span and CELDT Overall Proficiency Level	7
7	Percent of Students Who Met CELDT Criteria for Possible Reclassification by Grade Span	8

Table 1. Frequency and Percent of Students by Grade Span and CELDT Annual Administration Year

		Frequency	Percent	Yearly Increase
2003	K-2	344,079	25%	
	3-5	450,130	33%	
	6-8	311,158	23%	
	9-12	256,861	19%	
	Total	1,362,228	100%	64,793 5%
2002	K-2	328,971	25%	
	3-5	432,974	33%	
	6-8	296,218	23%	
	9-12	239,272	18%	
	Total	1,297,435	100%	35,139 3%
2001	K-2	326,665	26%	
	3-5	417,531	33%	
	6-8	286,070	23%	
	9-12	232,030	18%	
	Total	1,262,296	100%	

Trends:

- There was an increase (3 percent) in the number of students who took the annual assessment in 2002 compared to 2001.
- According to the preliminary 2003 test results, 5 percent more students took the annual assessment in 2003 compared to 2002.

Table 2. Percent Of Students By CELDT Overall Proficiency Level For Matched Student Cohort*

	2002 AA or 2002-03 Initial Identification	2003 AA	Difference
Beginning	14%	7%	-7%
Early Intermediate	23%	15%	-8%
Intermediate	39%	36%	-3%
Early Advanced	19%	32%	13%
Advanced	5%	11%	6%
All Proficiencies	100%	100%	

Matched Student Cohort count = 1,132,297

*Note: This table includes data for the same set of students for year 2 and year 3 of the CELDT. Students without previous overall scale score results were excluded from this analysis. Only students who progressed a grade between the two CELDT administrations (e.g., a 1st grader in 2002 is a 2nd grader in 2003) were included in this analysis.

Trends:

- Overall, students increased their English language proficiency between the last two administrations of the CELDT.
- Compared to their previous CELDT administration, a smaller percentage of students were in the Beginning, Early Intermediate, and Intermediate proficiency levels.
- Compared to their previous CELDT administration, a greater percentage of students were in the Early Advanced and Advanced proficiency levels.

Table 3. Percent of Students by Grade Span and CELDT Listening/Speaking Proficiency Level

		Beginning	Early Intermediate	Intermediate	Early Advanced	Advanced	Total
2003 AA	K-2	6%	14%	37%	30%	13%	100%
	3-5	6%	15%	28%	30%	22%	100%
	6-8	5%	8%	30%	36%	20%	100%
	9-12	4%	9%	34%	40%	13%	100%
	All Grades	5%	12%	32%	33%	18%	100%
2002 AA	All Grades	7%	16%	37%	25%	14%	100%
Percent difference between 2002 and 2003		-2%	-4%	-5%	8%	4%	

2003 count = 1,362,228 2002 count = 1,297,435

Trends:

- With all grades combined, more students scored in the Early Advanced and Advanced levels in Listening/Speaking than in the Beginning and Early Intermediate proficiency levels.
- Compared to the previous annual assessment, a smaller percentage of students were in the Beginning, Early Intermediate, and Intermediate proficiency levels in Listening/Speaking.
- Compared to the previous annual assessment, a greater percentage of students were in the Early Advanced and Advanced proficiency levels in Listening/Speaking.

Table 4. Percent of Students by Grade Span and CELDT Reading Proficiency Level

		Beginning	Early Intermediate	Intermediate	Early Advanced	Advanced	Total
2003 AA	2	32%	34%	25%	8%	2%	100%
	3-5	26%	25%	29%	12%	9%	100%
	6-8	14%	14%	33%	28%	11%	100%
	9-12	10%	8%	21%	30%	32%	100%
	All Grades	20%	20%	28%	19%	13%	100%
2002 AA	All Grades	20%	22%	26%	19%	13%	100%
Percent difference between 2002 and 2003		0%	-2%	2%	0%	0%	

2003 count = 1,188,911 2002 count = 1,128,721

Trends:

- With all grades combined, more students scored in the Beginning and Early Intermediate levels in Reading than in the Early Advanced and Advanced proficiency levels.
- The 2003 annual assessment results in Reading are very similar to the 2002 annual assessment results in Reading.

Table 5. Percent of Students by Grade Span and CELDT Writing Proficiency Level

		Beginning	Early Intermediate	Intermediate	Early Advanced	Advanced	Total
2003 AA	2	15%	27%	32%	24%	2%	100%
	3-5	11%	18%	34%	31%	6%	100%
	6-8	5%	11%	37%	35%	12%	100%
	9-12	6%	12%	37%	31%	14%	100%
	All Grades	9%	16%	35%	31%	9%	100%
2002 AA	All Grades	11%	20%	34%	27%	8%	100%
Percent difference between 2002 and 2003		-2%	-4%	1%	4%	1%	

2003 count =1,188,911 2002 count = 1,128,721

Trends:

- With all grades combined, more students scored in the Early Advanced and Advanced levels in Writing than in the Beginning and Early Intermediate proficiency levels.
- Compared to the previous annual assessment, a greater percentage of students were in the Early Advanced and Advanced proficiency levels in Writing.
- Compared to the previous annual assessment, a smaller percentage of students were in the Beginning and Early Intermediate proficiency levels in Writing.

Table 6. Percent of Students by Grade Span and CELDT Overall Proficiency Level

		Beginning	Early Intermediate	Intermediate	Early Advanced	Advanced	Total
2003 AA	K-2	8%	19%	41%	25%	7%	100%
	3-5	9%	17%	35%	27%	12%	100%
	6-8	6%	10%	35%	38%	11%	100%
	9-12	6%	9%	30%	41%	14%	100%
	All Grades	7%	14%	36%	32%	11%	100%
2002 AA	All Grades	10%	19%	37%	25%	9%	100%
Percent difference between 2002 and 2003		-3%	-5%	-1%	7%	2%	

Trends:

- With all grades combined, more students scored in the Early Advanced and Advanced levels than in the Beginning and Early Intermediate proficiency levels.
- Compared to the previous annual assessment, a greater percentage of students were in the Early Advanced and Advanced proficiency levels.
- Compared to the previous annual assessment, a smaller percentage of students were in the Beginning, Early Intermediate, and Intermediate proficiency levels.

Table 7. Percent of Students Who Met CELDT Criteria for Possible Reclassification by Grade Span*

	K-2	3-5	6-8	9-12	All Grades
2003 AA	29%	34%	47%	54%	35%
2002 AA	22%	25%	39%	47%	32%
Difference between 2002 and 2003	7%	9%	8%	7%	3%

2003 count =1,362,228 2002 count =1,297,435

*Note: CELDT Criteria for possible reclassification established by the State Board of Education (SBE) in October of 2001: scoring at least Early Advanced Overall with Skill Area scores of at least Intermediate. A student's score on the CELDT is only one of four criteria established by Education Code Section 313(d) for the reclassification of English learners.

Trends:

- Compared to the previous annual assessment, a greater percentage of students met the CELDT criteria for reclassification.
- More than a third of students who took the CELDT for annual assessment in 2003 met the CELDT criteria established by SBE.

State of California **Department of Education**

LAST MINUTE MEMORANDUM

DATE: March 2004

TO: MEMBERS, STATE BOARD OF EDUCATION

FROM: Geno Flores, Deputy Superintendent
Assessment and Accountability Branch

RE: Item No. 9

SUBJECT: California English Language Development Test (CELDT): Including, but not limited to, 2003 Preliminary Annual Assessment Results

The following attachment provides the correction for Table 7, Page 8 of Attachment 1, which contained an error. The 2003 Annual Assessment all grades percentage was corrected from 35 percent to 39 percent. Therefore, this correction changes the difference between 2002 and 2003 from 3 percent to 7 percent.

Table 7. Percent of Students Who Met CELDT Criteria for Possible Reclassification by Grade Span*

	K-2	3-5	6-8	9-12	All Grades
2003 AA	29%	34%	47%	54%	39%
2002 AA	22%	25%	39%	47%	32%
Difference between 2002 and 2003	7%	9%	8%	7%	7%

2003 count =1,362,228 2002 count =1,297,435

*Note: CELDT Criteria for possible reclassification established by the State Board of Education (SBE) in October of 2001: scoring at least Early Advanced Overall with Skill Area scores of at least Intermediate. A student's score on the CELDT is only one of four criteria established by California *Education Code* Section 313(d) for the reclassification of English learners.

Trends:

- Compared to the previous annual assessment, a greater percentage of students met the CELDT criteria for reclassification.
- More than a third of students who took the CELDT for annual assessment in 2003 met the CELDT criteria established by SBE.

CALIFORNIA STATE BOARD OF EDUCATION

MARCH 2004 AGENDA

SUBJECT	
California High School Exit Examination (CAHSEE): Including, but not limited to, Program Update	☒ **Action**
	☒ **Information**
	☐ **Public Hearing**

RECOMMENDATION

The following item is provided to the State Board of Education (SBE) for information and action as deemed necessary and appropriate.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

California *Education Code* Section 60850 (Chapter 1, statutes of 1999-2000, Senate Bill 2, O'Connell) authorized the CAHSEE to be developed in accordance with SBE-adopted content standards in English-language arts (ELA) and mathematics. The CAHSEE was developed based on recommendations of the High School Exit Examination Standards Panel, whose members were appointed by the State Superintendent of Public Instruction and approved by the SBE.

The CAHSEE was offered for the first time in spring 2001 (March and May) to volunteer 9th graders (class of 2004). In October 2001, Assembly Bill (AB) 1609 (Calderon) was passed and removed the option for 9th graders to take the CAHSEE beginning with the 2002 administration. AB 1609 also provided for an independent study to include the examination of whether the test development process and the implementation of standards-based instruction meet the required standards for a test of this nature, and gave the SBE the authority to delay the date upon which each pupil completing grade 12 would be required to meet the CAHSEE requirement as one condition of receiving a high school diploma.

The CAHSEE was next administered in spring 2002 to all 10th graders who had not passed it during the spring 2001 administration. It was administered several more times to the remaining students in the class of 2004 who had not yet passed one or both parts (i.e., ELA and mathematics). The class of 2005 took the CAHSEE for the first time in the spring of 2003. In July 2003, SBE took action to move the passage of the CAHSEE as a diploma requirement to the Class of 2006. The Class of 2006 will take the CAHSEE for the first time as 10th graders in February 2004.

California *Education Code* Section 60855 required the California Department of Education (CDE) to contract for an independent evaluation of the CAHSEE beginning in January 2000. The evaluation reports must include recommendations to improve the quality, fairness, validity, and reliability of the CAHSEE. Human Resources Research Organization (HumRRO) was awarded the contract for this independent evaluation, and delivered its first report to CDE, SBE, the California Legislature, the Governor of

California, and other control agencies on July 1, 2000. Subsequent evaluation reports are due to these same parties by February 1 of every even-numbered year.

SUMMARY OF KEY ISSUES

Beginning in the 2005-2006 school year, all students must have passed the CAHSEE as one condition of receiving a diploma of graduation or a condition of graduation from high school. Students in the Class of 2006 will take the CAHSEE for the first time as tenth graders during the Census administration on either February 3-4, 2004, or March 16-17, 2004. Adult education students who are expected to graduate after June 2005 are also eligible to take the CAHSEE during one of these administrations.

In February 2004, approximately 220 school districts administered the test to approximately 175,00 students. In March, approximately 450 school districts will administer the test to approximately 335,000 students. Students who are absent during the Census administration will have an opportunity to take the CAHSEE on May 11-12, 2004.

In February 2004, HumRRO issued its *Independent Evaluation of the California High School Exit Examination (CAHSEE): Second Biennial Report* to the California Legislature. The report was also distributed to the SBE members.

Release of 2003 Test Questions

Additionally in March 2004, the California Department of Education (CDE) will release 20 mathematics test questions and 20 English-language arts questions from the 2003 CAHSEE. These questions will be combined with the test questions that have already been released in one booklet for a total of 263 test questions available to the public.

FISCAL ANALYSIS (AS APPROPRIATE)

Costs for the administration of the CAHSEE, the release of test questions, and the development of the biennial report to the Legislature are all part of current CDE contracts. There was a minimal expense for duplicating 50 copies of the biennial report.

ATTACHMENT

None.

CALIFORNIA STATE BOARD OF EDUCATION

MARCH 2004 AGENDA

SUBJECT	
General Educational Development (GED): Approve Commencement of the Rulemaking Process for Amendments to Title 5 Section 11530(e)	☒ **Action**
	☒ **Information**
	☐ **Public Hearing**

RECOMMENDATION

Approve the proposed regulations, the Initial Statement of Reasons, and the Notice of Proposed Rulemaking, and direct staff to commence the rulemaking process.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

State Board of Education (SBE) received this proposed regulations package (proposed regulations, Initial Statement of Reasons, and Informative Digest) as an information item in their February 2004 Information Memoranda. The SBE last amended section 11530(e) on May 10, 1996, increasing the fee to $12.00.

SUMMARY OF KEY ISSUES

The proposed amendment to the regulations is intended to specify the amount of the fee that is needed to cover the administration costs for the State's GED Program. In California, the GED test is administered by 207 local GED Testing Centers. Local GED Testing Centers pay a fee to the state for each examinee that takes the GED.

The first GED Tests were developed in 1942 to help returning World War II Veterans. The GED Testing Service, a division of the American Council on Education, sponsors the GED Program. GED Testing Service develops and norms the GED Tests, develops national policy guidelines, and contracts with agencies to administer the testing program. California first adopted regulations for a GED Program in 1974. Fees paid by examinees fund the administration of the GED Program at the State Level. The fee is used to cover the cost of monitoring contracts with each of the testing centers, monitoring the contract with the GED Testing Service, and monitoring the contract for scoring tests with Educational Testing Service. The fee covers costs incurred in training examiners, inspecting and certifying testing sites, processing test center and examinee data, and processing requests for records from examinees. Annual expenses to provide follow-up services have increased 60 percent since the previous fee increase in 1996. An increase in the fee is now needed to cover increased administration costs of providing these services including increased costs for personnel, communications, facilities, general expense, office supplies, printing, postage, travel, and data processing.

The GED is used by many examinees to apply for college admission or employment. Test center fees are the sole source of funding for the State's GED Program. No Federal or State general funds are provided. The increase is needed to cover increased administration costs so that the program can continue to operate.

FISCAL ANALYSIS (AS APPROPRIATE)

A modest fee increase is needed to safeguard California Department of Education's funding for the program in 2004 and beyond. Test centers collect fees from examinees to cover the costs of administration, so there is no fiscal impact on school districts. The size of the proposed increase, from $12 to $20 is unlikely to discourage access. Fiscal review information will be provided in the Last Minute Memorandum.

ATTACHMENT

Attachment 1: GED Regulations Amendment (1 Page)
Attachment 2: GED Initial Statement of Reasons (2 Pages)
Attachment 3: GED Notice of Proposed Rulemaking (5 Pages)

TITLE 5. Education

Division 1. State Department of Education

Chapter 11. Special Programs

Subchapter 8. High School Proficiency Certificates

Article 2. High School Equivalency Certificate (G.E.D.)

For Persons 18 Years of Age or Older

Amend Section 11530(e) to read:

§ 11530. Definitions

(e) "Fee" to accompany each application for an equivalency certificate shall be ~~$12.00~~ $20.00 and shall be nonrefundable irrespective of whether or not a California High School Equivalency Certificate is granted. This fee shall be charged only once for a given series of the General Educational Development Test.

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

Initial Statement of Reasons

General Educational Development (GED) Test Regulations

SPECIFIC PURPOSE OF THE REGULATIONS

The proposed amendment to the regulations is intended to specify the amount of the fee that is needed to cover the administration costs for the State's GED Program. In California, the GED test is administered by 207 local GED Testing Centers. Local GED Testing Centers pay a fee to the state for each examinee that takes the GED.

NECESSITY/RATIONALE

The first GED Tests were developed in 1942 to help returning World War II Veterans. The GED Testing Service, a division of the American Council on Education, sponsors the GED Program. GED Testing Service develops and norms the GED Tests, develops national policy guidelines, and contracts with agencies to administer the testing program. California first adopted regulations for a GED Program in 1974. Fees paid by examinees fund the administration of the GED Program at the State Level. The fee is used to cover the cost of monitoring contracts with each of the testing centers, monitoring the contract with the GED Testing Service, and monitoring the contract for scoring tests with Educational Testing Service. The fee covers costs incurred in training examiners, inspecting and certifying testing sites, processing test center and examinee data, and processing requests for records from examinees. Annual expenses to provide follow-up services have increased 60 percent since the previous fee increase in 1996. An increase in the fee is now needed to cover increased administration costs of providing these services including increased costs for personnel, communications, facilities, general expense, office supplies, printing, postage, travel, and data processing.

The GED is used by many examinees to apply for college admission or employment. Test center fees are the sole source of funding for the State's GED Program. No Federal or State general funds are provided. The increase is needed to cover increased administration costs so that the program can continue to operate.

California *Education Code* Section 11530(e)

The amendment to this section is necessary to clarify the amount of the fee to be charged for the application for an equivalency certificate.

TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY, REPORTS, OR DOCUMENTS

The State Board did not rely upon any technical, theoretical or empirical studies, reports or documents in proposing the adoption of this regulation.

REASONABLE ALTERNATIVES TO THE REGULATIONS AND THE AGENCY'S REASONS FOR REJECTING THOSE ALTERNATIVES

No other alternatives were presented to or considered by the State Board.

REASONABLE ALTERNATIVES TO THE PROPOSED REGULATORY ACTION THAT WOULD LESSEN ANY ADVERSE IMPACT ON SMALL BUSINESS

Because there is no impact on small businesses, the State Board has not considered any alternatives.

EVIDENCE SUPPORTING FINDING OF NO SIGNFICIANT ADVERSE ECONOMIC IMPACT ON ANY BUSINESS

The proposed regulations would not have a significant adverse economic impact on any business because they relate only to local GED Testing Centers and not to small business practices.

STATE OF CALIFORNIA ARNOLD SCHWARZENEGGER, *Governor*

CALIFORNIA STATE BOARD OF EDUCATION
1430 N Street
Sacramento, CA 95814

TITLE 5. EDUCATION

CALIFORNIA STATE BOARD OF EDUCATION

NOTICE OF PROPOSED RULEMAKING

General Educational Development (GED) Test
[Notice published March _____, 2004]

The State Board of Education (SBE) proposes to adopt the regulations described below after considering all comments, objections, or recommendations regarding the proposed action.

PUBLIC HEARING

The SBE will hold a public hearing beginning at **_____ p.m. on _____, 2004**, at 1430 N Street, Room _____, Sacramento. The room is wheelchair accessible. At the hearing, any person may present statements or arguments, orally or in writing, relevant to the proposed action described in the Informative Digest. The SBE requests that any person desiring to present statements or arguments orally notify the Regulations Adoption Coordinator of such intent. The SBE requests, but does not require, that persons who make oral comments at the hearing also submit a summary of their statements. No oral statements will be accepted subsequent to this public hearing.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Regulations Adoption Coordinator. The written comment period ends at **5:00 p.m. on _____, 2004**. The SBE will consider only written comments received by the Regulations Adoption Coordinator or at the SBE Office by that time (in addition to those comments received at the public hearing). Written comments for the SBE's consideration should be directed to:

Debra Strain, Regulations Coordinator
California Department of Education
Legal Division
1430 N Street, Room 5319
Sacramento, CA 95814
Telephone: (916) 319-0860
E-mail: dstrain@cde.ca.gov
FAX: (916) 319-0155

AUTHORITY AND REFERENCE

Authority: Section 51421, *California Education Code*.

Reference: Section 51421, *California Education Code*.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The proposed amendment to the regulations is intended to specify the fee that must accompany each application for an equivalency certificate. These fees fund the administration of the State GED Program, including coordination with the national GED Office (the American Council on Education), and assistance to government agencies, to over 200 local testing centers, examinees, and to the public. The fee was last raised in 1996. Annual expenses to provide follow-up services have increased 60 percent since the previous fee increase in 1996.

DISCLOSURES REGARDING THE PROPOSED ACTION

Mandate on local agencies and school districts: TBD

Cost or savings to any state agency: TBD

Costs to any local agency or school district which must be reimbursed in accordance with California *Education Code* section 17561: TBD

Other non-discretionary cost or savings imposed on local educational agencies: TBD

Cost or savings in federal funding to the state: TBD

Significant, statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states: TBD.

Cost impacts on a representative private person or businesses: The SBE is not aware of

any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Adoption of these regulations will not:

- create or eliminate jobs within California;
- create new businesses or eliminate existing businesses within California; or
- affect the expansion of businesses currently doing business within California.

Significant effect on housing costs: TBD.

Affect on small businesses: The proposed regulations would not have a significant adverse economic impact on any business because individual examinees must pay the State fee as a condition of taking the GED under the auspices of a public school district, a community college district, or correctional facility. Businesses do not play a role in the administration of the GED.

CONSIDERATION OF ALTERNATIVES

In accordance with California *Education Code* Section 11346.5(a)(13), SBE must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of SBE, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

The SBE invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations at the scheduled hearing or during the written comment period.

CONTACT PERSONS

Inquiries concerning the substance of the proposed regulations should be directed to:

Monte Blair, Consultant
California Department of Education
Standards and Assessment Division
1430 N Street
Sacramento, California 95814
Telephone: (916) 319-0357
Email: mblair@cde.ca.gov

Requests for a copy of the proposed text of the regulations, the Initial Statement of Reasons, the modified text of the regulations, if any, or other technical information upon

which the rulemaking is based or questions on the proposed administrative action may be directed to the Regulations, or to the backup contact person, Najia Rosales, Regulations Analyst, at (916) 319-0860.

AVAILABILITY OF INITIAL STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Regulations Adoption Coordinator will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at her office at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations, and the Initial Statement of Reasons. A copy may be obtained by contacting the Regulations Coordinator at the above address.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

Following the public hearing and considering all timely and relevant comments received, the SBE may adopt the proposed regulations substantially as described in this notice. If SBE makes modifications, which are sufficiently related to the originally proposed text, the modified text (with changes clearly indicated) available to the public for at least 15 days before the SBE adopts the regulations as revised. Requests for copies of any modified regulations should be sent to the attention of the Regulations Coordinator at the address indicated above. The SBE will accept written comments on the modified regulations for 15 days after the date on which they are made available.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, a copy of the Final Statement of Reasons may be obtained by contacting the Regulations Coordinator at the above address.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Rulemaking, the Initial Statement of Reasons, the text of the regulations in underline and strikeout, and the Final Statement of Reasons, can be accessed through the California Department of Education's Web site at *http://www.cde.ca.gov/regulations*.

REASONABLE ACCOMMODATION FOR ANY INDIVIDUAL WITH A DISABILITY

Pursuant to the *Rehabilitation Act of 1973,* the *Americans with Disabilities Act of 1990,* and the *Unruh Civil Rights Act,* any individual with a disability who requires reasonable accommodation to attend or participate in a public hearing on proposed regulations, may

request assistance by contacting Monte Blair, Standards and Assessment Division, 1430 N Street, Sacramento, CA, 95814; telephone, (916) 445-9441; fax, (916) 319-0967. It is recommended that assistance be requested at least two weeks prior to the hearing.

State of California **Department of Education**

LAST MINUTE MEMORANDUM

DATE: March 8, 2004

TO: MEMBERS, STATE BOARD OF EDUCATION

FROM: Geno Flores, Deputy Superintendent
Assessment and Accountability Branch

RE: Item No. 11

SUBJECT: General Educational Development (GED): Approve Commencement of the Rulemaking Process for Amendments for Title 5 Section 11530(e)

The following Last Minute Memorandum provides the Economic and Fiscal Impact Statement and the Economic and Fiscal Impact Analysis. The Economic Impact Statement concludes that there is no fiscal impact on local government, state government, or federal funding. The Economic and Fiscal Analysis stated that the proposed amendment to the regulations may have an impact on individuals.

This attachment #4 is not available for web viewing. A printed copy is available for viewing in the SBE Office.

CALIFORNIA STATE BOARD OF EDUCATION

MARCH 2004 AGENDA

SUBJECT	
No Child Left Behind (NCLB) Act of 2001 – Including, but not limited to, a report on the February NCLB Liaison Team meeting, Highly Qualified Teacher issues, and supplemental educational services providers.	☒ **Action** ☒ **Information** ☐ **Public Hearing**

RECOMMENDATION

Hear an update on current NCLB activities and NCLB Liaison Team recommendations. Take action as deemed necessary and appropriate.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION & ACTION

This standing item will allow CDE and SBE staff to brief the Board on timely topics related to NCLB.

SUMMARY OF KEY ISSUES

NCLB Liaison Team Report

NCLB Liaison Team met on February 3, 2004. The Chair will report recommendations to the SBE and the Superintendent on the following issues:

- Proposed Amendments to Accountability Workbook
- Identification of Program Improvement Districts
- Title VI Spending Plan
- Primary Language Testing
- Persistently Dangerous Schools

Highly Qualified Teacher

Update on Draft NCLB Teacher Requirements Resource Guide: http://www.cde.ca.gov/pr/nclb/teachqual/not03teacherguide.htm, and technical assistance to the field on highly qualified teacher.

Supplemental Educational Services Providers

Update on approving supplemental educational services providers. The application to become a supplemental service provider can be viewed at http://www.cde.ca.gov/iasa/titleone/pi/supservapp.html.

FISCAL ANALYSIS (AS APPROPRIATE)

Any State or LEA that does not abide by the mandates and provisions of NCLB is at risk of losing federal funding**.**

ATTACHMENT

Attachment 1: AB 312 No Child Left Behind Liaison Team DRAFT Minutes from February 3, 2004, Meeting (4 pages)

DRAFT MINUTES
(For approval/amendment on May 11, 2004)

AB 312 No Child Left Behind Liaison Team
An Advisory Body to the State Superintendent of Public Instruction and the State Board of Education

California Department of Education
1430 N Street
Sacramento, CA 95814

Monday, February 3, 2004

Members Present
Charles Weis, Chair
Assembly Member Jackie Goldberg
Robert Nichols
Alice Petrossian
Lynette Henley
Judy Elliott
Cecelia Mansfield

Alternates Present
Cathleen Cox (for Senator Bruce McPherson)
Dee Brennick (for Assemblymember Jackie Goldberg)
Christopher Downing (for Barbara Lockert)

Staff to the Liaison Team
Camille Maben
Diane Levin
Jaime Hastings

Call to Order
Chair Chuck Weis called the meeting to order at 9:05 a.m. after it was determined that a quorum was present.

Approval of the Agenda
Chair Weis reviewed the agenda and the order of the topics for discussion and action. Additional items added on highly qualified teacher and kindergarten CELDT testing. The item on IDEA was removed. Motion was made by Henley and seconded by Petrossian for approval of the agenda. Motion passed (6-0, 3 abstentions)

Approval of Minutes
Minutes were corrected to reflect that Cathleen Cox is an alternate for Senator McPherson and that Linda Gonzales was present at the December meeting.
Motion was made by Petrossian and seconded by Downing to approve minutes from the December 1,2003 meeting. Motion passed (6-0, 3 abstentions).

Public Comment
This agenda item is included for the purpose of giving anyone in attendance an opportunity to ask questions or discuss non-agenda items with the committee.

Chair Weis opened the floor to public comment. Sherry Skelly-Griffith of the Association of California School Administrators (ACSA) addressed the committee on the following issues:

- Title VI Spending Plan
- Criteria for the identification of Program Improvement Districts
- Science Assessments

Report from State Board of Education
Rae Belisle, Executive Director for the State Board of Education, gave an update on the following:

- EdFlex
- Local Flex
- New State Board Members

Information/Action Items:

8.1 Proposed changes to the Accountability Workbook

Bill Padia provided the committee with 10 proposed changes to California's NCLB Accountability Workbook.

Motion was made by Downing and seconded by Petrossian to recommend approval of the proposed changes to the Accountability Workbook to the State Board of Education. Motion passed 8 ayes – 1 abstention.

8.2 Criteria for Identification of Program Improvement Districts

Anne Just presented 3 options to identify school districts for program improvement. The committee discussed each option including an additional option presented by Sherry Skelly-Griffth on behalf of ACSA. After lengthy committee discussion, a motion was made by Nichols, seconded by Dowing, to recommend Option 3 plus the additional

criteria of one point of growth on the API for the socio-economically disadvantaged students subgroup. Motion passed 6 ayes, 2 abstentions.

8.3 Proposal for Title I set-aside to support under-performing schools

Wendy Harris presented possible funding priorities for the Title I set-aside, (projected to be $101 million in FY 04-05). Harris indicated this proposal would also be discussed with legislative staff, education coalition members, and others before being presented to the SBE for approval. Committee asked that Harris return at the next meeting to discuss proposed changes.

Gerry Shelton presented information about a federal report on unspent NCLB funds. Shelton disbursed the myth that California returned a large percentage of federal funds. He reported that California is within its legal limits of carry-over funds.

8.4 Title VI Spending Plan

Bob Anderson presented CDE proposals to the Department of Finance on unallocated Title VI funds. Anderson discussed the California High School Exit Exam (CAHSEE), the California English Language Development Test (CELDT), data resource guide development, communications and translations strategy for California's accountability components of NCLB, and integration of the California Alternative Performance Assessment (CAPA) into the STAR program. Motion regarding the CAHSEE made by Nichols, seconded by Downing, to add 2-3 days for a total testing window of 5 days in February and up to 5 days in March. Motion passed unanimously.

8.5 Primary Language Testing

Bob Anderson reported that 6 states currently have standards based primary language tests, 14 states are considering devising alternative assessments for English-Learners such as local assessments, and 30 states are providing accommodations such as more time or directions in primary language for their state assessments.

There was also a discussion of timing of CELDT administration for kindergarteners. Motion was made by Petrossian, seconded by Nichols, to request CDE to review decision not to allow LEAs to test kindergarteners in March – June before they enter school. Motion passed unanimously.

8.6 Update on IDEA

Item put over to future meeting.

8.7 Persistently Dangerous Schools

Wade Brynelson presented a proposed revision to the current SBE policy on persistently dangerous schools. If approved by SBE in March, the revision will affect data collection procedures (beginning with 2003-04) and the criteria for the identification of persistently dangerous schools (effective July 2004). Committee discussed the importance of addressing “bullying” in schools. Motion was made by Henley, seconded by Goldberg, to recommend to SBE to adopt CDE recommendations on definition of persistently dangerous schools, including looking at all types of prevention and funding to assist schools that are identified or at risk of being identified. Motion passed unanimously.

Committee requested Brynelson report back on what technical assistance and support will be provided once a school is identified

8.8 Legislative Update

Teri Burns presented information on education bills that have been introduced.

8.9 Future Agenda Items and Meeting Dates

Next meeting is scheduled for Tuesday, May 11, 2004. Items for the agenda include: EdFlex, Highly Qualified Teacher, Title I Set-aside, Special Education, and valid and reliable assessment for English-Learners. [Note: The meeting originally scheduled for March 5, 2004, has been canceled.]

California Department of Education
SBE-003 (REV 01/28/04)
nclb-mar04item02

ITEM #13

CALIFORNIA STATE BOARD OF EDUCATION

MARCH 2004 AGENDA

SUBJECT	
No Child Left Behind (NCLB) Act of 2001 – Ed-Flex	☒ **Action**
	☒ **Information**
	☐ **Public Hearing**

RECOMMENDATION

Staff recommends that the NCLB State Board Liaisons work with CDE and SBE staff to prepare and submit an application to the United States Department of Education (USDE) for California to qualify as an Ed-Flex state.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

No Child Left Behind required states to have fully addressed and implemented all components of the assessment and accountability system required under its predecessor, the *Improving America's Schools Act* (IASA), or face financial penalties. Because California had some components of the standards and assessment system that had not been fully developed or implemented, we received a timeline waiver that gave us an additional 18 months (until November 30, 2003) to complete the required system. California had addressed all outstanding issues and submitted evidence of full compliance to the USDE and is currently awaiting final approval of its standards and assessment system. A fully approved standards and assessment system is one of the basic criteria for eligibility to become an Ed-Flex state.

SUMMARY OF KEY ISSUES

This program allows the federal Secretary of Education to delegate to States the authority to waive certain federal education requirements (Programs Covered by the Ed-Flex Authority). Before a State could grant a waiver of any program requirement, it must determine that the underlying purposes of the affected program would continue to be met. For example, the State could not waive the requirement that all teachers must be highly qualified; however, the deadline by which teachers in a small rural school district must become highly qualified may be extended through the approval of a waiver. Certain federal requirements may not be waived, including those pertaining to health, safety, civil rights, provisions of the *Individuals with Disabilities Act* (IDEA), requirements relating to parental participation and involvement, and the accountability system.

FISCAL ANALYSIS (AS APPROPRIATE)

Any State or LEA that does not abide by the mandates and provisions of NCLB is at risk of losing federal funding**.**

ATTACHMENT

Attachment 1: Ed-Flex Background Information (5 pages)

ED-FLEX

Purpose

Ed-Flex is a program that allows the U.S. Secretary of Education to delegate to States the authority to waive certain federal education requirements that may, in particular instances, impede local efforts to reform and improve education. It is designed to help districts and schools carry out educational reforms and raise the achievement levels of all children by providing increased flexibility in the implementation of federal education programs in exchange for enhanced accountability for the performance of students.

Ed-Flex is not a funding program. Rather, it is a program that delegates to States the authority to grant waivers of certain federal requirements.

Applicant Information

While the Ed-Flex waiver authority is broad, certain fundamental requirements may not be waived, including those pertaining to health, safety, and civil rights, provisions of the *Individuals with Disabilities Education Act* (IDEA), and requirements related to parental participation and involvement. Before a State may grant a waiver of any program requirement, it must determine that the underlying purposes of the affected program would continue to be met. States also may not waive requirements pertaining to the SEA; Ed-Flex provides them with the authority to waive requirements for districts and schools.

Each Ed-Flex State is required to report annually on its monitoring of any waivers it has granted. Through these reports, States are to provide information about how Ed-Flex has supported the implementation of standards-based reform. Ed-Flex States are also required to report on the achievement results of schools and districts that have had waivers in place for two school years.

Programs Covered by the Ed-Flex Authority

Under Ed-Flex, a State educational agency (SEA) can waive local requirements of the following State-administered formula grant programs:

- Title I, Part A of the *No Child Left Behind Act* (other than sections 1111 and 1116) (Improving the Academic Achievement of Disadvantaged Children)
- Title I, Part B, Subpart 3 of the *No Child Left Behind Act* (Even Start Family Literacy Programs) (NOTE: Ed-Flex states may not waive requirements of the new Reading First or Early Reading First Programs (subparts 1 and 2 of Part B of Title I)
- Title I, Part C of the *No Child Left Behind Act* (Education of Migratory Children)

- Title I, Part D of the *No Child Left Behind Act* (Prevention and Intervention Programs for Children and Youth Who Are Neglected, Delinquent, or At-Risk)
- Title I, Part F of the *No Child Left Behind Act* (Comprehensive School Reform)
- Title II, Part A, Subparts 2 and 3 of the *No Child Left Behind Act* (Teacher and Principal Training and Recruiting)
- Title II, Part D, Subpart 1 of the *No Child Left Behind Act* (Enhancing Education through Technology)
- Title III, Part B, Subpart 4 of the *No Child Left Behind Act* (Emergency Immigrant Education, if this program is funded)
- Title IV, Part A, Subpart 1 of the *No Child Left Behind Act* (Safe and Drug-Free Schools and Communities)
- Title V, Part A of the *No Child Left Behind Act* (Innovative Programs)
- The Carl D. Perkins Vocational and Technical Education Act

Technical Assistance Checklist for SEAs

The U.S. Department of Education has created the following list of questions to assist State educational agencies (SEAs) that are interested in applying for Ed-Flex waiver authority. This section is intended to assist staff within the state agency to consider important steps that are needed to establish an effective waiver process. In addition, there are questions regarding the Ed-Flex eligibility requirements to help the SEA determine if it is ready to apply. However, the primary document to guide preparation of SEA applications for Ed-Flex authority is the Ed-Flex Guidance, which is also available on the U.S. Department of Education website:

http://www.ed.gov/programs/edflex/legislation.html .

The Guidance provides detailed explanations and information about the entire application process and should be used as the primary resource in applying to the U.S. Department of Education. Since Ed-Flex is a program that permits SEAs to waive federal education requirements that may impede local efforts to improve education, SEAs must create a waiver system with strong accountability safeguards.

I. STATE EDUCATION AGENCY (SEA) ED-FLEX ELIGIBILITY

A.

- Has the SEA met the Title I eligibility requirements? (see Guidance, Part B)
- Has the SEA developed and implemented challenging state content standards?
- Has the SEA developed and implemented student performance standards?
- Has the SEA developed and implemented aligned assessments?
- Has the SEA developed and implemented school performance profiles?

How will the SEA demonstrate, convincingly, that each of the above requirements have been met?

OR

Has the SEA made substantial progress towards meeting the Title I requirements? (see Guidance, Parts B-4 and B-5)

- Has the SEA developed and implemented challenging state content standards and interim assessments?
- Has the SEA made substantial progress toward developing and implementing the performance standards and aligned assessments required under Title I?
- Has the SEA made substantial progress toward having local districts produce the individual school performance profiles? (see Guidance, Questions B-7 and B-8)

How will the SEA demonstrate, convincingly, that each of the above requirements has been met?

A. How will the SEA demonstrate that it has mechanisms to hold districts and schools accountable for meeting the educational goals that are described in their local waiver application(s)? In what manner will the SEA demonstrate that it has implemented a serious accountability system that results in meaningful intervention in low-performing schools and districts? (see Guidance Question B-9)
B. How will the SEA demonstrate that it has mechanisms for engaging in technical assistance and corrective actions which are consistent with section 1116 of Title I of the Elementary and Secondary Education Act (ESEA) for districts and schools that do not make adequate yearly progress? (see Guidance, Question B-2)
C. Does the SEA have the authority to waive state statutory or regulatory requirements that relate to education? (see Guidance, Question B-10)

II. STATE EDUCATIONAL AGENCY'S (SEA's) APPLICATION PROCESS TO THE U.S. DEPARTMENT OF EDUCATION

A. Which staff will have the responsibility to assemble the evidence to demonstrate that the plan meets all of the Ed-Flex eligibility criteria? (see Guidance, Questions B-2 through B-10)

B. Which staff will be involved with:
   a. creating and managing the waiver process?
   b. deciding on clear educational objectives that the SEA intends to meet under the Ed-Flex plan?
   c. devising the public comment procedures and implementing them?

(see Guidance, Question C-1)

III. LOCAL APPLICATION PROCESS TO THE SEA

A. Will applications for Ed-Flex waivers be combined with applications for waivers of state education requirements, or will the SEA keep those as separate processes?

B. Is there a system in place to track the waiver application and the waiver (if/once approved)?

C. What organizational unit will be assigned to design the application and manage the review process?

D. What various methods will the SEA use to make the applications easily available?

E. What timeline will the SEA establish to complete the review of a waiver?

F. Will there be deadlines for the receipt of waiver applications or will the SEA receive them on a rolling basis?

G. How will applications be reviewed? Will there be a different review process for statewide waiver applications?

IV. MANAGEMENT OF WAIVER SYSTEM WITHIN THE SEA

A. How will the SEA monitor waiver recipients' progress in increasing student achievement or accomplishing other intended results of the waiver? Which staff will be given the responsibility of overseeing that system? (see Guidance, Question F-1)

B. What procedures will the SEA use if a waiver recipient does NOT meet its stated goals? (see Guidance, Question F-2)

C. Has the SEA developed a system to easily retrieve waiver information for evaluation, technical assistance, and monitoring purposes? (see Guidance, Question F-3)

D. What system will the SEA establish to review and approve or deny waiver applications? For example, will the SEA establish a waiver board or committee and how will it be constituted? What will be the role of the SEA staff that administers the program that will be affected by the waivers (e.g., Title I, Class Size Reduction, and Eisenhower)? (see Guidance, Part F)

E. What methods/systems will the SEA use to:

- collect the data needed to hold the waiver recipient accountable for 1) student achievement, and 2) the stated goals for the school or LEA as described in the application?
- track statistics on waivers (e.g. the number of waivers requested, denied, withdrawn, returned for additional information, and approved)?
- track statistics on the types of waivers granted (e.g. federal, state, programmatic, and administrative) and the recipients of the waivers (e.g. LEAs and individual schools)?
- track statistics on statewide waivers, if applicable to your SEA?

V. PROMOTION AND USE OF WAIVERS

A. How will the SEA use Ed-Flex to promote innovative strategies for educational improvements in schools and LEAs?

B. How will the SEA provide technical assistance to schools and LEAs to encourage the appropriate use of waivers?

C. What methods will the SEA use to alert the public about its intent to apply for Ed-Flex authority? Will these methods ensure that all segments of the public have access to the information, especially the parents of children who will be affected by the waivers? (see Guidance, Question C-2)

D. How will the SEA maintain an ongoing effort to provide technical assistance to schools and LEAs about Ed-Flex?

CALIFORNIA STATE BOARD OF EDUCATION

MARCH 2004 AGENDA

SUBJECT	
No Child Left Behind (NCLB) Act of 2001: Proposed Changes to Accountability Workbook	☒ **Action**
	☒ **Information**
	☐ **Public Hearing**

RECOMMENDATION

That the State Board of Education (SBE) approves the proposed changes to California's NCLB Accountability Workbook.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

On January 31, 2003, the California Department of Education (CDE) submitted its Accountability Workbook to the United States Department of Education (USDE). The Workbook describes the ways in which California will comply with the new assessment and accountability requirements of NCLB. Its development was based upon a series of action items adopted by the SBE. On June 10, 2003 the USDE approved California's Workbook subject to approval by the SBE. The SBE approved the final Workbook at its June 11, 2003 meeting.

SUMMARY OF KEY ISSUES

California has the option of revising its Accountability Workbook when changes are necessary for the fair implementation of Adequate Yearly Progress (AYP), a key feature of NCLB. The SBE, as the State Education Agency (SEA) is responsible for approving and submitting any changes to the Workbook. Following are recommended changes: 1. apply confidence intervals to schools with less than 100 valid scores; 2. change the definition of making AYP for secondary schools with no tenth grade; 3. plan the simultaneous release of the AYP and API reports; 4. use the socioeconomically disadvantaged student (SED) subgroup only for identification of a Title I school with targeted-assistance status (TAS) for Program Improvement (PI); 5. apply confidence intervals to student subgroups with less than 100 students; 6. change the definition of minimum number of students in a subgroup at the district level; 7. broaden the definition of progress on the graduation rate; 8. apply the definition of the graduation rate only to those schools that have a primary mission of graduating students; 9. modify the procedure for calculating the 95% participation rate for districts, schools and student subgroups; 10. modify the procedure for calculating the 95% participation rate for small districts, schools, and student subgroups.

FISCAL ANALYSIS (AS APPROPRIATE)

There is no fiscal impact in making these proposed changes as all calculations need to be done regardless of the definition or modification of procedure.

ATTACHMENT

Attachment 1: Proposed Changes to California's No Child Left Behind (NCLB) Accountability Workbook. (6 Pages)

Attachment 2: High School Graduation Rate Targets (1 Page)

Proposed Changes to California's No Child Left Behind (NCLB) Accountability Workbook

Purpose: This item summarizes proposed changes to the State of California's Consolidated State Application Accountability Workbook, which is available at http://www.cde.ca.gov/pr/nclb/workbook/wb6061.html.

Critical Element 1.1 How does the State Accountability System include every public school and LEA in the State?

1. The provision for aggregating district and school test results over years will be deleted. Instead, confidence intervals would be applied to one year's worth of test results.

The workbook currently provides for aggregating test results across years in order to meet the minimum validity criterion of 100 scores (workbook, page 9). The proposed change would simplify and standardize procedures. Aggregating test results over years presents severe operational and technical challenges. Also, in many instances, even with aggregation across years, it would still be necessary to apply confidence intervals to determine AYP for small districts and schools because the number of aggregated scores would still be less than 100.

2. A secondary school with no tenth grade will make adequate yearly progress if it meets the Academic Performance Index (API) status target as well as the graduation rate status target, if applicable, for that year. In these cases, the school cannot meet API or the graduation rate criteria by simply demonstrating growth.

The workbook currently provides only pairing and sharing for determining Adequate Yearly Progress (AYP) for schools with grade spans outside the testing program (workbook, page 9). This methodology is inapplicable for secondary schools with no tenth grade.

Critical Element 1.4 How does the State provide accountability and adequate yearly progress decisions and information in a timely manner?

1. In accord with our commitment to eliminate phased reporting of AYP results, all elements of the Adequate Yearly Progress determination (participation rates, annual measurable objectives, district and school-wide Academic Performance Index and Graduation Rate) will be released in late August 2004, prior to the beginning of the traditional school year.

The workbook currently details the schedule for the 2003 AYP Release, along with a projection that the August 2004 release will also include the API and graduation rate (workbook, page 15). By integrating all elements of the

preliminary AYP determination, a comprehensive AYP report in August will diminish the number of districts and schools added to the program improvement list after the beginning of the school year.

2. In identifying a Title I school with Targeted-Assistance Status (TAS) for Program Improvement (PI), we may consider the progress of the socioeconomically disadvantaged student (SED) subgroup only. This is consistent with federal regulations. However, a school must begin the year as TAS in order for the CDE to apply this criterion. The CDE will consider any school that begins the year as a Schoolwide Program (SWP) school to be so for the entire school year.

The workbook currently makes no distinction between SWP and TAS in regard to a school's identification for PI (workbook, page 15). In the past the CDE has considered the progress of the SED student subgroup only in making the PI identification for a TAS school.

However, some districts have sought to take advantage of this by changing a school from SWP to TAS after the beginning of the school year. Such a change of status during the school year has the potential to undermine stability in a school's academic program. Moreover, it also calls into question the validity of student test results as a measure for program effectiveness, because of the mid-year redirection of funds from all students to some students at a school.

Critical Element 5.2 How are public schools and LEAs held accountable for the progress of student subgroups in the determination of adequate yearly progress?

1. Confidence intervals will be applied to student subgroups with less than 100 students.

The workbook currently makes no provision for the application of confidence intervals to student subgroups from 50 to 99 valid scores, parallel to the practice for districts and schools (workbook, page 36). From a statistical viewpoint, this disparity in practice is indefensible. The addition of this provision would enhance both the statistical reliability and validity of the AYP determination for student subgroups.

Critical Element 5.5 What is the State's definition of the minimum number of students in a subgroup required for reporting purposes? For accountability purposes?

1. In a district with two or more schools, the criteria for a numerically significant subgroup are:

a. 200 students or
b. 15% and 100 students

The criteria for a school and a one-school district would remain the same:

a. 100 students or
b. 15% and 50 students

The workbook currently makes no distinction between districts and schools in the definition of the minimum size for a student subgroup. This had led to anomalous, counterintuitive results, e.g., every school in a small district makes AYP but the district as a whole does not. This will result in potential difficulties in district-wide planning in the event that the district is identified for program improvement but none of the schools are (workbook, pages 42-43).

The CDE considered four alternatives to the current formula of 100 students or 50 students constituting 15% of the students enrolled in the grades assessed (see the following table, "Number of Numerically Significant Subgroups for Districts"). In recommending 200 or 100 students constituting 15%, the CDE notes that the number of numerically significant subgroups for districts would be 3.24 subgroups per district. This corresponds to an average of 3.29 subgroups per school.

By selecting a subgroup formula for districts that results in essentially the same average number of subgroups for both districts and schools, the issue of fairness is paramount. On the average, districts would face the same number of hurdles in making AYP as schools do.

NUMBER OF NUMERICALLY SIGNIFICANT SUBGROUPS FOR DISTRICTS

subgroups	100 or 15% + 50	200 or 15% + 100	400 or 15% + 200	500 or 15% + 250	600 or 15% + 300
0	161	204	322	364	400
1	61	127	148	143	139
2	138	138	103	91	78
3	111	109	107	113	121
4	140	133	132	136	143
5	125	103	86	79	62
6	90	87	69	57	54
7	78	55	38	36	26
8	77	65	27	14	11
9	37	13	5	5	4
10	21	5	2	1	1
Total	1039	1039	1039	1039	1039
Avg	3.95	3.24	2.50	2.28	2.10

Critical Element 7.1 What is the State definition for the public high school

graduation rate?

1. To demonstrate progress on the graduation rate, a district or school shall met one of the following criteria:

    - Demonstrate an increase of one-tenth of a percentage point in the graduation rate;

    - Demonstrate an increase of two-tenths of a percentage point in the graduation rate when the average rate of the last available two years is compared with the average rate of the preceding two years;

    - Meet an annual status target that begins at 82.8% (computed in a similar manner to the beginning annual measurable objectives in English language arts and mathematics) and increases at rate similar to the schedule of annual measurable objectives in English language arts and mathematics (see Attachment 2 to this paper).

    The workbook currently defines progress on the graduation rate to be an increase of one-tenth of a percentage point (Workbook, page 48). The CDE has a serious concern about the volatility of graduation rates based on completion and dropout data, which can be significantly impacted by student mobility and other external factors. The two additional means of demonstrating progress on the graduation rate address this concern.

2. The graduation rate as an additional indicator is applicable only to secondary schools that have a primary mission of graduating students and is not applicable to those secondary schools with a primary mission of returning students to traditional classroom environments.

    The workbook currently makes no distinction between comprehensive high schools and alternative/continuation high schools that have a primary mission of returning students to those comprehensive high schools (workbook, page 48). The graduation rate is an inappropriate measure of performance for many alternative and continuation schools, particularly in a high-stakes accountability system where failure to demonstrate progress on graduation rate may result in identification as a program improvement (PI) school. Even if graduation rate were eliminated as an indicator for these schools, they would still have to meet participation rate criteria, annual measurable objectives, and make progress on the API.

Critical Element 10.1 What is the State's method for calculating participation rates in the State assessments for use in AYP determinations?

1. Parental opt outs: Parents have the legal right in California to request that their children be exempted from the Standardized Testing and Reporting

(STAR) program. Districts and schools must honor these requests. In recognition of this fact, the following procedure will be applied to districts, schools, and student subgroups that failed to test at least 95% of their students in either one of those two content areas:

- Determine whether or not the district, school and student subgroup met the annual measurable objective (AMO) in the content area in which it did not meet the participation rate criteria. If yes, then go on to the next step. If not, the district, school, or student subgroup still did not meet the participation rate criteria.
- Determine whether the district, school, or student subgroup tested at least 90% of their students in that content area. If yes, then determine the number of students necessary for the district, school, or student subgroup to meet the 95% criterion and go on to the next step. If not, the district, school, or student subgroup still did not meet the participation rate criteria.
- Determine the number of students exempted at parent request.
- If the number of students exempted at parent request equals or exceeds the number of students necessary to meet the 95% criterion, then consider the district, school, or student subgroup to have met the 95% criterion and go on to the next step. If not, then the district, school, or student subgroup still did not meet the participation rate criteria.
- Consider the number of students necessary to meet the 95% criterion to be non-proficient for accountability purposes.
- Recalculate the percent proficient to determine whether or not the district, school, or student subgroup would still meet the annual measurable objective.
- If the district, school, or student subgroup would have met the annual measurable objective, then it is considered to have made Adequate Yearly Progress (AYP) in that content area. If no, then district, school, or student subgroup did not make AYP in that content area.

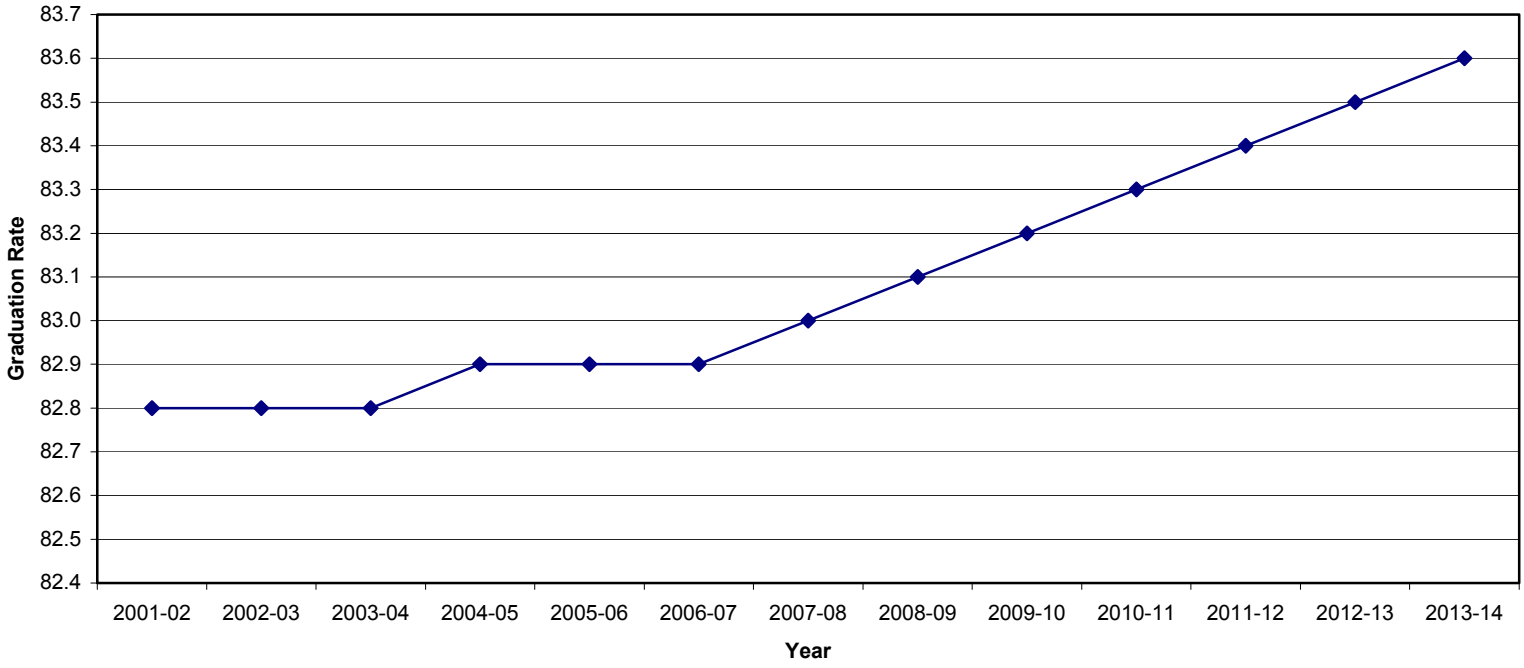
The workbook currently acknowledges the legal right of California parents to exempt their children from participation in the Standardized Testing and Reporting (STAR) program, although in the participation rate calculation it does not distinguish between these students and students who were simply absent from testing (workbook, page 57). Districts and schools have no control over the participation of students whose parents have chosen not to have their children tested. This provision would acknowledge this fact, giving the CDE some flexibility in applying the participation rate criteria to districts, schools, and student subgroups in these cases.

2. Participation rates for small districts, schools, and student subgroups (less than 100 students): A district, school, and student subgroup will be considered to have met its participation rate criteria if no more than 5

students are non-tested in a content area, and the district or school would still meet an annual measurable objective if the non-tested students were considered non-proficient for accountability purposes.

The workbook currently does not make a distinction between the application of the participation rate criterion to large and small entities (workbook, page 57). This results in a differential impact on small districts, schools, and student subgroups. This provision would diminish the possibility that a small district or school is identified for program improvement simply because one or two students did not participate in the testing program. At the same time, by treating the non-participating students as non-proficient, the provision ensures that small districts and schools are still held accountable for the students.

High School Graduation Rate Targets



State of California **Department of Education**

LAST MINUTE MEMORANDUM

DATE: March 10-11, 2004

TO: MEMBERS, STATE BOARD OF EDUCATION

FROM: Geno Flores, Deputy Superintendent
Assessment and Accountability Branch

RE: Item No. 14

SUBJECT: No Child Left Behind (NCLB) Act of 2001: Proposed Changes to Accountability Workbook

On February 23, 2004 Secretary Paige issued new guidance related to changes to the Accountability Workbook. Of particular interest to California is the provision relating to English learners that excludes students who have been in U.S. schools for less than one year from the Adequate Yearly Progress (AYP) calculations. CDE proposes to add an additional change to the Workbook reflecting this flexibility. Critical Element 5.4 reflects this change.

Proposed Changes to California's No Child Left Behind (NCLB) Accountability Workbook

Purpose: This item summarizes proposed changes to the State of California's Consolidated State Application Accountability Workbook, which is available at http://www.cde.ca.gov/pr/nclb/workbook/wb6061.html.

Critical Element 1.1 How does the State Accountability System include every public school and LEA in the State?

1. The provision for aggregating district and school test results over years will be deleted. Instead, confidence intervals would be applied to one year's worth of test results.

The workbook currently provides for aggregating test results across years in order to meet the minimum validity criterion of 100 scores (workbook, page 9). The proposed change would simplify and standardize procedures. Aggregating test results over years presents severe operational and technical challenges. Also, in many instances, even with aggregation across years, it would still be necessary to apply confidence intervals to determine AYP for small districts and schools because the number of aggregated scores would still be less than 100.

2. A secondary school with no tenth grade will make adequate yearly progress if it meets the Academic Performance Index (API) status target as well as the graduation rate status target, if applicable, for that year. In these cases, the school cannot meet API or the graduation rate criteria by simply demonstrating growth.

The workbook currently provides only pairing and sharing for determining Adequate Yearly Progress (AYP) for schools with grade spans outside the testing program (workbook, page 9). This methodology is inapplicable for secondary schools with no tenth grade.

Critical Element 1.4 How does the State provide accountability and adequate yearly progress decisions and information in a timely manner?

1. In accord with our commitment to eliminate phased reporting of AYP results, all elements of the Adequate Yearly Progress determination (participation rates, annual measurable objectives, district and school-wide Academic Performance Index and Graduation Rate) will be released in late August 2004, prior to the beginning of the traditional school year.

The workbook currently details the schedule for the 2003 AYP Release, along with a projection that the August 2004 release will also include the API and graduation rate (workbook, page 15). By integrating all elements of the preliminary AYP determination, a comprehensive AYP report in August will diminish the number of districts and schools added to the program improvement list after the beginning of the school year.

2. In identifying a Title I school with Targeted-Assistance Status (TAS) for Program Improvement (PI), we may consider the progress of the socioeconomically disadvantaged student (SED) subgroup only. This is consistent with federal regulations. However, a school must begin the year as TAS in order for the CDE to apply this criterion. The CDE will consider any school that begins the year as a Schoolwide Program (SWP) school to be so for the entire school year.

The workbook currently makes no distinction between SWP and TAS in regard to a school's identification for PI (workbook, page 15). In the past the CDE has considered the progress of the SED student subgroup only in making the PI identification for a TAS school.

However, some districts have sought to take advantage of this by changing a school from SWP to TAS after the beginning of the school year. Such a change of status during the school year has the potential to undermine stability in a school's academic program. Moreover, it also calls into question the validity of student test results as a measure for program effectiveness, because of the mid-year redirection of funds from all students to some students at a school.

Critical Element 5.2 How are public schools and LEAs held accountable for the progress of student subgroups in the determination of adequate yearly progress?

1. Confidence intervals will be applied to student subgroups with less than 100 students.

The workbook currently makes no provision for the application of confidence intervals to student subgroups from 50 to 99 valid scores, parallel to the practice for districts and schools (workbook, page 36). From a statistical viewpoint, this disparity in practice is indefensible. The addition of this provision would enhance both the statistical reliability and validity of the AYP determination for student subgroups.

Critical Element 5.4 How are students with limited English proficiency included in the State's definition of adequate yearly progress?

1. In accord with state law, California will continue to test English learners during their first year of enrollment in U.S. schools; however, consistent with the flexibility offered by Secretary Paige's communication of February 19, 2004, California elects to exclude the test results of these students from the AYP determination.

In the past, California has collected information on whether or not a student has been enrolled in California schools for at least one year on the Student Answer Documents from the statewide assessment program. Effective this spring testing (2004) California will also begin to collect information on whether or not a student

has been enrolled in U.S. public schools for the same period of time. Until California is satisfied with the accuracy of the information that it is collecting from the new item, it will use the time period in California schools as a proxy for this piece of information.

Critical Element 5.5 What is the State's definition of the minimum number of students in a subgroup required for reporting purposes? For accountability purposes?

1. In a district with two or more schools, the criteria for a numerically significant subgroup are:

    a. 200 students <u>or</u>
    b. 15% and 100 students

The criteria for a school and a one-school district would remain the same:

a. 100 students <u>or</u>
b. 15% and 50 students

The workbook currently makes no distinction between districts and schools in the definition of the minimum size for a student subgroup. This had led to anomalous, counterintuitive results, e.g., every school in a small district makes AYP but the district as a whole does not. This will result in potential difficulties in district-wide planning in the event that the district is identified for program improvement but none of the schools are (workbook, pages 42-43).

The CDE considered four alternatives to the current formula of 100 students <u>or</u> 50 students constituting 15% of the students enrolled in the grades assessed (see the following table, "Number of Numerically Significant Subgroups for Districts"). In recommending 200 <u>or</u> 100 students constituting 15%, the CDE notes that the number of numerically significant subgroups for districts would be 3.24 subgroups per district. This corresponds to an average of 3.29 subgroups per school.

By selecting a subgroup formula for districts that results in essentially the same average number of subgroups for both districts and schools, the issue of fairness is paramount. On the average, districts would face the same number of hurdles in making AYP as schools do.

Number of Numerically Significant Subgroups for Districts

subgroups	100 or 15% + 50	200 or 15% + 100	400 or 15% + 200	500 or 15% + 250	600 or 15% + 300
0	161	204	322	364	400
1	61	127	148	143	139
2	138	138	103	91	78
3	111	109	107	113	121
4	140	133	132	136	143
5	125	103	86	79	62
6	90	87	69	57	54
7	78	55	38	36	26
8	77	65	27	14	11
9	37	13	5	5	4
10	21	5	2	1	1
Total	1039	1039	1039	1039	1039
Avg	3.95	3.24	2.50	2.28	2.10

Critical Element 7.1 What is the State definition for the public high school graduation rate?

1. To demonstrate progress on the graduation rate, a district or school shall met one of the following criteria:

    - Demonstrate an increase of one-tenth of a percentage point in the graduation rate;

    - Demonstrate an increase of two-tenths of a percentage point in the graduation rate when the average rate of the last available two years is compared with the average rate of the preceding two years;

    - Meet an annual status target that begins at 82.8% (computed in a similar manner to the beginning annual measurable objectives in English language arts and mathematics) and increases at rate similar to the schedule of annual measurable objectives in English language arts and mathematics (see Attachment 2 to this paper).

The workbook currently defines progress on the graduation rate to be an increase of one-tenth of a percentage point (Workbook, page 48). The CDE has a serious concern about the volatility of graduation rates based on completion and dropout data, which can be significantly impacted by student mobility and other external factors. The two additional means of demonstrating progress on the graduation rate address this concern.

2. The graduation rate as an additional indicator is applicable only to secondary schools that have a primary mission of graduating students and is not applicable to those secondary schools with a primary mission of returning students to traditional classroom environments.

The workbook currently makes no distinction between comprehensive high schools and alternative/continuation high schools that have a primary mission of returning students to those comprehensive high schools (workbook, page 48). The graduation rate is an inappropriate measure of performance for many alternative and continuation schools, particularly in a high-stakes accountability system where failure to demonstrate progress on graduation rate may result in identification as a program improvement (PI) school. Even if graduation rate were eliminated as an indicator for these schools, they would still have to meet participation rate criteria, annual measurable objectives, and make progress on the API.

Critical Element 10.1 What is the State's method for calculating participation rates in the State assessments for use in AYP determinations?

1. Parental opt outs: Parents have the legal right in California to request that their children be exempted from the Standardized Testing and Reporting (STAR) program. Districts and schools must honor these requests. In recognition of this fact, the following procedure will be applied to districts, schools, and student subgroups that failed to test at least 95% of their students in either one of those two content areas:

    - Determine whether or not the district, school and student subgroup met the annual measurable objective (AMO) in the content area in which it did not meet the participation rate criteria. If yes, then go on to the next step. If not, the district, school, or student subgroup still did not meet the participation rate criteria.
    - Determine whether the district, school, or student subgroup tested at least 90% of their students in that content area. If yes, then determine the number of students necessary for the district, school, or student subgroup to meet the 95% criterion and go on to the next step. If not, the district, school, or student subgroup still did not meet the participation rate criteria.
    - Determine the number of students exempted at parent request.
    - If the number of students exempted at parent request equals or exceeds the number of students necessary to meet the 95% criterion, then consider the district, school, or student subgroup to have met the 95% criterion and go on to the next step. If not, then the district, school, or student subgroup still did not meet the participation rate criteria.
    - Consider the number of students necessary to meet the 95% criterion to be non-proficient for accountability purposes.

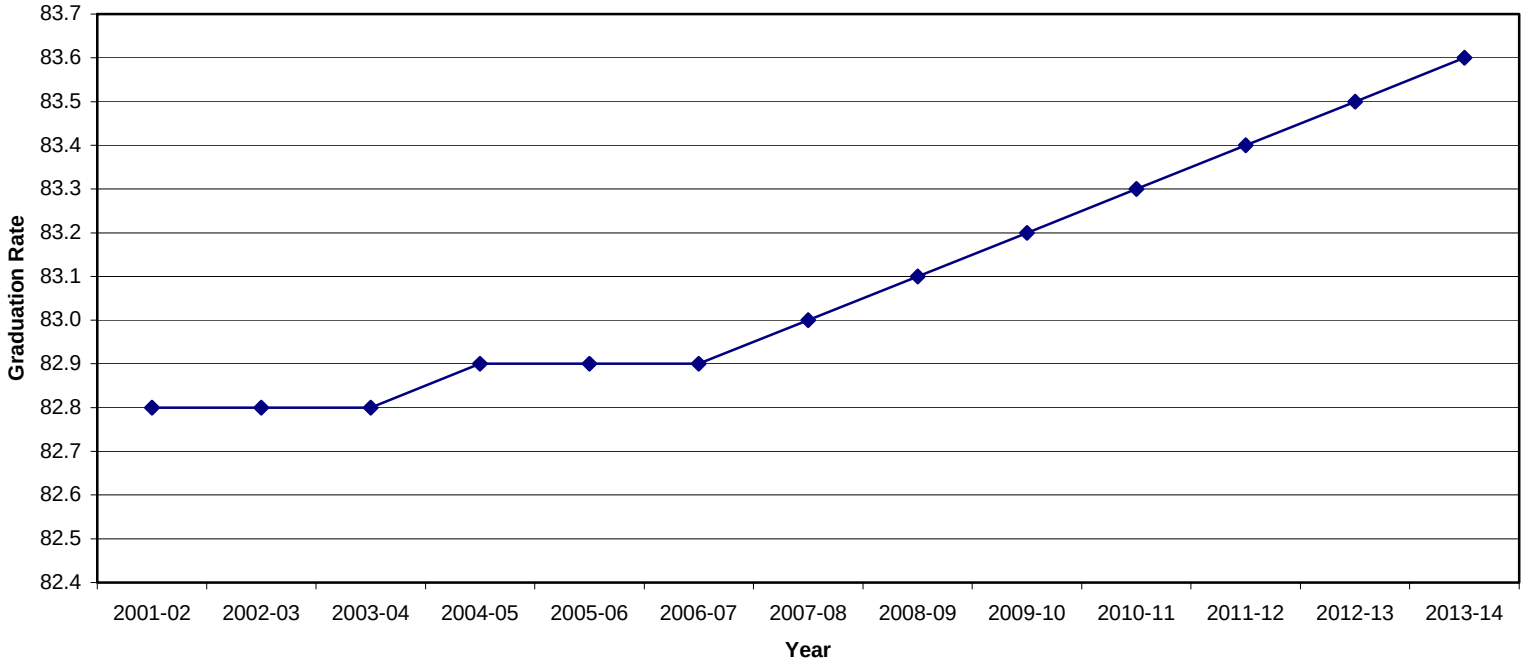
- Recalculate the percent proficient to determine whether or not the district, school, or student subgroup would still meet the annual measurable objective.
- If the district, school, or student subgroup would have met the annual measurable objective, then it is considered to have made Adequate Yearly Progress (AYP) in that content area. If no, then district, school, or student subgroup did not make AYP in that content area.

The workbook currently acknowledges the legal right of California parents to exempt their children from participation in the Standardized Testing and Reporting (STAR) program, although in the participation rate calculation it does not distinguish between these students and students who were simply absent from testing (workbook, page 57). Districts and schools have no control over the participation of students whose parents have chosen not to have their children tested. This provision would acknowledge this fact, giving the CDE some flexibility in applying the participation rate criteria to districts, schools, and student subgroups in these cases.

2. Participation rates for small districts, schools, and student subgroups (less than 100 students): A district, school, and student subgroup will be considered to have met its participation rate criteria if no more than 5 students are non-tested in a content area, and the district or school would still meet an annual measurable objective if the non-tested students were considered non-proficient for accountability purposes.

The workbook currently does not make a distinction between the application of the participation rate criterion to large and small entities (workbook, page 57). This results in a differential impact on small districts, schools, and student subgroups. This provision would diminish the possibility that a small district or school is identified for program improvement simply because one or two students did not participate in the testing program. At the same time, by treating the non-participating students as non-proficient, the provision ensures that small districts and schools are still held accountable for the students.

High School Graduation Rate Targets



ITEM #15

CALIFORNIA STATE BOARD OF EDUCATION

MARCH 2004 AGENDA

SUBJECT	
No Child Left Behind (NCLB) Act of 2001: Identifying Title I-funded Local Educational Agencies (LEAs) for Program Improvement	☒ **Action**
	☒ **Information**
	☐ **Public Hearing**

RECOMMENDATION

Approve Option 3 for identifying Local Educational Agencies for Program Improvement.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

NCLB requires states to annually review the progress of LEAs that receive Title I funds to determine whether schools that receive Title I funds are making Adequate Yearly Progress (AYP). The state "shall identify for improvement any local educational agency that, for two consecutive years failed to make adequate yearly progress as defined in the State's plan under Section 1111 (b)(2)." The Board received in January 2004 as an information item, an issue paper that presented three options for identifying LEAs for Program Improvement. A preliminary version of the issue paper was also sent to the Board members in December. Attached for Board action is an updated issue paper on Program Improvement LEAs.

SUMMARY OF KEY ISSUES

The first year in which an LEA will enter Program Improvement status will be the 2004-2005 school year. The attached issue paper presents three options for identifying Local Educational Agencies (LEAs) for Program Improvement under *No Child Left Behind Act of 2001* (NCLB). The options presented for identifying LEAs for Program Improvement are the following:

Option 1: LEAs that do not meet all the components of AYP for two consecutive years, 2002-03 and 2003-04 would be identified for Program Improvement. Student data for all students and for all significant subgroups is aggregated to the LEA level.

Projected Number of Program Improvement LEAs: 320.

Option 2: If for two consecutive years, 75% or more of a LEAs Title I-funded schools were identified for Program Improvement, the LEA would be identified as Program Improvement.

Projected Number of Program Improvement LEAs: 41

Option 3: Title I funded LEAs that for two consecutive years failed AYP and had an LEA-wide API of less than 560 for the socioeconomically disadvantaged subgroup, would be identified for Program Improvement status.

Projected Number of Program Improvement LEAs: 33

Option 3 is recommended for adoption because it:

- focuses resources on LEAs most in need of assistance;
- is based on criteria already familiar to LEAs, schools, and the general public;
- does not unfairly affect LEAs; and
- is consistent with the manner in which the law allows states to identify Targeted Assistance Schools for Program Improvement.

FISCAL ANALYSIS (AS APPROPRIATE)

LEAs identified for Program Improvement must carry out specified planning and educational program improvements to improve student achievement. The LEAs may use Title I funding for these purposes. The California Department of Education (CDE) must provide for the delivery of technical assistance to Program Improvement LEAs and take required corrective actions in Year 3. Although NCLB provides funding for state administration and support of program requirements, CDE is analyzing the workload implications.

ATTACHMENT

Attachment: Identifying Local Educational Agencies (LEAs) for Program Improvement (8 Pages)

Identifying Local Education Agencies (LEAs) for Program Improvement An Issue Paper

Purpose

The purpose of this issue paper is to describe various options for identifying local education agencies (LEAs)[1] that receive Title I funds for Program Improvement as required under the federal *No Child Left Behind (NCLB) Act of 2001*. It addresses the impact of the various options and recommends a preferred method. The paper consists of the following sections:

I. Background on Adequate Yearly Progress
II. State Responsibilities Regarding LEAs
III. Consequences for LEAs Identified for Program Improvement
IV. Principles and Options for Identifying LEAs for Program Improvement
V. Summary and Policy Recommendation

I. Background on Adequate Yearly Progress

A. Definition of Adequate Yearly Progress

NCLB requires each state to define Adequate Yearly Progress (AYP) for all schools, LEAs, and the state. The California State Board of Education, in its NCLB Accountability Workbook, defined AYP for California. The definition requires all schools and LEAs to meet the following criteria in order to make AYP:

- meet Annual Measurable Objectives (AMOs), a measure of percent proficient or above, for English-language arts and mathematics for all students and for all numerically significant subgroups;

- meet a 95 percent participation rate on all applicable assessments for all students and for all numerically significant subgroups;

- show growth of at least one point annually on the Academic Performance Index (API) or have a minimum API growth score, which is 560 in 2002-03; and (for high schools only) show progress on one of the three options for meeting the high school graduation rate requirement:

  - achieve a graduation rate of 82.8 percent or above for the 2002-03 school year, <u>OR</u>
  - improve at least 0.1 percent in the graduation rate each year, <u>OR</u>
  - improve at least 0.2 percent in the average two-year graduation rate.

1 For purposes of this issue paper, LEA refers to districts, county offices of education (that operate schools), and direct-funded charter schools.

B. Criteria for Identifying Schools for Program Improvement

Program Improvement status is a formal designation for Title I-funded schools and LEAs. Schools are identified for Program Improvement if they do not make AYP for two consecutive years on the same indicator (annual measurable objectives for English-language arts and mathematics, participation rate, API, graduation rate). NCLB (Section 1116(b)(1)(D)) allows LEAs to choose to review only the performance of students served, or eligible for services, in a Title I Targeted Assistance school (TAS).[2] A school is eligible to exit Program Improvement status once it makes AYP for two consecutive years.

There are certain types of required services and/or interventions that schools and LEAs must implement during each year they are identified for Program Improvement. *These apply only to schools and LEAs receiving Title I funds.*

II. State Responsibilities Regarding LEAs

States have specific responsibilities in the context of AYP and Program Improvement. Two of the major responsibilities are addressed below.

1. State Review of LEAs

NCLB requires states to annually review the progress of each LEA receiving Title I funds to determine if they meet the following requirements:

- the LEA's schools receiving Title I funds must make adequate yearly progress;
- the LEA must carry out their responsibilities in providing support to their schools in Program Improvement;
- parental involvement requirements must be implemented; and
- teachers and Title I paraprofessionals must be highly qualified.

2. Dissemination of State Review

- The state must publicize and disseminate to LEAs, teachers, parents, students, and communities the results of the annual review (Section 1116(c)(1)(B)).

2 A school that receives Title I funds can either be a school-wide program (SWP) school or a targeted assistance school (TAS). In a SWP school, Title I funds are used to upgrade the entire educational program of a school that serves an eligible school attendance area in which not less than 40 percent of the children are from low-income families, or not less than 40 percent of the children enrolled in the school are from such families. In TAS, Title I funds are used to provide services to specific individual children that have been identified as being most at-risk of not meeting grade level academic standards.

Identification of LEAs for Program Improvement

NCLB Section 1116(c)(3) requires states to identify for Program Improvement any LEA that, for two consecutive years, fails to make AYP as defined in the state's plan under Section 1111(b)(2). The state may choose to review only the progress of students served, or eligible to be served, in Title I targeted assistance schools (see footnote #2). Although the previous reauthorization of the *Elementary and Secondary Education Act* (ESEA) of 1965, the *Improving America's Schools Act*, required states to identify LEAs in need of improvement; no LEA in California has ever been identified for Program Improvement. ***The first year in which an LEA will officially enter Program Improvement status will be the 2004-05 school year after identification in summer 2004. An LEA may appeal their Program Improvement designation (Section 1116(c)(5)(B)).***

III. Consequences for LEAs Identified for Program Improvement

Any LEA identified for Program Improvement must meet the following requirements:

Year 1 in Program Improvement

- Develop or revise a LEA plan within three months of identification to include specific components and implement the plan no later than the beginning of the next school year following identification (Section 1116(c)(7)); and

- Set aside not less than ten percent of their Title I allocation for professional development (Section 1116(c)(7)(A)(iii)). (This is in addition to the minimum five percent reservation for professional development to help teachers become highly qualified.)

Year 2 in Program Improvement

- Continue to implement the plan developed in Year 1.

Year 3 in Program Improvement

The state may take corrective action at any time after an LEA is identified for Program Improvement. In the LEA's third year in Program Improvement, the state must impose on the LEA at least one of the following corrective actions:

1. Defer programmatic funds or reduce administrative funds.

2. Institute and implement a new curriculum that is based on state academic standards

3. Replace the LEA personnel who are relevant to the failure of the school to make academic progress.

4. Remove particular schools from the jurisdiction of the LEA and establish alternative arrangements for governance and supervision of the schools.

5. Appoint a receiver or trustee to administer the affairs of the LEA in place of the superintendent and school board.

6. Abolish or restructure the LEA.

7. Authorize students to transfer to another LEA with paid transportation. (If the state selects this option, an additional corrective action from the options listed in items 1-6 must also be implemented.)

Additionally, an LEA in <u>any</u> year of Program Improvement may <u>not</u> be a supplemental educational services provider (Federal Regulation 34CFR200.47(b)(1)(iv)(B))**.**

IV. Principles and Options for Identifying LEAs for Program Improvement

This section outlines the principles underlying the various methods to identify LEAs for Program Improvement. It also presents three options embodying the principles for carrying out the state's responsibilities to identify LEAs for Program Improvement.

Any option for identifying LEAs for Program Improvement should meet the following principles:

- be consistent with the API measures of the Public Schools Accountability Act (PSAA) and the definition of AYP as required by NCLB;

- be straightforward and easily understood by LEAs, schools, and the general public;

- be fairly applied to all LEAs; and

- target available resources to effectively support LEAs most in need of assistance.

Following are three options for identifying LEAs for Program Improvement. Included with each option is a description of how the option is applied along with its impact. Pros and cons of each option also are included.

<u>Option 1</u>: ***LEAs that do not meet all the components of AYP for two consecutive years; 2002-03 and 2003-04 would be identified for* Program Improvement.**

Beginning in 2002-03, all LEAs received an AYP determination (in August 2003) based on all components of the AYP, which included:

- meeting AMOs – a measure of the percent of students proficient or above in English-language Arts and mathematics, for all students and for all numerically significant subgroups;

- meeting a 95 percent participation rate on all applicable assessments for all students and for all numerically significant subgroups;

- showing annual growth on the API of at least one point or having a minimum API growth score of 560; and

- (for high schools) showing progress on one of the three options for meeting the high school graduation rate requirement:

  - achievement of a graduation rate of 82.8 percent or above, OR
  - improvement of at least 0.1 percent in the graduation rate, OR
  - improvement of at least 0.2 percent in the average two-year graduation rate.

Option 1 aggregates student data for all students and for all numerically significant subgroups to the LEA level. Any LEA not meeting the aforementioned components of AYP in 2002-03 and 2003-04 would be identified for Program Improvement status.

Using this option, based on 2002-03 data, 58 percent of LEAs (i.e. 580 districts) did not make AYP and are at risk of being identified for Program Improvement status, if they fail to make AYP for a second consecutive year in 2003-04. Based on simulations, it has been projected that 32 percent of LEAs (i.e., 320 districts) would fail to make AYP for 2003-04 and subsequently be identified for Program Improvement at the beginning of the 2004-05 school year.

Projected Number of LEAs Identified for Program Improvement
Based on Student Data Aggregation to the LEA Level

2002-03 data	**58%=580 LEAs (at risk after one year)**
2003-04 data	**32%=320 Program Improvement LEAs**
2005-06 data	**64%=639 Program Improvement LEAs**
2008-09 data	**82%=816 Program Improvement LEAs**

Pros

- This option uses the definition of AYP that currently applies to all LEAs.

Cons

- Using Option 1, it is possible that LEAs, whose schools all made AYP, could be identified for Program Improvement because of the aggregation of all student and subgroup results to the LEA level; this would be especially true for smaller LEAs.

- The aggregation of student data to the LEA level will identify LEAs for Program Improvement that may need to pay attention to some student populations but may not identify LEAs truly in need of improvement.

- California Department of Education (CDE) and the technical assistance support systems at the state and LEA levels currently do not have the capacity to provide quality assistance to such a large number of potential Program Improvement LEAs.

Option 2: If for two consecutive years, 75 percent or more of an LEA's Title I-funded schools are identified for Program Improvement, the LEA would be identified for Program Improvement.

Option 2 is consistent with the general requirement that the state educational agency annually review an LEA to determine if Title I-funded schools are making adequate yearly progress. The impact of this option would result in a projected 4 percent of LEAs (i.e., 41 districts) identified for Program Improvement at the beginning of the 2004-05 school year, but a disproportionate number of those LEAs are small. A threshold of 50 percent or more of Title I schools in an LEA identified as Program Improvement would result in 10 percent of LEAs (i.e., 106 districts) identified for Program Improvement, and a more representative sample of small to mid-size LEAs.

Projected Number of LEAs Identified for Program Improvement on Percentage of Program Improvement Schools in LEA

2003-04 data	Two consecutive years of 75% of schools in Program Improvement	41 LEAs
2003-04 data	Two consecutive years of 50% of schools in Program Improvement	106 LEAs
2005-06 data	Two consecutive years of 75% of schools in Program Improvement	457 LEAs
2005-06 data	Two consecutive years of 50% of schools in Program Improvement	698 LEAs
2008-09 data	Two consecutive years of 75% of schools in Program Improvement	821 LEAs
2008-09 data	Two consecutive years of 50% of schools in Program Improvement	891 LEAs

Pros

- The smaller number of LEAs identified for Program Improvement allows CDE necessary time to build its capacity to work with these LEAs and to put in place the technical assistance networks and systems needed to assist them.
- Gradually reducing the threshold to, or beginning with, 50 percent would produce a more representative sample of LEAs identified for Program Improvement.
- The use of school level data that is aggregated to the district level is consistent with the requirement to review the AYP of Title I schools in annually reviewing the progress of LEAs.

Cons

- This option would result in a disproportionate number of small LEAs being identified for Program Improvement.

- Urban school districts would have a very high threshold to meet before being identified for Program Improvement; and, might never be identified, despite the fact that they receive the most Title I funds and serve the highest number of Title I students in the state.
- LEAs would be held accountable only for the achievement of their students enrolled in Title I schools, so that a minority of schools in a district could throw the LEA into Program Improvement.

Option 3: ***Title I funded LEAs that failed AYP and had an LEA-wide API of less than 560 for the socio-economically disadvantaged subgroup for two consecutive years would be identified for* Program Improvement *status.***

In determining the AYP of LEAs, NCLB offers the following flexibility to states:

- aggregate student data to the LEA level to determine Program Improvement status of LEAs (Section 1111(b)(2));
- aggregate school level AYP data to the LEA level to determine Program Improvement status of LEAs (Section 1116(c)(1)(A));
- only review the progress of students that are receiving or are eligible to receive Title I services in targeted assistance schools to determine if those schools are making AYP and, in turn, if the LEA is making AYP (Section 1116(a)(4)).

This option proposes a combination of student data aggregation, and the use of the API for socio-economically disadvantaged students (the proxy for students receiving or eligible for Title I services) to determine the Program Improvement status of an LEA. There is consistency in using the 560 API threshold, since it represents the 20th percentile of API scores and is parallel to the required starting point for AMOs.

A data simulation using this option resulted in the identification of three percent of LEAs (i.e., 33 districts) for Program Improvement in the 2003-04 school year. Increasing the API threshold incrementally, similar to the structure used for the school API thresholds, would potentially identify the following number of Program Improvement LEAs:

Projected Number of LEAs Identified for Program Improvement Based on API Threshold

API less than 560 (in 03-04)	33
API less than 590 (in 04-05)	157
API less than 620 (in 07-08)	239

(These figures do not account for any growth and, thus, represent upper bounds for numbers of LEAs identified.)

Pros

- This option would result in a mix of LEAs, both small and mid-size, with the largest identified LEA having an enrollment of approximately 30,000 students for the first year.
- It would target available resources to effectively support LEAs most in need of assistance.

- It would hold LEAs accountable for the achievement of all of its students in English-language arts and mathematics, especially the socio-economically disadvantaged students who are eligible for or being served by Title I services.
- Using the API, allows CDE to use an accountability measure that is accepted statewide and which focuses on growth in student achievement from year to year. The API includes the California High School Exit Exam (CAHSEE) for high schools, the California Standards Tests in English-language arts, math, social studies (high school only), and science (high schools only), the norm-referenced tests, and the California Alternative Performance Assessment (CAPA).
- The increase in the API threshold from 560 to 800 eventually would result in a fair application across small, middle-size, and large school districts.
- There is consistency is using the API threshold, since it mirrors the school API threshold, represents the 20th percentile of API scores, and is parallel to the AMO target structure.

Cons

- Initially, large LEAs would not be identified using this option.
- The API portion of the criteria is based only on the achievement of the socio-economically disadvantaged subgroup and does not include other numerically significant subgroups.

V. Summary and Policy Recommendation

This paper summarizes the context and the state responsibilities for identifying LEAs for Program Improvement. Three options have been presented. In weighing the procedures, impact, pros, and cons of each option, Option 3 emerges as the best approach for meeting state responsibilities.

Therefore, Option 3 is recommended for adoption because it:

- focuses resources on LEAs most in need of assistance;
- is based on criteria already familiar to LEAs, schools, and the general public;
- does not unfairly affect LEAs; and
- is consistent with the manner in which the law allows states to identify Targeted Assistance Schools for Program Improvement.

CALIFORNIA STATE BOARD OF EDUCATION

March 2004 AGENDA

SUBJECT	
No Child Left Behind (NCLB) Act of 2001: Title IX Persistently Dangerous Schools: Adopt revisions to the definition used in designating Persistently Dangerous Schools	☒ **Action**
	☒ **Information**
	☐ **Public Hearing**

RECOMMENDATION

Adopt the proposed revisions to the current State Board of Education policy definition used in designating Persistently Dangerous Schools (PDS).

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

During the State Board's July 2003 meeting, the staff of the California Department of Education (CDE) informed the State Board members that there was no action for them to take in designating PDS. At the time, CDE staff had determined that no public K-12 schools had met the State Board's policy definition for designating schools as "persistently dangerous." The State Board delegated authority to CDE staff for a period of 90 days after this meeting, with the oversight of the Executive Director of the State Board and the No Child Left Behind (NCLB) liaisons, to designate as PDS any late reporting schools that met the PDS policy definition.

In August 2003, the CDE staff, via an information memorandum, provided an update on PDS to the State Board. The CDE staff informed the State Board that there were no public K-12 schools that had met the State Board policy definition for designation as PDS, as of July 24, 2003. The determination was based on student expulsion information submitted to the CDE by the local educational agencies (LEAs) on the 2003-2004 Consolidated Application for Funding Categorical Aid Programs, Part I. The proposed policy revision was submitted to the State Board for consideration in February 2004 as an information memorandum. If approved in March, the revision will affect the criteria for the identification of persistently dangerous schools effective July 2004.

SUMMARY OF KEY ISSUES

Federal Statute

Provisions of Title IX, Section 9532 of the NCLB Act require that:
"…a student attending a persistently dangerous public elementary or secondary school, as determined by the State in consultation with a representative sample of local educational agencies,…be allowed to attend a safe public elementary or secondary school within the local educational agency, including a public charter school."

State Board's Definition of Persistently Dangerous Schools
Under California's current policy [condition (2)], a school shall be designated "persistently dangerous" if for three consecutive fiscal years the total number of expulsions, for offenses delineated in the policy, for students enrolled in the school exceeds one of the following rates:

(a) for a school of 299 enrolled students or less, more than three expulsions, or

(b) for a larger school of 300 or more enrolled students, more than one expulsion for every 100 enrolled students or fraction thereof.

Policy Consultation with State Advisory Committee
The CDE staff developed the current policy definition after extensive consultation meetings with the Unsafe School Choice Option Advisory Committee (a statewide advisory committee composed of representatives from various local agencies); the members of the Advisory Committee are listed in Attachment 2.

Based on a commitment that the CDE staff made to the State Board during its July 2003 meeting, the advisory committee was reconvened for a meeting on October 17, 2003, to reassess the persistently dangerous school policy definition. This reassessment was prompted in part because no schools in California had met the policy definition for designation as "persistently dangerous," although some schools had been identified as at-risk of becoming PDS. There have been no subsequent changes in the designation status of PDS.

Various policy-related topics and issues were discussed during the meeting, including a review of the other states' policies for designating PDS. The following states and territories reported PDS: Nevada (8 schools), New Jersey (7 schools), New York (2 schools), Oregon (1 school), Pennsylvania (28 schools), Texas (6 schools) and Puerto Rico (9 schools). Generally, the committee concluded that California's policy was comparable to the other states' policies and in some cases was more stringent. The overall conclusion of the committee was that there is no need to change California's expulsion rate threshold (approximately 1%) or the length of time (three consecutive fiscal years) necessary to be designated as PDS. The three-year period is considered beneficial because it allows sufficient time for the LEAs to identify and address significant safety issues on school campuses to prevent them from becoming PDS. The committee, however, generally agreed that a few relatively minor changes would help in strengthening the policy and making it clearer. This was reaffirmed in a teleconference meeting of advisory committee members on November 25, 2003.

Proposed Policy Changes
The advisory committee's consensus is that the current policy should be revised to incorporate incidents of firearm violations committed by non-students on school campuses as an additional criterion, along with student expulsions, in determining PDS. The inclusion of non-student firearm violations raises the issue of counting other violent acts committed by non-students on school campuses. It was decided not to include these "other" violent acts for two reasons: (1) the advisory committee recommended

limiting the influence of community crimes on school statistics to only firearm violations; and (2) it is a goal of the CDE to use existing data collection systems as much as possible, thus reducing additional workload for schools.

Under the proposed revision, a school would be considered to be "persistently dangerous" if*…"in each of three-consecutive fiscal years, one of the following criteria has been met:*

> *(a) for a school of fewer than 300 enrolled students, the number of incidents of firearm violations committed by non-students on school grounds during school hours or during a school sponsored activity, plus the number of student expulsions for any of the California Education Code violations delineated below, is greater than three;*
>
> *(b) for a larger school, the number of incidents of firearm violations committed by non-students on school grounds during school hours or during a school sponsored activity, plus the number of student expulsions for any of the California Education Code violations delineated below, is greater than one per 100 enrolled students or fraction thereof."*

The proposed revision is technically clearer than the existing policy. Moreover, because of the significance of incidents involving firearms being brought on to school campuses by non-students, the revision includes these incidents – along with expulsions – in the criteria for identifying PDS. Under the revised policy, there would continue to be only one school (at this time) that is identified as being "at-risk" of becoming persistently dangerous based on information supplied for the 2001-2002 and 2002-2003 school years. This school may be designated as "persistently dangerous" depending on the information supplied for the 2003-2004 school year.

The proposed revision also incorporates clarifying language and other changes pertinent to the new policy provisions:

Addition of a definition for the location and reporting of non-student firearm incidents. They will be reported when occurring *"on school grounds during school hours or after school hours during a school sponsored activity."* This specificity is helpful in avoiding the reporting of incidents that may be beyond the control of the school officials.

Deletion of the definitions for "gun-free school violation" and "violent criminal offense." These definitions are not relevant to the provisions of this proposal.

Addition of definitions for "firearm violation" and "serious physical injury."
"Firearm violation" — means unlawfully bringing or possessing a firearm on school grounds or during a school sponsored activity.

"Serious physical injury" — means *"serious physical impairments of physical condition, such as loss of consciousness, concussion, bone fracture, protracted loss or impairment of function of any bodily member or organ, a wound requiring extensive suturing, and serious disfigurement (this is the same definition as given for "serious bodily injury" in California Penal Code, section 243[f][4]).*" Although the committee generally did not have concerns in distinguishing offenses involving assault or battery that are included in the existing policy, it was recommended that further clarification would be beneficial in determining offenses "causing serious physical injury to another person."

Attachment 1 provides the complete text of the proposed revision to the current State Board-adopted policy definition of PDS.

FISCAL ANALYSIS (AS APPROPRIATE)

Designating a school as persistently dangerous, or as at-risk of being persistently dangerous, has no direct cost from a local perspective. CDE will offer these schools technical assistance including materials, training, and on-site consultation. The technical assistance may cost between $5,000 and $10,000 per year per school. Therefore, the proposed change to the policy definition should not have a significant cost impact on the state.

ATTACHMENT

Attachment 1: Proposed Revision to the current State Board Policy definition (2 Pages)
Attachment 2: Unsafe School Choice Option Advisory Committee (1 Page)

"Persistently Dangerous" Schools

No Child Left Behind Act of 2001
TITLE IX, PART E, SUBPART 2, SEC. 9532. UNSAFE SCHOOL CHOICE OPTION

In the context of this Act, a California public elementary or secondary school is considered to be "persistently dangerous" if **in** each of ~~the following two conditions exists for~~ three-consecutive fiscal years**, one of the following criteria has been met:**

(a) for a school of fewer than 300 enrolled students, the number of incidents of firearm violations committed by non-students on school grounds during school hours or during a school sponsored activity, plus the number of student expulsions[1] for any of the *California Education Code* violations delineated below, is greater than three;

(b) for a larger school, the number of incidents of firearm violations committed by non-students on school grounds during school hours or during a school sponsored activity, plus the number of student expulsions[1] for any of the *California Education Code* violations delineated below, is greater than one per 100 enrolled students or fraction thereof.

~~(1) the school has a federal or state gun-free schools violation or a violent criminal offense has been committed by a student or a non-student on school property, and~~

~~(2) the school has expelled students, under *California Education Code*, for any of the following offenses:~~

Pertinent *California Education Code* Violations

- assault or battery upon any school employee—Section 48915(a)(5)
- brandishing a knife—Section 48915(c)(2)
- causing serious physical injury to another person, except in self-defense—Section 48915(a)(1)
- hate violence—Section 48900.3
- possessing, selling, or furnishing a firearm—Section 48915(c)(1)
- possession of an explosive—Section 48915(c)(5)
- robbery or extortion—Section 48915(a)(4)

[1] There are rare occasions when a student firearm violation cannot result in an expulsion (e.g., suicide). In that case the incident should be reported as a non-student firearm violation.

- selling a controlled substance—Section 48915(c)(3)
- sexual assault or sexual battery—Section 48915(c)(4)

~~The number of expulsions for these offenses must exceed one of the following rates: for a school of fewer than 300 enrolled students, three expulsions~~

~~(a) for a school of fewer than 300 enrolled students, three expulsions~~

~~(b) for a larger school, one expulsion for every 100 enrolled students or fraction thereof~~

For the purpose of this definition—"fiscal year" means the period of July 1 through June 30 (*California Education Code,* section 37200); ~~"gun-free schools violation" means a student who is determined to have brought a firearm to a school, or to have possessed a firearm at school (federal Gun-Free Schools Act)~~; "firearm" means handgun, rifle, shotgun or other type of firearm (section 921 of title 18, *United States Code*~~); "violent criminal offense" means all of the offenses identified in condition (2) above~~; **"firearm violation" means unlawfully bringing or possessing a firearm, as defined above, on school grounds or during a school sponsored activity;** "expulsion" means an expulsion ordered regardless of whether it is suspended or modified; "assault" means an unlawful attempt, coupled with a present ability, to commit a violent injury on the person of another (*California Penal Code,* section 240); "battery" means any willful and unlawful use of force or violence upon the person of another (*California Penal Code,* section 243); "knife" means any dirk, dagger, or other weapon as defined in *California Education Code,* section 48915[g]); **"serious physical injury" means serious physical impairments of physical condition, such as loss of consciousness, concussion, bone fracture, protracted loss or impairment of function of any bodily member or organ, a wound requiring extensive suturing, and serious disfigurement (this is the same definition as given for "serious bodily injury" in *California Penal Code*, section 243[f[[4])**; "hate violence" means any act punishable under *California Penal Code,* sections 422.6, 422.7, 422.75; "explosive" means a destructive device (section 921 of title 18, *United States Code*); "robbery" means acts described in *California Penal Code,* sections 211, 212; "extortion" means acts described in *California Penal Code,* sections 71, 518, 519; "controlled substance" means drugs and other substances listed in Chapter 2 of Division 10 of the *California Health and Safety Code* (commencing with Section 11053); "sexual assault" means acts defined in *California Penal Code,* sections 261, 266(c), 286, 288, 288(a), 289; "sexual battery" means acts defined in *California Penal Code,* section 243.4; "enrolled students" means students included in the most current California Basic Educational Data System (CBEDS) report for the school.

Unsafe School Choice Option Advisory Committee

(Meetings held in October 17, 2003; December 3, April 30, April 16, and April 2, 2002)
Each of the following people attended at least one meeting:

Antelope Valley Union High
Larry Freise

Elk Grove Unified
Matt Collier

Fresno Unified
Kevin Torosian

Galt Jt. Union High
Craig Murray
Bill LaPlante

Hanford Elementary
Yvonne Wester
Liz Simas
Joe Camara
Nancy White

Jefferson Union High
Rick Boitano

Konocti Unified
Glenn White

Long Beach Unified
Karen Hilburn

Los Angeles Unified
Willie Crittendon
Tim Buresh

Modesto City Schools
Jim Pfaff
Randy Fillpot

North Sacramento Elementary
Debbie Morris

Oakland Unified
Janine Saunders
Aaron Dorsey
Stevan Alvarado
Quinta Seward
Norma Brooks
Tamara Teichgraeber

Palm Springs Unified
Craig Borba

Round Valley Unified
Kathy Britton

Sacramento County Office of Education
Joe Taylor

Sacramento City Unified
Randy Hood
John Lagomarsino
Glenn White; formerly w/ Konocti Unified
Susan Berg

San Bernardino County Office of Education
Sherman Garnett
Julian Weaver

San Francisco Unified
Susan Wong
Victoria Li

Santa Ana Unified
Peggy Adin
Jim Miyashiro

Stockton Unified
Roger Deschenes
Ivar Kent
Jose Valles

CALIFORNIA STATE BOARD OF EDUCATION

MARCH 2004 AGENDA

SUBJECT	
No Child Left Behind Act of 2001 Title I Committee of Practitioners: Approval of Appointments	☒ **Action**
	☒ **Information**
	☐ **Public Hearing**

RECOMMENDATION

Approve appointments to the *No Child Left Behind (NCLB) Act of 2001* Title I Committee of Practitioners.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

At the November 2003 meeting, the State Board of Education appointed 18 members to the Title I Committee of Practitioners.

SUMMARY OF KEY ISSUES

The Title I Committee of Practitioners is a mandated advisory committee (*NCLB Act of 2001* section 1903(b)) whose primary function is to advise the State Board on regulations and other issues related to Title I, Improving the Academic Achievement of the Disadvantaged. The law requires the members to be appointed by the state education agency. On January 28-29, 2004, the Title I Committee of Practitioners met in Sacramento and a total of 27 members attended this meeting.

FISCAL ANALYSIS (AS APPROPRIATE)

The Title I Committee of Practitioners is federally funded. Committee members do not receive compensation, but are reimbursed for travel related expenses to attend the meeting.

ATTACHMENT

Attachment 1: Title I Committee of Practitioners, List of Nominees (1 page)

1) Michele Howard, Third Grade Teacher, Pacific Elementary School, Manhattan Beach Unified School District
    - Twelve years of teaching experience in grades kindergarten and third grade with the Manhattan Beach Unified School District
    - PAR Mentor in Language Arts & Reading Instruction K-5
    - Professional Expert in Academics and After School Program, Los Angeles County Office of Education

2) Robert Teegarden, Associate Director for Education, California Catholic Conference Charter
    - President, California Association of Private School Organizations
    - Chair, Federal Assistance Advisory Committee, United States Catholic Conference
    - Former Title I site principal for over 15 years

3) Gerry Thompson, retired educator
    - Served as Director of Education, Pacific Union Conference of Seventh-day Adventists for 13 years, as Associate Director of Education for 13 years
    - Over 22 years of experience in school administration
    - Ordained as a minister of the Seventh-day Adventist Church

ITEM # 18

CALIFORNIA STATE BOARD OF EDUCATION

MARCH 2004 AGENDA

SUBJECT	
No Child Left Behind (NCLB) Act of 2001: Local Educational Agency Plans	☒ **Action**
	☒ **Information**
	☐ **Public Hearing**

RECOMMENDATION

Staff recommends approval of Local Educational Agency (LEA) Plans that have met the requirements full approval status.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

As of the January 2004 meeting, the State Board of Education (SBE) had approved a total of 1,109 LEA Plans: 647 in July 2003, 358 in September 2003, 94 in November 2003, and 10 in January 2004. The remaining LEAs are either making appropriate modifications for completeness or are in the process of submitting their Plans.

SUMMARY OF KEY ISSUES

The attached list of LEA Plans from districts, county offices of education, and direct funded charter schools is recommended for full approval status. The purpose of the LEA Plan is to develop an integrated, coordinated plan that describes all educational services for all learners that can be used to guide implementation and resource allocation. The Plan addresses the five major NCLB goals.

FISCAL ANALYSIS (AS APPROPRIATE)

LEAs with incomplete Plans will not be eligible to receive federal education categorical aid until they receive SBE full approval of their Plans at a later date.

ATTACHMENT

Attachment 1: LEA Plans for Districts and Direct Funded Charters Recommended for Full SBE Approval, March 2004 (1 Page)

A list with additional LEA Plans will be included in a Last Minute Memorandum.

LEA Plans for Districts and Direct Funded Charters Recommended for Full Approval
March 2004

Co/DistCode	**SchCode**	**Districts**
1965169	0000000	Wiseburn Elementary
5471811	0000000	Alta Vista Elementary
5772686	0000000	Esparto Unified
Co/DistCode	**SchCode**	**Direct Funded Charters**
1062174	1030857	West Fresno Performing Arts Academy
1964733	6018642	Pacoima Charter School

State of California **Department of Education**

LAST MINUTE MEMORANDUM

DATE: March 3, 2004

TO: MEMBERS, STATE BOARD OF EDUCATION

FROM: Geno Flores, Deputy Superintendent
Assessment and Accountability Branch

RE: Item No. 18

SUBJECT: *No Child Left Behind Act of 2001*: Local Educational Agency (LEA) Plans

Attached for Board approval is a list of 19 LEA Plans for district and county offices of education and for direct-funded charter schools. These Plans are required under the *No Child Left Behind* (NCLB) *Act of 2001* so that LEAs may receive federal categorical aid for educational programs.

With the Board's approval of these Plans, 1133 LEAs will have fully approved Plans. The Board has fully approved 647 in July, 358 in September, 94 in November 2003, and 10 in January 2004.

CDE staff continues to work with the 52 LEAs (20 districts/counties and 32 direct-funded charter schools) whose Plans are not yet ready for recommendation to the SBE for approval. There are 15 remaining LEAs (3 districts/counties and 12 direct-funded charter schools) that have not yet submitted LEA Plans. Staff will be working with these LEAs to obtain their Plans for review and future recommendation for Board approval.

Please see the following attachment.

Attachment 1: Local Educational Agency (LEA) Plans for Districts and Direct-funded Charters Recommended for Full Approval, March 2004 (1 Page)

Local Educational Agency (LEA) Plans for Districts and Direct-funded Charters Recommended for Full Approval, March 2004

Co/DistCode	SchCode	Districts
0461382	0000000	Bangor Union Elementary School District
1262687	0000000	Northern Humboldt Union High School District
1262810	0000000	Fortuna Union High School District
2365557	0000000	Arena Union Elementary
2365607	0000000	Round Valley Unified
2766134	0000000	Pacific Grove Unified
2910298	0000000	Nevada County Superintendent of Schools Office
3467280	0000000	Arcohe Joint Union Elementary
3768312	0000000	Rancho Santa Fe School District
3768155	0000000	Jamul-Dulzura Union School District
4068841	0000000	Templeton Unified School District
4570136	0000000	Shasta Union High School District
4770490	0000000	Willow Creek Elementary
5271621	0000000	Red Bluff Union Elementary

Co/DistCode	SchCode	Direct Funded Charters
0161259	6117568	Monarch Academy
2365607	2330272	Eel River Charter School
3367249	6114748	San Jacinto Valley Academy
3975499	6118665	Discovery Charter School #355
4870581	4830196	Mare Island Technology Academy High School

ITEM # 19

CALIFORNIA STATE BOARD OF EDUCATION

MARCH 2004 AGENDA

SUBJECT	
No Child Left Behind (NCLB) Act of 2001: Supplemental Educational Service Providers required by Title I Section 1116(e)	☒ **Action**
	☒ **Information**
	☐ **Public Hearing**

RECOMMENDATION

Staff recommends approval of the attached list of supplemental services providers for addition to the existing list of approved providers for the 2003-04 school year.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

The State Board of Education (SBE) approved, at the May 2003 meeting, the emergency regulations, annual notice to potential providers, and the revised providers' application. Supplemental Educational Services Providers applications are submitted on an on-going basis. Following the review of the applications received they are presented to the SBE for approval.

SUMMARY OF KEY ISSUES

Supplemental educational services to low-achieving, low-income students are required by Section 1116(e) of the *No Child Left Behind (NCLB) Act of 2001*. The California Department of Education (CDE) is responsible for establishing a list of approved providers, as described in Section 1116 (e)(4) of *NCLB.*

Supplemental educational services include "tutoring and other academic enrichment services" that are:

- Chosen by parents
- Provided outside the school day
- Research-based and demonstrate program effectiveness
- Designed specifically to increase the academic achievement of eligible children

The application process occurs on an on-going basis. CDE evaluates each application against a four-point rubric based on the SBE-adopted criteria. Each application must address the following four elements of the criteria:

Element I. Program
Element II. Staff
Element III. Research-based and high quality program effectiveness
Element IV. Evaluation/Monitoring

CDE also considers the June 2003 results of the contracted WestEd survey about supplemental educational services for re-applicants. CDE then recommends applicants for approval by the SBE.

The process for reviewing the applications is as follows:

- Title I Policy and Partnerships Office (TIPP) date stamps all applications when received.
- TIPP office logs in all applications.
- TIPP program consultants review each application twice using Supplemental Services rubric based on SBE criteria and the WestEd evaluation of 2002-03 providers.
- Manager reviews applications that have deficiencies and a low rating.
- Education Program Consultants provide technical assistance to applications with deficiencies. Technical assistance is ongoing until deficiencies are corrected.
- Application program descriptions are prepared and compiled for the State Board.

Currently 180 providers have been approved. The distribution is:

Private Companies	106
Local Educational Agencies (LEA), i.e. County Offices of Education and public school districts	65
Colleges and universities	4
Faith-based Organizations	4
Others Public Library	1
Total:	180

FISCAL ANALYSIS (AS APPROPRIATE)

Federal revenues are apportioned to LEAs to support the use of supplemental educational services. LEAs must use a minimum of five percent and a maximum of 15 percent of the Title I, Part A allocation for supplemental educational services, unless a lesser amount is needed. Title V, Part A Innovative Program funds can be also used to support supplemental educational services.

ATTACHMENT

Attachment 1: Recommended Supplemental Educational Service Providers (2 Pages)

A list with additional providers will be included in a Last Minute Memorandum.

Applicant	**Contact**
Chapman University, School of Education	E. Michael Madrid, Ph. D. Education Director One University Drive Orange, CA 92866 Wk – (714) 628-7381 FAX – (714) 744-7035 Madrid@chapman.edu
Status – New	**Program Description:** Provides tutorial services in small groups/one to one in English-language arts and mathematics after school at the University.
School Districts Served: Orange Unified, Santa Ana Unified, Placentia-Yorba Linda Unified, Garden Grove Unified, Westminster Elementary School District and Tustin Unified.	

Applicant	**Contact**
Failure Free Reading	Vincent Vezza Senior President 140 Cabarrus Avenue West Concord, NC 28025 Wk – (704) 786-7838 FAX – (704) 785-8940 Vince.vezza@failurefree.com
Status – New	**Program Description:** Provides tutoring in English-language arts and reading for grades K-12 in small groups, after school at the school site.
School Districts Served: Statewide	

Applicant	**Contact**
New Century Education Services Corp.	Karen Brandhorst President PMB #421 800 S. Pacific Coast Hwy. 8 Redondo Beach, CA 90277 Wk – (800) 992-1755 FAX – (310) 540-2151 kbrandhorst@ncecorp.com
Status – New	**Program Description:** Provides tutoring services for grades K-10 via self-paced computer based instruction in English-language arts and mathematics at the school site.
School Districts Served: Statewide	

Applicant	Contact
Total Education Solutions	Dr. Nancy J. Lavelle President 1137 Huntington Drive South Pasadena, CA 91030 Wk - (323) 341-7777 FAX – (323) 257-0284 njlavelle@tesidea.com
Status – New	**Program Description:** Provides tutoring to special needs students in English-language arts and mathematics after school at the school site and in community settings.
School Districts Served: Statewide	

State of California **Department of Education**

LAST MINUTE MEMORANDUM

DATE: March 1, 2004

TO: MEMBERS, STATE BOARD OF EDUCATION

FROM: Geno Flores, Deputy Superintendent
Assessment and Accountability Branch

RE: Item No. 19

SUBJECT: *No Child Left Behind Act of 2001:* Supplemental Educational Service Providers (required by Title I, Section 1116(e))

The attached item includes two additional applicants recommended for approval as supplemental educational service providers. The applications were received in time to be evaluated against the four-point rubric based on the State Board of Education adopted criteria.

Attachment 1: Recommended Supplemental Educational Service Providers (1 page)

Applicant	Contact
The Reading Center	Nick Maricic Owner The Reading Center 38005 Pinnacle Ct. Murrieta, CA 92562 Wk – (909) 485-5828 Ho – (909) 677-0703 Cell (909) 775-9017 Nmaricic@aol.com
Status – New	**Program Description:** Provides direct instruction in English language arts in small groups (including special education students) to students in grade levels K-6.
School Districts Served: All school districts in Riverside County	

Applicant	Contact
Vision 2000, Educational Foundation	Dr. Hazel Mahone/Virgil H. Price President/CEO/Program Coordinator Vision 2000, Educational Foundation 2816 Robinson Creek Elk Grove, CA 95758 Ho – (916) 691-9180 Cell (916) 752-9696 FAX 691-5339 hmahone@aol.com
Status – New	**Program Description:** Provides small group instruction in mathematics and language arts for grade levels K-12 at local school district sites.
School Districts Served: Sacramento City Unified, San Juan Unified and Elk Grove Unified	

ITEM #20

CALIFORNIA STATE BOARD OF EDUCATION

MARCH 2004 AGENDA

SUBJECT	
California State Plan (1999-2004) for the Workforce Investment Act, Title II: Adult Education and Family Literacy Act: Extension for one year and approval of performance goals for 2004-2005	☒ **Action**
	☒ **Information**
	☐ **Public Hearing**

RECOMMENDATION

Extend the California State Plan (1999-2004) for the Workforce Investment Act, Title II: Adult Education and Family Literacy Act for one year and approve the proposed performance goals for 2004-2005.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

The State Board of Education adopted the initial submission of the California State Plan (1999-2004) for the Workforce Investment Act, Title II: Adult Education and Family Literacy Act in March 1999. The State Board approved subsequent revisions to the State Plan in February 2001, July 2001, January 2002, May 2002, and February 2003. The most recent action by the State Board in February 2003 was approval of the 2003-2004 performance goals.

SUMMARY OF KEY ISSUES

In keeping with the requirements of the U.S. Department of Education (USDE), this agenda item proposes that the State Board extend the California State Plan for one year and incorporate performance goals for 2004-2005. Other than for the new performance goals, the State Plan's content remains materially unchanged.

Background. The California Department of Education (CDE) receives federal funding through the Workforce Investment Act (WIA), Title II: Adult Education and Family Literacy Act (AEFLA). This funding is administered by the Department's Adult Education Office to carry out the program provisions in the AEFLA. The AEFLA requires that 82.5 percent of the funding be used for grants to local agencies; 12.5 percent to support statewide leadership activities, i.e., professional development, data collection and reporting, student assessment, information and technology; and no more than 5 percent for state administration.

Through this year, the administration of the program has been guided by the five-year California State Plan (1999-2004), which was developed by the CDE and approved by the State Board of Education and the USDE. The CDE must submit any revisions to the State Plan for approval by the State Board prior to submitting such revisions to the USDE. The State Plan represents the agreement between California and the USDE about how the state will implement the provisions of the AEFLA, including the performance accountability system. This system utilizes competency-based curriculum, instruction, and assessment to measure student performance, as determined by the

AEFLA. The AEFLA performance measures include student goal attainment, literacy level improvement, advancement, or completion, placement in postsecondary education, entered employment, and retained employment. The State Plan includes the annual performance goals for each AEFLA performance measure.

AEFLA and the California State Plan expire on June 30, 2004. Per the attached Program Memorandum from Cheryl L. Keenan, Director, Division of Adult Education and Literacy, United States Department of Education, dated December 18, 2004 [2003] (Attachment 1), the USDE is extending the AEFLA for one year and is requiring states to revise and extend their existing plans to incorporate new performance goals for 2004-2005. The revised plans are due to USDE by April 1, 2004. Since the 2003-2004 actual performance data are unavailable, the proposed 2004-2005 performance goals are based on the 2002-2003 actual performance data, reflecting slight increases consistent with a preliminary oral discussion with USDE staff.

Attached for the State Board's review and approval is the Summary of Adult Education Performance Goals Data (Attachment 2), which includes the proposed 2004-2005 performance goals, along with the revised Chapter 5 of the State Plan (Attachment 3), which incorporates these performance goals into the plan. The process to finalize the proposed performance goals includes a review by a team of field practitioners and by the USDE Area Coordinator. Both of these reviews will be completed by the time the State Board meets in March. If these review processes result in any changes to the proposed performance goals, the State Board will be notified prior to the March meeting through a last minute memorandum.

The USDE is also requiring states to indicate whether they intend to extend current grants or conduct a one-year competition and to revise their plans to include any new uses of funds that were not incorporated in the existing State Plan. California will be conducting a one-year competition for 2004-2005 and will allocate any additional funds to support our current activities. There will be no new use of funds. This information will be communicated to USDE in the cover letter that will transmit the approved State Plan along with the standard signed certifications and assurances.

FISCAL ANALYSIS (AS APPROPRIATE)

This is a one-year extension of the existing provisions of the State Plan and approval of performance goals for 2004-2005. The extension is required so that California will continue to receive funding through the AEFLA. No state funding is required nor requested. Failure to approve the State Plan revision will result in the loss or delay of the Federal AEFLA Grant of $83,676,925.

ATTACHMENT

Attachment 1: Program Memorandum from Cheryl L. Keenan, Director, Division of Adult Education and Literacy, United States Department of Education dated December 18, 2004 [2003] (2 pages)

Attachment 2: Summary of Adult Education Performance Goals Data (1 page)

Attachment 3: Chapter 5 of the California State Plan (7 pages)

PROGRAM MEMORANDUM OVAE/DAEL FY 2004-01

TO: State Directors of Adult Education

FROM: Cheryl L. Keenan Cheryl L. Keenan
Director
Division of Adult Education and Literacy

SUBJECT: Extension of the Adult Education and Family Literacy Act (AEFLA)

DATE: December 18, 2004

This memorandum describes our policy in implementing an extension of the Adult Education and Family Literacy Act (AEFLA), using the authority contained in Section 422 of the General Education Provisions Act (GEPA) [20 U.S.C. 1226 (a)]. This action is necessary to give States as much advance notice and flexibility as possible in submitting any revisions needed in their current State plans, including establishment of performance levels for the coming program year.

Need for Revising Current State Plans

Section 422 of the General Education Provisions Act (GEPA) [20 U.S.C. 1226 (a)] provides for the automatic extension of current program operations for one year if current law expires and a reauthorization is anticipated, but not yet available, to take its place. State Plans are required for States to receive allotments under AEFLA and the plans that OVAE approved under AEFLA will expire June 30, 2004. Because the statute was expiring, those plans were not required to contain performance levels for Program Year 2004-2005. States and OVAE need to agree upon new performance targets for that period and the new targets must be incorporated into the existing State Plan as a revision.

As you know, adult education has experienced great variation in State performance. We have put in place a data quality checklist that State directors must use to certify the accuracy of data submitted to OVAE. Our expectation, and the requirement of the law, is that each State will continuously improve its performance levels in a substantive way. Therefore, performance levels proposed for a future year must exceed the actual performance of a current year.

Requirements for Revising Current State Plans

The process for State Plan revisions is established in Section 224 (c) and (d) of AEFLA. States are expected to follow this process in addition to any State-imposed requirements for submitting State plan revisions:

Revisions, including the new performance targets we agree on, must be submitted to OVAE no later than April 1, 2004. In their revisions, States must indicate whether they intend to extend current grants or conduct a one-year

competition. Performance targets proposed must exceed actual performance measured in the prior year. It is advisable to discuss proposed targets with OVAE prior to submission to ensure that levels are appropriate and approvable. Your Area Coordinator will contact you by telephone during the period from January 26 through February 13 to discuss the performance levels proposed by your State for Program Year 2004-2005.

Revisions must be submitted to the Governor and any comments made by the Governor must be submitted to OVAE with the plan revisions.

Revisions must include any new uses of funds that were not incorporated in the existing State Plan. For example, States receiving additional funding due to population data from the 2000 Census may want to establish new State leadership initiatives. These new initiatives should be incorporated in the existing plan through the revision process.

Revisions must include updated certifications and assurances with original signatures.

Please feel free to contact your Area Coordinator for technical assistance in meeting these requirements. We look forward to working with you.

Attachments

Summary of Adult Education Performance Goals Data

1999-2000, 2000-01, 2001-02, 2002-03, 2003-04, and 2004-05

Table 1 – Literacy Goals And Performance

Entering Functioning Level	1999-00 Perfor. Goal	1999-00 Perfor. (All learners)	2000-01 Perfor. Goal	2000-01 Perfor. (All learners)	2001-02 Perfor. Goal	2001-02 Perfor. (All learners)	2002-03 Perfor. Goal	2002-03 Perfor. (All learners)	2003-04 Perfor. Goal	2004-05 Perfor. Goal
ABE Beginning Literacy	13%	13.0%	15%	22.6%	17%	25.7%	20%	21.2%	22%	23%
ABE Beginning Basic	20%	17.7%	22%	33.2%	24%	36.4%	26%	36.4%	28%	37%
ABE Intermediate Low	20%	18.0%	22%	34.5%	24%	37.7%	26%	38.1%	28%	39%
ABE Intermediate High	22%	13.7%	24%	29.3%	26%	29.9%	26%	29.6%	28%	30%
ASE Low	NA	1.7%	14%	13.6%	15%	25.4%	15%	24.6%	17%	25%
ASE High	7%	18.5%	8%	26.9%	9%	28.3%	11%	30.3%	13%	31%
ESL Beginning Literacy	18%	14.1%	20%	30.6%	22%	32.2%	24%	33.6%	26%	34%
ESL Beginning	20%	12.5%	22%	26.7%	24%	28.4%	24%	30.2%	26%	31%
ESL Intermediate Low	22%	27.2%	24%	37.0%	26%	39.8%	28%	40.6%	30%	41%
ESL Intermediate High	22%	30.0%	24%	39.7%	26%	43.0%	28%	42.8%	30%	43%
ESL Advanced Low	18%	13.0%	20%	21.7%	22%	22.7%	22%	22.6%	24%	25%
ESL Advanced High	NA	18.1%	NA	17.7%	NA	19.3%	NA	18.8%	NA	NA

Table 2 - Education or Work Performance Goals and Performance

Learner Education or Performance Goal	1999-00 Perf. Goal	1999-00 Perf. (Students w/ Education or Employment Goal)	1999-00 Perf. (Total Students)	2000-01 Perf. Goal	2000-01 Perf. (Against all enrollees)	2001-02 Perf. Goal	2001-02 Perf. (Against all enrollees)	2002-03 Perf. Goal	2002-03 Perf. (Against all enrollees)	2003-04 Perf. Goal	2004-05 Perf. Goal
Entered Employment	10,000	11,068	33,599	9%	17.8%	10%	54.5%	11%	54.4%	13%	55%
Retained Employment	18,000	25,877	55,256	11%	34.3%	12%	85.7%	13%	81.9%	15%	83%
Entered Postsecondary Education/Training	23,000	392	8,287	6%	11.7%	7%	60.4%	8%	53.5%	10%	55%

Chapter 5
Performance Measures

Section 224(b)(4) requires a description of the performance measures described in Section 212 and how such performance measures will ensure the improvement of adult education and literacy activities in the state or outlying area.

5.0 Performance Measures (Section 224(b)(4))

Pursuant to Section 212, CDE will establish and implement a comprehensive performance accountability system. To optimize the return on investment of Federal funds in adult education and literacy activities, the accountability system will assess the effectiveness of eligible local providers' achievement in continuously improving their adult education and literacy program delivery funded under this subtitle. All of the performance measures will apply to all funded priorities.

CDE has established a solid basis for the development of a performance accountability system. For many years, California adult education programs have provided a competency based curriculum, instruction, and assessment that focuses on the competencies that enable learners to participate more fully within American society, as citizens, workers and family members. CDE has developed and implemented model curriculum standards for ABE, ESL, which includes ESL-Citizenship, and ASE and standard performance descriptors at each program level. In addition, a Comprehensive Adult Student Assessment System (CASAS) was established that accurately measures progress and mastery of skills and competencies for completion of a program level and promotion to the next instructional level. CASAS provides a standardized reporting scale linked to demonstrated performance of identified skills and competencies at each instructional level. These skill level descriptors and standardized scale score ranges have been incorporated into the National Reporting System pilot project.

CDE has also implemented a local program database reporting system, Tracking of Programs and Students (TOPSpro) that enables local programs to collect and report all student progress and outcome measures. It provides student, class, and program reports that enable local providers to have immediate access to the data for targeting instruction based on student goals and for continuous program improvement. It provides for the collection of the data elements needed to meet the reporting requirements of TANF programs and other workforce related programs.

5.1 Eligible Agency Performance Measures (Section 212)

Eligible local provider performance measures will include student goal attainment and demonstrated student improvements in literacy levels within a program level, student completion of a program level, student advancement to higher program levels. Additional performance measures will include receipt of a secondary school diploma or its recognized equivalent, placement in post-secondary education~~,~~ and training, entered employment, and retained employment.

The tables within this section (5.1) indicate the measures, including CASAS assessment instruments that are to be used to document improvements in literacy performance. These measures must be used by all providers for all enrolled students for each of the program priorities addressed. These priorities, described in Chapter 3, include: (1) literacy at the NALS Level 1, including ABE and ESL, which includes ESL-Citizenship; (2) literacy at the NALS Levels 1 and 2 - Workplace Literacy, including ABE and ESL, which includes ESL-Citizenship; (3) literacy at the NALS Level 2 - School Based literacy, including ABE and ESL, which includes ESL-Citizenship; (4) Family literacy; and (5) ASE NALS Level 3 and above. Programs using distance learning as a mode for delivering literacy services must also meet performance measures. In addition to these measures, local providers funded for the family

literacy priority must also document achievement gains of the children as well as the adults who are enrolled in the program.

In accordance with Section 212, CDE will establish levels of performance for each of the core indicators:

1. demonstrated improvements in literacy skill levels in reading and problem solving, numeracy, writing, English language acquisition, speaking the English language, and other literacy skills;
2. placement in, retention in, or completion of postsecondary education, training, and employment; and
3. receipt of a secondary school diploma or its recognized equivalent.

They will be expressed in an objective, quantifiable, and measurable form, and will show the progress of the eligible local providers in continuously improving performance.

1. Demonstrated improvements in literacy skill levels

CDE has established literacy skill levels for ABE and ESL, which includes ESL-Citizenship, that provide a standardized definition for reporting learning gains within a literacy skill level, completion of each level, and progression to a higher literacy skill level. All participating agencies will assess a student's literacy skill level upon entry into the program using standardized assessments provided by CDE.

CASAS Standardized Assessment Instruments

Demonstrated Improvements in Literacy Skill Levels in:	Existing Standardized Assessment Instruments	In Progress/Planned
Reading and Problem Solving	Reading Appraisals Life Skills Reading Employability Reading Beginning ESL Level Completion Life and Work Reading Reading for Citizenship	Beginning ABE Level Completion Intermediate ABE and ESL Level Completion Advanced ABE and ESL Level Completion
Numeracy	Math Appraisals Life Skills Math Employability Math	Beginning ABE Level Completion Intermediate ABE Level Completion Advanced ABE level Completion Life and Work Math
Writing	Functional Writing Assessment–All Levels	
English Language Acquisition	Life Skills Listening Employability Reading Beginning ESL Level Completion	Intermediate ESL Level Completion Advanced ESL Level Completion Life and Work Listening
Speaking	Citizenship Interview Test Workplace Oral Assessment	ESL Oral Language Assessment
Other Literacy Skills	Pre-Employment and Work Maturity Skills Check Lists Government and History for Citizenship POWER — Providing Options for the Workplace, Education, and Rehabilitation	

2. Placement in, retention in, or completion of post-secondary education, training, or unsubsidized employment

Local providers will be required to obtain this information from their students and document the information on the TOPSpro Student Update Record. Standard definitions and documentation procedures will be identified in the ABE Administration Manual. In some instances, students leave programs before this information can be obtained. To address the accurate data collection of both short term and longer-term student outcomes resulting from participation in adult education programs, CDE will establish several pilot projects, including, but not limited to, the following:

Placement in, retention in, or completion of:	Existing Standardized Reporting Instruments
Postsecondary Education and Training	TOPSpro and follow-up survey
Entered Employment	TOPSpro and follow-up survey
Retained-Employment	TOPSpro and follow-up survey

- Local program reporting: CDE will build on the National Reporting System (NRS) pilot to improve strategies that local providers use to follow-up on students who leave the program before completing their goal as well as for students who leave the program after meeting their primary goals.

- Data Matching: CDE will identify the issues in developing and using a state level database that requires use of a student social security number to document longer-term student outcomes, such as those related to employment.

3. Attainment of secondary school diplomas or their recognized equivalent

Participating local providers will track and report the number of learners who pass the GED test, earn credits toward a high school diploma, or attain a high school diploma for those students enrolled in ASE programs. In addition, summary data obtained through CDE statewide reports will document the number of high school diplomas earned through adult schools. The State GED office will report the number of GED Certificates issued each calendar year.

Receipt of a secondary school diploma or GED	Existing Standardized Reporting Instruments
High School Diploma	TOPSpro Certified list of high school diplomas
GED Certificate	CDE State GED Reports Data match for GED TOPSpro

5.2 Additional Indicators

Participating local providers will report additional indicators of performance for student-identified outcomes on Student Entry and Update Records. Entry Record information includes: instructional program, instructional level, reason for enrollment, special programs enrollment, personal status, and, labor force status. Update information includes: instructional program and level (at the time of update); student's status in the instructional program; learner results pertaining to work, personal/family, community, and education; reason for leaving early; sub-sections of GED passed; and high school credits earned. Additional information may be required for workplace literacy and family literacy programs.

5.3 Levels of Performance

The following Levels of Performance are based on student progress and outcome data from federally funded ABE 321 providers in California over the past several years. During the first year of the ~~five-year~~ state plan, local providers began collecting progress and level completion data on students throughout the program year. Local providers used the data gained during the first year of the program to reassess and adjust their projected levels of performance for the second program year. ~~Likewise, third year performance level projections are based on the prior year's data. Performance projections for years four and five will be based on a weighted average of actual annual data from the 1999-2000 and 2000-2001 program years and~~ Subsequent years' projected performance levels were established in similar fashion, incorporating other factors identified in Section 5.4, to (1) offset unmeasured student progress due to a new data collection requirement in the first year of the Title II of the Workforce Investment Act and (2) quantify a more accurate picture of actual performance — the proportion of students who completed an instructional level within a specific program year. ~~Given the need to show continuous improvement, the~~ The projected performance ~~goals~~ levels for ~~the fifth program year will be two percentage points above performance goals of the fourth program year —~~ 2004-2005 have been established based upon the performance levels achieved in 2002-2003.

ABE Literacy Skills–Adjusted Levels of Performance

ABE	Ranges	Content Areas						Gains	Achieved Performance Levels				Projected Performance Levels	
Skill Level	CASAS Scale	Reading	Listening	Speaking	Writing	Problem Solving	Numeracy	CASAS Point Scale	1999-2000	2000-2001	2001-2002	2002-2003	2003-2004	2004-2005
Beg. Lit.	200 & below	x	0	0	0	0	x	3-5 pt.	13%	22.6%	25.7%	21.2%	22%	23%
Beg. Basic Skills	201-210	x	0	0	0	0	x	4-6 pt.	17.7%	33.2%	36.4%	36.4%	28%	37%
Low Inter. Basic Skills	211-220	x	0	0	0	0	x	3-5 pt.	18%	34.5%	37.7%	38.1%	28%	39%
High Inter. Basic Skills	221-235	x	0	0	0	0	x	3-5 pt.	13.7%	29.3%	29.9%	29.6%	28%	30%
Low ASE* **	236-245			0	0			TBN	1.7%	13.6%	25.4%	24.6%	17%	25%
High ASE	246+					0		TBN	18.5%	26.9%	28.3%	30.3%	13%	31%

x = State approved standardized tests
o = Local provider documentation based on standardized protocols, established criteria, and performance standards
***ASE = Adult Secondary Education

ESL Literacy Skills–Adjusted Levels of Performance

ESL	Ranges	Content Areas						Gains	Achieved Performance Levels				Projected Performance Levels	
Skill Level	CASAS Scale	Reading	Listening	Speaking	Writing	Problem Solving	Numeracy	CASAS Point Scale	1999-2000	2000-2001	2001-2002	2002-2003	2003-2004	2004-2005
Beg. Lit.	150-180	x	x		0			5-7 pt.	14.1%	30.6%	32.2%	33.6%	26%	34%
Beg. Low	181-190	x	x		0			5-7 pt.	12.5%	26.7%	28.4%	30.2%	26%	31%
Beg. High	191-200	x	x	0	0	0		5-7 pt.	12.5%	26.7%	28.4%	30.2%	26%	31%
Inter. Low	201-210	x	0	0	0	0	x	4-6 pt.	27.2%	37%	39.8%	40.6%	30%	41%
Inter. High	211-220	x	x	0	0	0	x	3-5 pt.	30%	39.7%	43%	42.8%	30%	43%
Adv. Low	221-235	x	x	0	0	0	0	3-5 pt.	13%	21.7%	22.7%	22.6%	24%	25%
Prgm. Exit	236+	x	x	0	0	0	0	NA	18.1%	17.7%	19.3%	18.8%	NA	NA

x = State approved standardized tests
o = Local provider documentation based on standardized protocols, established criteria, and performance standards

Education or Work Performance Goals and Performance

Learner Education or Performance Goal	**1999-00 Perf. Goal**	**1999-00 Perf.** (Students w/ Education or Employment Goal)	**1999-00 Perf.** (Total Students)	**2000-01 Perf. Goal**	**2000-01 Perf.** (Against all enrollees)	**2001-02 Perf. Goal**	**2001-02 Perf.** (Against all enrollees)	**2002-03 Perf. Goal**	**2002-03 Perf.** (Against all enrollees)	**2003-04 Perf. Goal**	**2004-05 Perf. Goal**
Entered Employment	10,000	11,068	33,599	9%	17.8%	10%	54.5%	11%	54.4%	13%	55%
Retained Employment	18,000	25,877	55,256	11%	34.3%	12%	85.7%	13%	81.9%	15%	83%
Entered Postsecondary Education/Training	23,000	392	8,287	6%	11.7%	7%	60.4%	8%	53.5%	10%	55%

5.4 Factors (Section 212(b)(3)(A)(iv))

Student progress and outcome data in California indicate significant differences in levels of performance based on individual student characteristics. These characteristics include initial literacy skill level upon entry into the program, literacy levels of limited English proficient students in their home language, the number of years of education completed before entering the adult education program, learning and developmental disabilities, and other demographic and socio-economic variables. California serves large numbers of students who are most in need, including immigrants with low literacy skills in their native language as well as in English, institutionalized adults, adults in homeless shelters, migrant workers, and those that are unemployed or underemployed in hourly, minimum wage jobs. Therefore, with the emphasis on serving those students who are most in need and hardest to serve, California devotes only 10 percent of its federal allotment to those students who have higher-level skills.

Service delivery factors also affect performance such as the intensity, duration, and quality of the instructional program; convenience and accessibility of the instructional program; ability of the program to address specific learning goals and provide targeted instruction in a competency-based context related directly to student goals.

California serves an extremely diverse adult student population with a broad range of skill levels and different short and long term learning goals. Many students initially enter the program with a short-term goal but as they make progress toward their goal and experience success, they remain in the program to achieve longer term learning goals. Some, such as TANF/CalWORKs recipients and the homeless, may be unable to attend an instructional program on a regular basis because of time limits on educational participation. As a result, the performance measures must address both short and long-term goals, length of participation, initial skill levels at program entry, and use multiple student performance measures related to student goals.

Based on student characteristics and service delivery factors, CDE has identified expected levels of performance for each of the core indicators provided for ABE and ESL, which include ESL-Citizenship, programs. The projected skill levels for each of these programs are indicated for the first three years covered by this *State Plan*. CASAS Scale Score ranges at each level address the significant differences in performance for the special and diverse populations that are served by local providers. Local providers must be encouraged to continue to serve the least educated and most in need, and to evaluate with measures of performance that are most appropriate for the populations they serve. Over the ~~five-year period~~ life of this *State Plan*, these ranges will be analyzed and adjusted as appropriate to ensure that California continues to promote continuous improvement in performance on appropriate measures and ensure optimal return on the investment of Federal funds.

Further Information—Annual Report

CDE will annually prepare and submit to the Secretary a report on the progress of California in achieving the stated performance measures, including information on the levels of performance achieved on the core indicators of performance. The report will include the demographic characteristics of the populations served, the attainment of student goals, progress on the core indicators of performance by program and program level, and learning gains within literacy levels, as well as level completion and movement to higher instructional levels. In the third year of the State plan, CDE will begin to report the number of Certificates of Proficiency awarded by program level. Sub-set analyses of special populations groups will be provided and adjustments to levels of performance for these groups may be recommended based on the findings.

Levels of performance achieved for other core indicators will include student outcomes related to post-secondary education, training, unsubsidized employment or career advancement, and receipt of a high school diploma or GED Certificate.

Performance Measures for EL Civics Education

Funded providers will establish observable, measurable, and meaningful goals and objectives for participants in programs that are either uniquely funded by EL Civics Education funds or supplemented by them.

All funded providers will use the CASAS assessment, evaluation, and data collection system to document participant outcomes as required in Section 212. The State will provide funded agencies all the necessary software and test forms necessary for efficient implementation of this assessment process. Given the innovative nature of the EL Civics Education initiative and the range of targeted outcomes that extend beyond literacy gains that can be easily captured on pencil and paper tests, in addition to CASAS assessments, providers must also develop and/or utilize alternative strategies for documenting student outcomes. All such strategies must yield clearly identified observable, measurable, and meaningful outcomes. Providers receiving supplemental EL Civics Education funds will be required to submit a qualitative narrative report that documents the outcomes that were achieved through access to this additional allocation.

All funded programs will be required to have participants submit demographic and other student outcome information through completion of student Entry and Update records. The TOPSpro data collection system collects and transmits the required data in an acceptable format.

State of California Department of Education

LAST MINUTE MEMORANDUM

DATE: March 9, 2004

TO: MEMBERS, STATE BOARD OF EDUCATION

FROM: Sue Stickel, Deputy Superintendent
Curriculum & Instruction Branch

RE: Item No. 20

SUBJECT: California State Plan (1999-2004) for the Workforce Investment Act, Title II: Adult Education and Family Literacy Act: Extension for one year and approval of performance goals for 2004-2005

We alerted the Board that there might be a last minute memorandum for this item due to the fact that we have been working with the U.S. Department of Education to negotiate the performance goals for 2004-2005. The negotiations were completed on Tuesday, March 9, 2004 at 12:00 noon. Our negotiations resulted in changes to performance goals for two literacy levels, Adult Basic Education (ABE) Beginning Literacy (which is now proposed to increase to 25% from 23%) and Adult Secondary Education (ASE) Low (which is now proposed to increase to 32% from 25%). In addition, the display has been augmented to show performance goals for adult learners who attain their GED/High School Diploma.

Attached are an updated version of the one-page data summary presented in the original agenda item, and a revised version of Chapter 5 of the State Plan that reflects the performance goals negotiated with the U.S. Department of Education. Both attachments also reflect a technical change correcting the labeling within the data summary and the corresponding tables in Chapter 5.

Attachment 1: Summary of Adult Education Performance Goals Data Chart (1 Page)
Attachment 2: Chapter 5 of the California State Plan (7 Pages)

Summary of Adult Education Performance Goals Data

1999-2000, 2000-01, 2001-02, 2002-03, 2003-04, and 2004-05

Table 1 – Literacy Goals And Performance

Entering Functioning Level	1999-00 Perfor. Goal	1999-00 Perfor. (All learners)	2000-01 Perfor. Goal	2000-01 Perfor. (All learners)	2001-02 Perfor. Goal	2001-02 Perfor. (All learners)	2002-03 Perfor. Goal	2002-03 Perfor. (All learners)	2003-04 Perfor. Goal	2004-05 Perfor. Goal
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ASE Low	NA	1.7%	14%	13.6%	15%	25.4%	15%	24.6%	17%	32%
ASE High	7%	18.5%	8%	26.9%	9%	28.3%	11%	30.3%	13%	31%
ESL Beginning Literacy	18%	14.1%	20%	30.6%	22%	32.2%	24%	33.6%	26%	34%
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ESL Advanced High	NA	18.1%	NA	17.7%	NA	19.3%	NA	18.8%	NA	NA

* The table in Chapter 5 divides this category into ESL Beginning Low and ESL Beginning High. In this display, the data (which are the same for both categories) are combined.

Table 2 – Education or Work Performance Goals and Performance

Learner Education or Performance Goal	1999-00 Perf. Goal	1999-00 Perf. (Students w/ Education or Employment Goal)	1999-00 Perf. (Total Students)	2000-01 Perf. Goal	2000-01 Perf. (Students w/ Education or Employment Goal)	2001-02 Perf. Goal	2001-02 Perf. (Students w/ Education or Employment Goal)	2002-03 Perf. Goal	2002-03 Perf. (Students w/ Education or Employment Goal)	2003-04 Perf. Goal	2004-05 Perf. Goal
GED/HS Diploma	12,000	14,399	21,056	8%	27%	9%	23%	11%	28%	13%	30%
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Chapter 5
Performance Measures

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5.0 Performance Measures (Section 224(b)(4))

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CDE has established a solid basis for the development of a performance accountability system. For many years, California adult education programs have provided a competency based curriculum, instruction, and assessment that focuses on the competencies that enable learners to participate more fully within American society, as citizens, workers and family members. CDE has developed and implemented model curriculum standards for ABE, ESL, which includes ESL-Citizenship, and ASE and standard performance descriptors at each program level. In addition, a Comprehensive Adult Student Assessment System (CASAS) was established that accurately measures progress and mastery of skills and competencies for completion of a program level and promotion to the next instructional level. CASAS provides a standardized reporting scale linked to demonstrated performance of identified skills and competencies at each instructional level. These skill level descriptors and standardized scale score ranges have been incorporated into the National Reporting System pilot project.

CDE has also implemented a local program database reporting system, Tracking of Programs and Students (TOPSpro) that enables local programs to collect and report all student progress and outcome measures. It provides student, class, and program reports that enable local providers to have immediate access to the data for targeting instruction based on student goals and for continuous program improvement. It provides for the collection of the data elements needed to meet the reporting requirements of TANF programs and other workforce related programs.

5.1 Eligible Agency Performance Measures (Section 212)

Eligible local provider performance measures will include student goal attainment and demonstrated student improvements in literacy levels within a program level, student completion of a program level, student advancement to higher program levels. Additional performance measures will include receipt of a secondary school diploma or its recognized equivalent, placement in post-secondary education~~,~~ and training, entered employment, and retained employment.

The tables within this section (5.1) indicate the measures, including CASAS assessment instruments that are to be used to document improvements in literacy performance. These measures must be used by all providers for all enrolled students for each of the program priorities addressed. These priorities, described in Chapter 3, include: (1) literacy at the NALS Level 1, including ABE and ESL, which includes ESL-Citizenship; (2) literacy at the NALS Levels 1 and 2 - Workplace Literacy, including ABE and ESL, which includes ESL-Citizenship; (3) literacy at the NALS Level 2 - School Based literacy, including ABE and ESL, which includes ESL-Citizenship; (4) Family literacy; and (5) ASE NALS Level 3 and above. Programs using distance learning as a mode for delivering literacy services must also meet performance measures. In addition to these measures, local providers funded for the family

literacy priority must also document achievement gains of the children as well as the adults who are enrolled in the program.

In accordance with Section 212, CDE will establish levels of performance for each of the core indicators:

1. demonstrated improvements in literacy skill levels in reading and problem solving, numeracy, writing, English language acquisition, speaking the English language, and other literacy skills;
2. placement in, retention in, or completion of postsecondary education, training, and employment; and
3. receipt of a secondary school diploma or its recognized equivalent.

They will be expressed in an objective, quantifiable, and measurable form, and will show the progress of the eligible local providers in continuously improving performance.

1. Demonstrated improvements in literacy skill levels

CDE has established literacy skill levels for ABE and ESL, which includes ESL-Citizenship, that provide a standardized definition for reporting learning gains within a literacy skill level, completion of each level, and progression to a higher literacy skill level. All participating agencies will assess a student's literacy skill level upon entry into the program using standardized assessments provided by CDE.

CASAS Standardized Assessment Instruments

Demonstrated Improvements in Literacy Skill Levels in:	Existing Standardized Assessment Instruments	In Progress/Planned
Reading and Problem Solving	Reading Appraisals Life Skills Reading Employability Reading Beginning ESL Level Completion Life and Work Reading Reading for Citizenship	Beginning ABE Level Completion Intermediate ABE and ESL Level Completion Advanced ABE and ESL Level Completion
Numeracy	Math Appraisals Life Skills Math Employability Math	Beginning ABE Level Completion Intermediate ABE Level Completion Advanced ABE level Completion Life and Work Math
Writing	Functional Writing Assessment–All Levels	
English Language Acquisition	Life Skills Listening Employability Reading Beginning ESL Level Completion	Intermediate ESL Level Completion Advanced ESL Level Completion Life and Work Listening
Speaking	Citizenship Interview Test Workplace Oral Assessment	ESL Oral Language Assessment
Other Literacy Skills	Pre-Employment and Work Maturity Skills Check Lists Government and History for Citizenship POWER — Providing Options for the Workplace, Education, and Rehabilitation	

2. Placement in, retention in, or completion of post-secondary education, training, or unsubsidized employment

Local providers will be required to obtain this information from their students and document the information on the TOPSpro Student Update Record. Standard definitions and documentation procedures will be identified in the ABE Administration Manual. In some instances, students leave programs before this information can be obtained. To address the accurate data collection of both short term and longer-term student outcomes resulting from participation in adult education programs, CDE will establish several pilot projects, including, but not limited to, the following:

Placement in, retention in, or completion of:	Existing Standardized Reporting Instruments
Postsecondary Education and Training	TOPSpro and follow-up survey
Entered Employment	TOPSpro and follow-up survey
Retained-Employment	TOPSpro and follow-up survey

- Local program reporting: CDE will build on the National Reporting System (NRS) pilot to improve strategies that local providers use to follow-up on students who leave the program before completing their goal as well as for students who leave the program after meeting their primary goals.

- Data Matching: CDE will identify the issues in developing and using a state level database that requires use of a student social security number to document longer-term student outcomes, such as those related to employment.

3. Attainment of secondary school diplomas or their recognized equivalent

Participating local providers will track and report the number of learners who pass the GED test, earn credits toward a high school diploma, or attain a high school diploma for those students enrolled in ASE programs. In addition, summary data obtained through CDE statewide reports will document the number of high school diplomas earned through adult schools. The State GED office will report the number of GED Certificates issued each calendar year.

Receipt of a secondary school diploma or GED	Existing Standardized Reporting Instruments
High School Diploma	TOPSpro Certified list of high school diplomas
GED Certificate	CDE State GED Reports Data match for GED TOPSpro

5.2 Additional Indicators

Participating local providers will report additional indicators of performance for student-identified outcomes on Student Entry and Update Records. Entry Record information includes: instructional program, instructional level, reason for enrollment, special programs enrollment, personal status, and, labor force status. Update information includes: instructional program and level (at the time of update); student's status in the instructional program; learner results pertaining to work, personal/family, community, and education; reason for leaving early; sub-sections of GED passed; and high school credits earned. Additional information may be required for workplace literacy and family literacy programs.

5.3 Levels of Performance

The following Levels of Performance are based on student progress and outcome data from federally funded ABE 321 providers in California over the past several years. During the first year of the ~~five-year~~ state plan, local providers began collecting progress and level completion data on students throughout the program year. Local providers used the data gained during the first year of the program to reassess and adjust their projected levels of performance for the second program year. ~~Likewise, third year performance level projections are based on the prior year's data. Performance projections for years four and five will be based on a weighted average of actual annual data from the 1999-2000 and 2000-2001 program years and~~ Subsequent years' projected performance levels were established in similar fashion, incorporating other factors identified in Section 5.4, to (1) offset unmeasured student progress due to a new data collection requirement in the first year of the Title II of the Workforce Investment Act and (2) quantify a more accurate picture of actual performance — the proportion of students who completed an instructional level within a specific program year. ~~Given the need to show continuous improvement, the~~ The projected performance ~~goals~~ levels for ~~the fifth program year will be two percentage points above performance goals of the fourth program year —~~ 2004-2005 have been established based upon the performance levels achieved in 2002-2003.

ABE Literacy Skills–Adjusted Levels of Performance

ABE	Ranges	Content Areas						Gains	Achieved Performance Levels				Projected Performance Levels	
Skill Level	CASAS Scale	Reading	Listening	Speaking	Writing	Problem Solving	Numeracy	CASAS Point Scale	1999-2000	2000-2001	2001-2002	2002-2003	2003-2004	2004-2005
Beg. Lit.	200 & below	x	0	0	0	0	x	3-5 pt.	13%	22.6%	25.7%	21.2%	22%	25%
Beg. Basic Skills	201-210	x	0	0	0	0	x	4-6 pt.	17.7%	33.2%	36.4%	36.4%	28%	37%
Low Inter. Basic Skills	211-220	x	0	0	0	0	x	3-5 pt.	18%	34.5%	37.7%	38.1%	28%	39%
High Inter. Basic Skills	221-235	x	0	0	0	0	x	3-5 pt.	13.7%	29.3%	29.9%	29.6%	28%	30%
Low ASE* **	236-245			0	0			TBN	1.7%	13.6%	25.4%	24.6%	17%	32%
High ASE	246+					0		TBN	18.5%	26.9%	28.3%	30.3%	13%	31%

x = State approved standardized tests
o = Local provider documentation based on standardized protocols, established criteria, and performance standards
***ASE = Adult Secondary Education

ESL Literacy Skills–Adjusted Levels of Performance

ESL	Ranges	Content Areas						Gains	Achieved Performance Levels				Projected Performance Levels	
Skill Level	CASAS Scale	Reading	Listening	Speaking	Writing	Problem Solving	Numeracy	CASAS Point Scale	1999-2000	2000-2001	2001-2002	2002-2003	2003-2004	2004-2005
Beg. Lit.	150-180	x	x		0			5-7 pt.	14.1%	30.6%	32.2%	33.6%	26%	34%
Beg. Low	181-190	x	x		0			5-7 pt.	12.5%	26.7%	28.4%	30.2%	26%	31%
Beg. High	191-200	x	x	0	0	0		5-7 pt.	12.5%	26.7%	28.4%	30.2%	26%	31%
Inter. Low	201-210	x	0	0	0	0	x	4-6 pt.	27.2%	37%	39.8%	40.6%	30%	41%
Inter. High	211-220	x	x	0	0	0	x	3-5 pt.	30%	39.7%	43%	42.8%	30%	43%
Adv. Low	221-235	x	x	0	0	0	0	3-5 pt.	13%	21.7%	22.7%	22.6%	24%	25%
Prgm. Exit	236+	x	x	0	0	0	0	NA	18.1%	17.7%	19.3%	18.8%	NA	NA

x = State approved standardized tests
o = Local provider documentation based on standardized protocols, established criteria, and performance standards

Education or Work Performance Goals and Performance

Learner Education or Performance Goal	**1999-00 Perf. Goal**	**1999-00 Perf.** (Students w/ Education or Employment Goal)	**1999-00 Perf.** (Total Students)	**2000-01 Perf. Goal**	**2000-01 Perf.** (Students w/ Education or Employment Goal)	**2001-02 Perf. Goal**	**2001-02 Perf.** (Students w/ Education or Employment Goal)	**2002-03 Perf. Goal**	**2002-03 Perf.** (Students w/ Education or Employment Goal)	**2003-04 Perf. Goal**	**2004-05 Perf. Goal**
GED/HS Diploma	12,000	14,399	21,056	8%	27%	9%	23%	11%	28%	13%	30%
Entered Employment	10,000	11,068	33,599	9%	17.8%	10%	54.5%	11%	54.4%	13%	55%
Retained Employment	18,000	25,877	55,256	11%	34.3%	12%	85.7%	13%	81.9%	15%	83%
Entered Postsecondary Education/Training	23,000	392	8,287	6%	11.7%	7%	60.4%	8%	53.5%	10%	55%

5.4 Factors (Section 212(b)(3)(A)(iv))

Student progress and outcome data in California indicate significant differences in levels of performance based on individual student characteristics. These characteristics include initial literacy skill level upon entry into the program, literacy levels of limited English proficient students in their home language, the number of years of education completed before entering the adult education program, learning and developmental disabilities, and other demographic and socio-economic variables. California serves large numbers of students who are most in need, including immigrants with low literacy skills in their native language as well as in English, institutionalized adults, adults in homeless shelters, migrant workers, and those that are unemployed or underemployed in hourly, minimum wage jobs. Therefore, with the emphasis on serving those students who are most in need and hardest to serve, California devotes only 10 percent of its federal allotment to those students who have higher-level skills.

Service delivery factors also affect performance such as the intensity, duration, and quality of the instructional program; convenience and accessibility of the instructional program; ability of the program to address specific learning goals and provide targeted instruction in a competency-based context related directly to student goals.

California serves an extremely diverse adult student population with a broad range of skill levels and different short and long term learning goals. Many students initially enter the program with a short-term goal but as they make progress toward their goal and experience success, they remain in the program to achieve longer term learning goals. Some, such as TANF/CalWORKs recipients and the homeless, may be unable to attend an instructional program on a regular basis because of time limits on educational participation. As a result, the performance measures must address both short and long-term goals, length of participation, initial skill levels at program entry, and use multiple student performance measures related to student goals.

Based on student characteristics and service delivery factors, CDE has identified expected levels of performance for each of the core indicators provided for ABE and ESL, which include ESL-Citizenship, programs. The projected skill levels for each of these programs are indicated for the first three years covered by this *State Plan*. CASAS Scale Score ranges at each level address the significant differences in performance for the special and diverse populations that are served by local providers. Local providers must be encouraged to continue to serve the least educated and most in need, and to evaluate with measures of performance that are most appropriate for the populations they serve. Over the ~~five-year period~~ life of this *State Plan*, these ranges will be analyzed and adjusted as appropriate to ensure that California continues to promote continuous improvement in performance on appropriate measures and ensure optimal return on the investment of Federal funds.

Further Information—Annual Report

CDE will annually prepare and submit to the Secretary a report on the progress of California in achieving the stated performance measures, including information on the levels of performance achieved on the core indicators of performance. The report will include the demographic characteristics of the populations served, the attainment of student goals, progress on the core indicators of performance by program and program level, and learning gains within literacy levels, as well as level completion and movement to higher instructional levels. In the third year of the State plan, CDE will begin to report the number of Certificates of Proficiency awarded by program level. Sub-set analyses of special populations groups will be provided and adjustments to levels of performance for these groups may be recommended based on the findings.

Levels of performance achieved for other core indicators will include student outcomes related to post-secondary education, training, unsubsidized employment or career advancement, and receipt of a high school diploma or GED Certificate.

Performance Measures for EL Civics Education

Funded providers will establish observable, measurable, and meaningful goals and objectives for participants in programs that are either uniquely funded by EL Civics Education funds or supplemented by them.

All funded providers will use the CASAS assessment, evaluation, and data collection system to document participant outcomes as required in Section 212. The State will provide funded agencies all the necessary software and test forms necessary for efficient implementation of this assessment process. Given the innovative nature of the EL Civics Education initiative and the range of targeted outcomes that extend beyond literacy gains that can be easily captured on pencil and paper tests, in addition to CASAS assessments, providers must also develop and/or utilize alternative strategies for documenting student outcomes. All such strategies must yield clearly identified observable, measurable, and meaningful outcomes. Providers receiving supplemental EL Civics Education funds will be required to submit a qualitative narrative report that documents the outcomes that were achieved through access to this additional allocation.

All funded programs will be required to have participants submit demographic and other student outcome information through completion of student Entry and Update records. The TOPSpro data collection system collects and transmits the required data in an acceptable format.

ITEM #21

CALIFORNIA STATE BOARD OF EDUCATION

MARCH 2004 AGENDA

SUBJECT	
Curriculum Commission: Appointment of Instructional Materials Advisory Panel (IMAP) member and Content Review Panel (CRP) experts for the 2004 Health Primary Adoption	☒ **Action**
	☒ **Information**
	☐ **Public Hearing**

RECOMMENDATION

The California Department of Education and the Curriculum Development and Supplemental Materials Commission recommend that the State Board of Education appoint one member to the Instructional Materials Advisory Panel (IMAP) and three experts to the Content Review Panel (CRP) for the 2004 Health Primary Adoption.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

January 6, 2004: The State Board approved the first cohort of IMAP members and CRP experts to evaluate K-8 instructional materials for 2004 Health Primary Adoption.

November 12, 2003: The State Board approved minor revisions to the 2004 Health Primary Adoption timeline.

April 9, 2003: The State Board extended authority to the Curriculum Commission and CDE staff to proceed with the 2004 Health Primary Adoption, including recruitment of individuals to serve on the Instructional Materials Advisory Panels and the Content Review Panels.

December 11, 2002: The State Board adopted the 2004 Health Primary Adoption Timeline

SUMMARY OF KEY ISSUE(s)

Background

In June of 2003, a recruitment letter from State Superintendent Jack O'Connell was sent to District and County Superintendents, Curriculum Coordinators in Health, and Interested Individuals and Organizations to recruit health educators and health professionals to serve as Instructional Materials Advisory Panel (IMAP) members and Content Review Panel (CRP) experts.

Few applications were received by the August 6, 2003, deadline. To increase the applicant pool, on September 18, 2003, the Curriculum Commission approved extension of the deadline to October 24, 2003, and to wait until after the new deadline to review all applications prior to forwarding IMAP and CRP recommendations to the State Board for appointment.

SUMMARY OF KEY ISSUE(s) (continued)

In November 2003, the Curriculum Commission forwarded its recommendations for IMAP members and CRP experts to the State Board for appointment and extended the application deadline to December 19, 2003, to ensure receipt of sufficient qualified applicants. Health educators and health professionals were informed of the extended deadline. The CFIR Division received four additional applications as a result of extending the deadline to December 19, 2003, from health professionals.

On January 6, 2004, the State Board approved appointment of 22 applicants to serve as IMAP members, and five applicants to serve as CRP experts. However, IMAP applicant #14 and CRP applicant #302 were approved by the State Board pending a decision from CDE's legal counsel and the State Board's legal counsel on potential conflicts of interest.

On January 15-16, 2004, the Curriculum Commission approved to move forward for State Board appointment the one IMAP applicant and the three CRP applicants to review K-8 instructional materials for the 2004 Health Primary Adoption.

<u>Profile of Applicants</u>
The California Code of Regulations, Title 5 – Article 2.1, Section 9516, specifies, "The Board may, upon recommendation by the Curriculum Commission, appoint task forces or committees of subject matter experts to assist and advise the Curriculum Commission. Each task force or committee shall include, at the time of appointment, a majority of current classroom teachers providing instruction in kindergarten and grades one to eight, inclusive, or mentor teachers, or certificated teachers employed by school districts or county offices of education who are not in a position that requires a services credential with a specialization in administrative services, or any combination of those teachers. The primary criteria for membership shall be subject matter expertise and professional knowledge or, and successful experience with, effective educational programs and practices for the full range of the state's diverse population. The Board shall, to the extent possible, appoint persons who are representative of the various ethnic groups and types of school districts in the state. Nothing in this section shall preclude public members, i.e., non-educators, from serving on a task force or committee as the Board may deem appropriate."

The role of the IMAP is to review submitted programs to determine their alignment with the content, evaluation criteria, and Grade-Level Emphases Chart identified in the *Health Framework for California Public Schools, Kindergarten Through Grade Twelve.* The CRP, in addition to serving as full members of the IMAP, serve as advisors on health issues for scientific and medical accuracy which must be based on current and confirmed research.

Of the four applicants, three are from southern California. One applicant is from northern California. Three applicants are physicians. One applicant is a registered Nurse. There are three females and one male. Two applicants are Caucasian, one is Asian, and one declined to state.

SUMMARY OF KEY ISSUE(s) (continued)

Estimated Number of Panels

Six publishers are interested in submitting K-8 instructional materials for the 2004 Health Primary Adoption. Two publishers intend to submit instructional materials for grades 6, 7, and 8, two publishers for grades K-6, and two publishers for grades K-8. Each panel should have at least seven IMAP members and two CRP experts. We will need at least 21 IMAP members and six CRP experts for three panels. This is a total of 27 reviewers.

FISCAL ANALYSIS (AS APPROPRIATE)

The anticipated cost for travel, hotel accommodations, and per diem expenses for members of the Instructional Materials Advisory Panel (IMAP) and the Content Review Panel (CRP) for the Health adoption is $88,740. This figure is based on the Board appointing up to 40 IMAP members and 10 CRP members. This item calls for one IMAP member and three CRP experts to be appointed by the State Board, in addition to the 22 IMAP members and five CRP members that were appointed by the State Board on January 6, 2004. The final costs for this Health adoption may be less than anticipated depending upon the number of appointments made for reviewers.

ATTACHMENT

Attachment 1: Instructional Materials Advisory Panel (IMAP) mini biographies (1 Page)

Attachment 2: Content Review Panel (CRP) mini biographies (2 Pages)

(The public versions of Attachment 1 and 2 have had the names of the reviewers removed for reasons of confidentiality.)

2004 Health Primary Adoption Instructional Materials Advisory Panel (IMAP) Applicants
Public Summary (for public release)

Candidate Number			Title	Employer
29			Coordinator; Health/Wellness	Orange County Department of Education
Region	Gender	Ethnicity	Highest Degree	Expertise
S. CA	M	White	MN, Master in Nursing	K-3; 4-8; 9-12; Indicated expertise in all areas listed

Summary

The applicant is currently the Coordinator of Health and Wellness for the Orange County Department of Education. Provides support for all eight (8) components of the Coordinated School Health Program in Orange County. In addition, the applicant taught semester-long health courses to 9th graders and various health topics to all grades in (K-12). The applicant has a M. S. degree in nursing, is a registered nurse, and holds a school administrative credential in health services.

2004 Health Primary Adoption Content Review Panel (CRP) Applicants
Public Summary (for public release)

Candidate Number			Title	Employer
307			President	Pediatric Care Medical Group
Region	Gender	Ethnicity	Highest Degree	Expertise
S. CA	M	White	Diplomat of Child Health; Diplomat American Board of Pediatrics	K-3; 4-8; 9-12; Health Educator, Nutrition Services, Psychological and Counseling Services Education

Summary

The applicant is a medical doctor and clinical professor of pediatrics at the University of California at Irvine. The applicant is a pediatric specialist in allergies, asthma, and immunology. The applicant has a medical degree from the University of London, and currently, is the chair for the American Academy of Pediatrics School Health Committee for the Orange County Chapter.

Candidate Number			Title	Employer
308			Professor/Medical Doctor	Self Employed
Region	Gender	Ethnicity	Highest Degree	Expertise
S. CA	F	Declined to State	M.D. Pediatrics	K-3; 4-8; 9-12; Pediatrician

Summary

The applicant is a medical doctor and clinical professor of pediatrics at the University of California at Los Angeles. The applicant is a specialist in medicine and also a consultant for the Santa Monica-Malibu Unified School District. The applicant holds a B.A. degree from the University of Rochester in New York and an M.D. degree from Columbia University, and has served extensively on various medical committees.

Candidate Number			Title	Employer
322			Pediatric Consultant	Department of Health Services
Region	Gender	Ethnicity	Highest Degree	Expertise
N. CA	F	Asian	M.D.	Medical/Pediatric

Summary

The applicant is a Pediatric Consultant and State Adolescent Health Coordinator for the California Department of Health Services, Maternal and Child Health Branch. She coordinates the childhood injury prevention program. She participates in the state's adolescent health coordinators, network and provides technical assistance to state and local programs in the development of adolescent health programs in collaboration with the National Adolescent Health Information Center at UC San Francisco. She has the following degrees: M.D. (UCSF), M.P.H. in Epidemiology (UC Berkeley), and B.S. in Mechanical Engineering (UC Santa Barbara).

ITEM #22

CALIFORNIA STATE BOARD OF EDUCATION

MARCH 2004 AGENDA

SUBJECT	
Instructional Materials: Approve Commencement of the Rulemaking Process for Amendments to Title 5, Sections 9515 and 9517, and Addition of Section 9517.1 for Follow-up Adoptions	☒ **Action** ☒ **Information** ☐ **Public Hearing**

RECOMMENDATION

Approve the proposed regulations, the Initial Statement of Reasons, and the Notice of Proposed Rulemaking, and direct staff to commence the rulemaking process, including the conduct of a public hearing.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

The Board received this proposed regulations package (proposed regulations, Initial Statement of Reasons, and Informative Digest) as an information memorandum in February.

SUMMARY OF KEY ISSUES

The State Board of Education is charged under Article IX, Section 7.5 of the *California Constitution* with the responsibility for adopting instructional materials for grades one through eight. Kindergarten was added to the adoption by *Education Code* Section 60200. In 1927, the Legislature established an advisory body, the Curriculum Development and Supplemental Materials Commission (commonly referred to as the Curriculum Commission) to assist the Board with this function.

Education Code Section 60200(b)(1) calls for adoptions to occur “not less than two times every six years” for language arts, mathematics, science, and social science and “not less than two times every eight years” in other subjects. The first instructional materials adoption following the State Board of Education adoption of new evaluation criteria is termed a “primary adoption” and creates a new adoption list. A follow-up adoption is any additional adoption conducted during the six- or eight-year time frame and is conducted using the same evaluation criteria as the primary adoption. A follow-up adoption adds instructional materials to the existing adoption list for the remainder of the list’s term.

Due to significant budget cuts to the Department, the follow-up adoptions that had been scheduled for 2003 (in history-social science, science, and visual and performing arts) have yet to be conducted. Additional follow-up adoptions had been planned for 2004 in mathematics and reading/language arts.

Senate Bill 1058 (Chapter 806, Statutes of 2003) gives the Department the authority to collect a fee from publishers and manufacturers of instructional materials to participate in a follow-up adoption and partially offset the follow-up adoption’s cost. The bill includes provisions for a reduction of the fee for small publishers and manufacturers.

SUMMARY OF KEY ISSUES (continued)

This bill provides greater flexibility to conduct follow-up adoptions and add materials to existing adoption lists. To the extent possible, reviews will be conducted by educators who have previously served on an Instructional Materials Advisory Panel (IMAP) during the primary adoption and who have been trained in the application of the evaluation criteria and the review process. Although there will be some costs for training and re-training of reviewers, the costs will be much lower than for the primary adoption.

The proposed regulations to implement Senate Bill 1058:

- Clarify that follow-up adoptions use the same *Invitation to Submit* document and evaluation criteria as that used in the primary adoption.
- Define the term "primary adoption."
- Include the publisher and manufacturer fee of $5,000 per grade level submitted for review.
- List the documentation required to establish that a publisher or manufacturer meets the definition of "small publisher" or "small manufacturer" for consideration by the Board to qualify for a reduction of the otherwise-required fee.

The Department's experience has been that the actual cost of a follow-up adoption (involving multiple submissions) ranged from $120,000-$150,000 depending on the number of programs submitted for review. The costs included travel and meeting expenses for reviewers and commissioners to attend training/re-training and deliberations. This overall figure does not take into account staff costs of approximately $475,000 to conduct follow-up adoptions. Based on these approximations, we recommend that the follow-up adoption fee for an individual submission be set at $5,000 per grade level.

The proposed fee was developed based upon this reasonable estimate of the historical costs of follow-up adoptions and is designed to be partial and not result in any profit (fee revenue in excess of costs) being made on programs submitted for follow-up adoption. The proposed fee reflects savings that are likely because training/re-training costs should be substantially lower than for a primary adoption, as should travel and meeting costs. However, reviewers will be paid a stipend for participating in the follow-up adoption, and there will continue to be some travel and meeting costs. Even with modification of the process, we anticipate no reduction in the need for staff and state operations costs required to conduct the follow-up adoptions.

If action is taken at this meeting, the regulations could likely go into effect by October 2004 and follow-up adoptions could begin shortly thereafter.

The process and estimated time line for approval of these regulations includes the following steps:

- March 11, 2004 – Board action to approve proposed regulations for purposes of beginning the rule making
- March 26, 2004 – Notice for publication in the Notice Register (published on Fridays)

SUMMARY OF KEY ISSUES (continued)

- May 10, 2004 – 45-day public comment period ends
- May 10 or 11, 2004 – Public hearing conducted, response to comments prepared
- May 13, 2004 – Board action to adopt regulations or approve changes based on comments received
- May 26, 2004 – Additional 15-day public comment period required if substantive changes are made to the proposed regulations with resubmission to the Board in September
- Once approved by the Board, the Office of Administrative Law (OAL) has 30 working days to review and approve/disapprove the regulations.
- Once approved by OAL, the Secretary of State's Office (SOS) has 30 calendar days to put the regulations into effect.

FISCAL ANALYSIS (AS APPROPRIATE)

Under SB 1058, the Department is authorized to collect a fee to cover the cost of follow-up adoptions. The proposed fee represents a reasonable estimate of the cost to conduct a review and will be based on the number of programs submitted and the number of grade levels covered by each program. The bill gives the Board authority to reduce the fee for small publishers and manufacturers. State Board of Education action will start the regulatory process designed to implement SB 1058.

ATTACHMENT

Attachment 1: Proposed Title 5 Regulations to Implement Follow-up Adoptions (6 Pages)
Attachment 2: Initial Statement of Reasons (2 Pages)
Attachment 3: Informative Digest (1 Page)
Attachment 4: Senate Bill 1058 (Chapter 806, Statutes of 2003) (2 Pages)
Attachment 5: Schedule for Curriculum Framework Development and Adoption of K-8 Instructional Materials (1 Page)

Last Minute Memorandum will include:

- Notice of Proposed Rulemaking
- The Fiscal Impact Statement

DRAFT

CALIFORNIA CODE OF REGULATIONS

TITLE 5. EDUCATION

Division 1. State Department of Education

Chapter 9. Instructional Materials

Subchapter 1. Elementary Instructional Materials

Article 2.1. Adoption of Curriculum Frameworks and Instructional Materials – Procedures

Amend Sections 9515 and 9517 to read:

§9515. Definitions.

(a) "Board" means the State Board of Education.

(b) "Curriculum Commission" means the Curriculum Development and Supplemental Materials Commission.

(c) "Department" means the California Department of Education.

(d) "Schedule of Significant Events" means the dates promulgated by the Department in the "Invitation to Submit Basic Instructional Materials for Adoption in California."

(e) "Period of Adoption" means the period of time that the instructional materials shall remain in adoption. This time period shall be specified in the "Schedule of Significant Events."

(f) "Primary Adoption" means the first instructional materials adoption following the approval of new evaluation criteria by the Board.

NOTE: Authority cited: Sections 33031 and ~~60004~~60206, Education Code. Reference: ~~Sections 33539, 60019, 60020 and 60200~~Chapter 2 of Part 33 (commencing with Section 60200), Education Code.

§9517. Invitation to Submit Basic Instructional Materials for Adoption.

The Board shall ensure that a written notice of an upcoming primary and follow-up adoption of instructional materials is posted on the Department Website and mailed to every person or firm who has submitted a request for notice to the Department and to

any person or firm whom the Department, in its judgment, deems to be interested in the notice. This notice shall be known as the Invitation to Submit Basic Instructional Materials for Adoption in California. The failure to mail an invitation to any person as provided in this section shall not invalidate any action taken by the Board, Curriculum Commission, or Department.

With respect to the submission of instructional materials for adoption by the Board, publishers and manufacturers shall comply with the following requirements:

(a) Instructional materials may be submitted in any language, but essential teachers' materials shall be included in English.

(b) Publishers and manufacturers shall indicate, either in the teacher's edition or in the student's edition or both, which literary works contained in the student's edition or teacher's edition have been abridged, adapted, or excerpted. Publishers and manufacturers shall provide detailed descriptions of these changes upon request by the Department or local educational agencies.

(c) Publishers and manufacturers shall list, either in the teacher's edition or in the student's edition or both, only authors, reviewers, consultants, advisors, field-test teachers, and others who actually contributed to the development of the materials and shall indicate, for those who are listed, in what capacity they served. Publishers and manufacturers shall provide additional related information upon request by the Department or local educational agencies.

(d) Education Code sections 32060-32066 prohibit the purchase of toxic art or craft supplies for grades kindergarten through six and allow their purchase for grades seven through twelve only if they display a warning label. Publishers and manufacturers shall ensure that all art or craft materials included or suggested in their instructional materials comply with the requirements of these Education Code sections.

(e) On or before 5:00 P.M. of the date specified in the Schedule of Significant Events, which is included in the Invitation to Submit Basic Instructional Materials for Adoption, publishers and manufacturers shall provide to the Department a list of all instructional materials that will be submitted for adoption. Receipt of submission information after this deadline shall result in disqualification of the instructional materials

from further consideration in the current adoption unless publishers or manufacturers can show extenuating and compelling circumstances beyond their control.

(f) On or before 5:00 P.M. of the date specified in the Schedule of Significant Events, publishers and manufacturers shall deliver samples of instructional materials to the evaluators and locations specified by the Department. Failure to meet the deadline for delivery of samples shall result in disqualification of the instructional materials from further consideration in the current adoption unless the publisher or manufacturer can show extenuating and compelling circumstances involving natural disasters or independent carriers beyond the control of the publishers and manufacturers. In addition:

(1) Publishers and manufacturers shall deliver all samples in final form (i.e., a form that will be offered for purchase over the period of adoption) unless written permission to submit a sample in other than final form is obtained from the Department before any samples are shipped.

(2) Publishers and manufacturers shall deliver all samples free of shipping, handling, sampling, or other charges.

(3) After the final date for delivery of samples, changes or modifications to instructional materials during the adoption review period by the publisher or manufacturer shall result in disqualification of the materials from the adoption unless those changes or modifications are made pursuant to the Board's social content review or educational content review.

(4) Publishers and manufacturers shall retrieve samples of nonadopted instructional materials from display centers during the first thirty (30) days following the date of Board adoption. The deadline for retrieval shall be specified in the Schedule of Significant Events in the invitation. All materials shall be retrieved without any cost to the display center or its staff. Display center directors may dispose of or donate for educational use any samples of instructional materials not retrieved within the 30-day period. Board and Curriculum Commission members, instructional materials reviewers, and Department staff may offer their samples back to publishers and manufacturers, retain their

samples, or donate them, provided that the materials are used to benefit public education in California.

(g) On or before 5:00 P.M. of the date specified in the Schedule of Significant Events, publishers and manufacturers shall submit to the Department price quotations (bids) for the sale of completed materials, including all transportation costs.

(h) Publishers and manufacturers are discouraged from withdrawing from a state adoption after the submission of their materials. No publisher or manufacturer may withdraw their submitted instructional materials from a state adoption within seven working days prior to the beginning of the Instructional ~~Resources Evaluation~~ Materials Advisory Panel educational content deliberations, which date(s) shall be specified in the Schedule of Significant Events. Publishers and manufacturers withdrawing prior to this date shall be so noted in the Curriculum Commission's report of adoption recommendations.

(i) Other than during the times specified in the Schedule of Significant Events, publishers and manufacturers shall not contact Instructional ~~Resources Evaluation~~ Materials Advisory Panel members during their tenure to discuss anything related to the state evaluation or state adoption of materials. Contact initiated by publishers or manufacturers regarding the evaluation or adoption of materials may lead to disqualification of the publisher's or manufacturer's materials from further consideration in the current adoption, legal action, or both. Instructional ~~Resources Evaluation~~ Materials Advisory Panel members shall not discuss materials under adoption consideration with publishers or manufacturers or their spokespeople or representatives.

(j) Publishers and manufacturers shall not publicize in printed marketing materials any part of the Instructional ~~Resources Evaluation~~ Materials Advisory Panel Report.

(k) Follow-up adoptions shall be based on the Invitation to Submit Basic Instructional Materials and evaluation criteria issued for the primary adoption. A new Schedule of Significant Events shall be approved prior to implementing a follow-up adoption.

NOTE: Authority cited: Sections 33031 and ~~60004~~60206, Education Code. Reference: Sections 32060-32066~~, 60071 and 60200-60222~~and Chapter 2 of Part 33 (commencing with Section 60200), Education Code.

Add Section 9517.1 to read:

§9517.1 Follow-up adoptions: notice to publishers and manufacturers, intent to submit, fee, list of adopted materials.

Follow-up adoptions shall be conducted according to the following requirements:

(a) The Board shall ensure that a written notice of an upcoming follow-up adoption in a given subject is posted on the Department Website and mailed to all publishers or manufacturers known to produce instructional materials in that subject. The notice shall include:

(1) A "Schedule of Significant Events."

(2) Specifications for "Intent to Submit."

(b) Each publisher or manufacturer shall provide an "Intent to Submit" that specifies the following:

(1) Number of programs that the publisher or manufacturer will submit.

(2) Number of grade levels covered by each program.

(c) Based on the specifications in subdivision (b) as reported in the "Intent to Submit," the Department shall assess a fee of $5,000 per grade level submitted for review.

(d) A "small publisher" or "small manufacturer," as defined in Education Code Section 60227(f)(3), may request a reduction of the fee by submitting documentation that includes, but is not limited to, the following:

(1) A statement of earnings for the most recent three fiscal years.

(2) Number of full-time employees excluding contracted employees.

(3) A statement verifying that the small publisher or small manufacturer is not dominant in its field for the subject matter being submitted for follow-up adoption.

(e) Instructional materials approved by the Board in a follow-up adoption shall be added to the existing adoption list for that subject and remain on the list until the established expiration date for that list.

NOTE: Authority cited: Section 33031 and 60206, Education Code. Reference: Chapter 2 of Part 33 (commencing with Section 60200), Education Code.

INITIAL STATEMENT OF REASONS

SECTIONS 9515, 9517 and 9517.1

SPECIFIC PURPOSE OF THE AMENDED REGULATIONS

The proposed amendments provide clarification regarding primary and follow-up adoptions and minor revisions that reflect current practice. The new section provides for the implementation of *Education Code* Section 60227. Specifically, the regulations clarify the steps and requirements for conducting a follow-up adoption, including the fee to be assessed the publishers and manufacturers to participate in a follow-up adoption.

NECESSITY/RATIONALE

The existing regulations in the *California Code of Regulations* sections 9515 and 9517 were last amended in 1994. Since that time there have been changes in practice that were not reflected in the existing regulations. *Education Code* Section 60227, recently enacted into law, specifically provides for payment of a fee by publishers and manufacturers to participate in follow-up adoptions. The revisions proposed include changes to reflect current practice, definition of primary adoptions, clarification of the process to be used and the fee to be assessed for the follow-up adoptions.

Section 9515. Definitions

The amendments include the definition of “primary adoption.”

Section 9517. Invitation to Submit Basic Instructional Materials for Adoption

The amendments reflect changes in practice and terminology including that notices of upcoming adoptions are posted on the Department Web site and the review panels are now called Instructional Materials Advisory Panels (IMAP).

The amendments clarify that the follow-up adoptions are based on the same Invitation to Submit and evaluation criteria as the primary adoption.

Section 9517.1. Follow-up adoptions

The regulations specify the distribution of a notice of an upcoming follow-up adoption by the Department and the requirements for publishers and manufacturers to participate in the follow-up adoption.

The regulations establish a fee for publisher and manufacturer participation in the follow-up adoption and requirements to qualify for a reduction in the fee for a “small publisher” or “small manufacturer.”

The regulations clarify that materials are added to an existing adoption list through the follow-up adoption process and do not create a new adoption list or a new expiration date.

Note: Authority cited: Sections 33031 and 60206, *Education Code*. Reference: Chapter 2 of Part 33 (commencing with Section 60200), *Education Code.*

TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY, REPORTS, OR DOCUMENTS

The State Board did not rely on any other technical, theoretical, or empirical studies, reports, or documents in proposing the adoption of this regulation.

REASONABLE ALTERNATIVES TO THE REGULATION AND THE AGENCY'S REASONS FOR REJECTING THOSE ALTERNATIVES

There are no other reasonable alternatives to the creation of rules of general application. *Education Code* Section 60206 empowers the State Board of Education to adopt appropriate regulations concerning the adoption of instructional materials.

REASONABLE ALTERNATIVES TO THE PROPOSED REGULATORY ACTION THAT WOULD LESSEN ANY ADVERSE IMPACT ON SMALL BUSINESS

The statute requires payment of a fee by a publisher or manufacturer for participation in the follow-up adoption. However, it also provides for a reduction of the fee for small publishers and manufacturers. This reduction of the fee lessens the impact on small business.

EVIDENCE SUPPORTING FINDING OF NO SIGNIFICANT ADVERSE ECONOMIC IMPACT ON ANY BUSINESS

The proposed regulations reflect the requirements of the statute, *Education Code* Section 60227, and would not have a significant adverse impact on any business.

INFORMATIVE DIGEST

The Board proposes to amend Sections 9515 and 9517 of and add Section 9517.1 to the *California Code of Regulations* (CCR). These sections concern the adoption of instructional materials for California public schools in grades K-8 and the implementation of follow-up adoptions.

The purpose of the regulations is to establish the process for follow-up adoptions and the fee to be paid by publishers and manufacturers for participation in follow-up adoptions of instructional materials for grades K-8.

Education Code Section 60200(b)(1) calls for adoptions to occur "not less than two times every six years" for language arts, mathematics, science, and social science and "not less than two times every eight years" in other subjects. The first instructional materials adoption following the State Board of Education adoption of new evaluation criteria is termed a "primary adoption" and creates a new adoption list. A "follow-up adoption" is any additional adoption conducted during the six- or eight-year time frame and is conducted using the same evaluation criteria as the primary adoption.

Education Code Section 60227 gives the Department the authority to collect a fee from publishers and manufacturers of instructional materials to participate in follow-up adoptions. The fee collected is to be used to offset the cost of conducting the adoption. Small publishers and small manufacturers may request a reduction in the fee from the Board.

CCR, Title 5, Section 9515 is proposed to be amended to define "primary adoption."

CCR, Title 5, Section 9517 is proposed to be amended to reflect changes in practice and terminology. It also clarifies that follow-up adoptions are based on the same Invitation to Submit and evaluation criteria as the primary adoption.

CCR, Title 5, Section 9517.1 is proposed to be added to clarify the procedures for the follow-up adoption, including the distribution of a notice to publishers and manufacturers and the establishment of a fee for the review.

BILL NUMBER: SB 1058 CHAPTERED
BILL TEXT

CHAPTER 806
FILED WITH SECRETARY OF STATE OCTOBER 11, 2003
INTRODUCED BY Senator Torlakson

FEBRUARY 27, 2003

An act to add and repeal Section 60227 to the Education Code, relating to children, and making an appropriation therefor.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 60227 is added to the Education Code, to read:

60227. (a) For purposes of this section, a followup adoption is any adoption other than the primary adoption that occurs within a six- or eight-year cycle established pursuant to subdivision (b) of Section 60200.

(b) Before conducting a followup adoption in a given subject, the department shall provide notice, pursuant to subdivision (c), to all publishers or manufacturers known to produce basic instructional materials in that subject, post an appropriate notice on the department's Internet site, and take other reasonable measures to ensure that appropriate notice is widely circulated to potentially interested publishers and manufacturers.

(c) The notice shall specify that each publisher or manufacturer choosing to participate in the followup adoption shall be assessed a fee based upon the number of programs the publisher or manufacturer indicates will be submitted for review and the number of grade levels proposed to be covered by each program.

(d) The fee shall offset the cost of conducting the followup adoption process and shall reflect the department's best estimate of the cost. The department shall take reasonable steps to limit costs of the followup adoption and to keep the fee modest, recognizing that some of the work necessary for the primary adoption need not be duplicated.

(e) The department, prior to incurring substantial costs for the followup adoption, shall require that a publisher or manufacturer who wishes to participate in the followup adoption first declare the intent to submit one or more specific programs for the followup adoption and specify the specific grade levels to be covered by each program. After a publisher or manufacturer has declared the intent to submit one or more programs and the grade levels to be covered by

each program, a fee shall be assessed by the department. The fee shall be payable by the publisher or manufacturer even if the publisher subsequently chooses to withdraw a program or reduce the number of grade levels covered. A submission by a publisher or manufacturer may not be reviewed for purposes of adoption, either in a followup adoption or in any other primary or followup adoption conducted thereafter, until the fee assessed has been paid in full.

(f) (1) It is the intent of the Legislature that the fee not be so substantial that it prevents small publishers or manufacturers from participating in a followup adoption.

(2) Upon the request of a small publisher or manufacturer, the State Board of Education may reduce the fee for participation in the followup adoption.

(3) For purposes of this section, "small publisher" and "small manufacturer" mean an independently owned or operated publisher or manufacturer who is not dominant in its field of operation, and who, together with its affiliates, has 100 or fewer employees, and has average annual gross receipts of ten million dollars ($10,000,000) or less over the previous three years.

(g) Notwithstanding subdivision (b) of Section 60200, if the department determines that there is little or no interest in participating in a followup adoption by publishers and manufacturers, it shall recommend to the State Board of Education that the followup adoption not be conducted, and the State Board of Education may chose not to conduct the followup adoption.

(h) Notwithstanding Section 13340 of the Government Code, revenue derived from fees charged pursuant to subdivision (c) is hereby continuously appropriated and available to the department from year to year until expended. Revenue derived from fees charged pursuant to subdivision (c) may be used to pay costs associated with any followup adoption and any costs associated with the review of instructional materials.

(i) This section shall remain in effect only until January 1, 2007, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2007, deletes or extends that date.

SEC. 2. Notwithstanding any other provision of law, funds appropriated pursuant to Provision 17 of Item 6110-161-0890 of the Budget Act of 2003 (Ch. 157, Stats. 2001) shall not be used by the Controller for recoupment of prior year audit findings.

Schedule for Curriculum Framework Development and Adoption of K-8 Instructional Materials															
Calendar Year		**99**	**00**	**01**	**02**	**03**	**04**	**05**	**06**	**07**	**08**	**09**	**10**	**11**	**12**
Have rigorous academic content standards and SBE-adopted Instructional Materials	**History-Social Science**	**A**		**F**		**a* c**		**A**			**F a**			**A**	
	Science	**c**	**A**		**F**	**a***	**c**		**A**			**F a**			**A**
	Mathematics	**c (A)**		**A**			**a F c**			**A**			**F a**		
	Reading/Language Arts/ELD	**c (A)**			**A**		**a**	**F c**			**A**		**a**	**F**	
Has content standards and SBE-adopted Instructional Materials	**Visual & Performing Arts**					**a* F c**			**A**			**a**		**F**	
Have no standards but have SBE-adopted Instructional Materials	**Foreign Language**			**F c**		**A**			**a**			**F c**			**A**
	Health				**F c**		**A**			**a**			**F**		
Have neither standards nor SBE-adopted Instructional Materials	**Physical Education**						**F**								**F**

(A) = AB 2519 Additional Adoptions Process*
A = Primary adoption
a = Follow-up adoption as scheduled prior to enactment of SB 1058 (Chapter 806, Statutes of 2003). The follow-up adoptions planned in 2003 (a*) have not yet occurred. The follow-up adoption schedule will be revised once implementing regulations for SB 1058 are operative.
F = Framework
f = Framework update
c = Evaluation criteria

SBE = State Board of Education
ELD = English Language Development

*** The AB 2519 Adoptions were added to existing adoption lists; the list to which AB 2519 Mathematics materials were added expired June 30, 2003, while the list to which AB 2519 Reading/Language Arts materials were added expires June 30, 2005.**

State of California **Department of Education**

LAST MINUTE MEMORANDUM

DATE: March 5, 2004

TO: MEMBERS, STATE BOARD OF EDUCATION

FROM: Sue Stickel, Deputy Superintendent
Curriculum and Instruction Branch

RE: Item No. 22

SUBJECT: Instructional Materials: Approve Commencement of the Rulemaking Process for Amendments to Title 5, Sections 9515 and 9517, and Addition of Section 9517.1 for Follow-up Adoptions

As stated in the "Attachment" section of Item No. 22 in your March 2004 State Board of Education Meeting Agenda, attached are the Notice of Proposed Rulemaking and Fiscal Impact Statement for the proposed Follow-up Adoptions regulations.

Attachment 1: Notice of Proposed Rulemaking (4 Pages).

Attachment 2: Economic and Fiscal Impact Statement (2 Pages).

STATE OF CALIFORNIA ARNOLD SCHWARZENEGGER, *Governor*

CALIFORNIA STATE BOARD OF EDUCATION
1430 N Street; Room 5111
Sacramento, CA 95814

TITLE 5. EDUCATION

CALIFORNIA STATE BOARD OF EDUCATION

NOTICE OF PROPOSED RULEMAKING

Instruction Materials Follow-Up Adoptions

[Notice published March 26, 2004]

The State Board of Education (State Board) proposes to adopt the regulations described below after considering all comments, objections, or recommendations regarding the proposed action.

PUBLIC HEARING

Program staff will hold a public hearing beginning at **10:00 a.m. on Monday, May 10, 2004** at 1430 N Street, Room 1101, Sacramento, California. The room is wheelchair accessible. At the hearing, any person may present statements or arguments, orally or in writing, relevant to the proposed action described in the Informative Digest. The State Board requests that any person desiring to present statements or arguments orally notify the Regulations Adoption Coordinator of such intent. The State Board requests, but does not require, that persons who make oral comments at the hearing also submit a summary of their statements. No oral statements will be accepted subsequent to this public hearing.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Regulations Adoption Coordinator. The written comment period ends at **5:00 p.m. on Monday, May 10, 2004**. The State Board will consider only written comments received by the Regulations Adoption Coordinator by that time (in addition to those comments received at the public hearing). Written comments for the State Board's consideration should be directed to:

Debra Strain, Regulations Adoption Coordinator
California Department of Education
LEGAL DIVISION
1430 N Street, Room 5319
Sacramento, California 95814
E-mail: dstrain@cde.ca.gov
Telephone: (916) 319-0860
FAX: (916) 319-0155

AUTHORITY AND REFERENCE

Authority cited: Sections 33031 and 60206, Education Code.

Reference: Sections 32060-32066 and Chapter 2 of Part 33 (commencing with Section 60200), Education Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Board proposes to amend Sections 9515 and 9517 of and add Section 9517.1 to the *California Code of Regulations* (CCR). These sections concern the adoption of instructional materials for California public schools in grades K-8 and the implementation of follow-up adoptions.

The purpose of the regulations is to establish the process for follow-up adoptions and the fee to be paid by publishers and manufacturers for participation in follow-up adoptions of instructional materials for grades K-8.

Education Code Section 60200(b)(1) calls for adoptions to occur "not less than two times every six years" for language arts, mathematics, science, and social science and "not less than two times every eight years" in other subjects. The first instructional materials adoption following the State Board of Education adoption of new evaluation criteria is termed a "primary adoption" and creates a new adoption list. A "follow-up adoption" is any additional adoption conducted during the six- or eight-year time frame and is conducted using the same evaluation criteria as the primary adoption.

Education Code Section 60227 gives the Department the authority to collect a fee from publishers and manufacturers of instructional materials to participate in follow-up adoptions. The fee collected is to be used to offset the cost of conducting the adoption. Small publishers and small manufacturers may request a reduction in the fee from the Board.

CCR, Title 5, Section 9515 is proposed to be amended to define "primary adoption."

CCR, Title 5, Section 9517 is proposed to be amended to reflect changes in practice and terminology. It also clarifies that follow-up adoptions are based on the same Invitation to Submit and evaluation criteria as the primary adoption.

CCR, Title 5, Section 9517.1 is proposed to be added to clarify the procedures for the follow-up adoption, including the distribution of a notice to publishers and manufacturers and the establishment of a fee for the review.

DISCLOSURES REGARDING THE PROPOSED ACTION

Mandate on local agencies and school districts: None

Cost or savings to any state agency: Minor. Amount not covered by fee is absorbable within existing resources.

Costs to any local agency or school district that must be reimbursed in accordance with Government Code Section 17561: None

Other non-discretionary cost or savings imposed on local educational agencies: None

Cost or savings in federal funding to the state: None

Significant, statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states: None

Cost impacts on a representative private person or businesses: None. The imposition of fees assessed on publishers and manufacturers is attributable to statute; therefore the regulations do not impose a fiscal impact on the private sector.

Adoption of this regulation will not:

(1) create or eliminate jobs within California;
(2) create new businesses or eliminate existing businesses within California; or
(3) affect the expansion of businesses currently doing business within California.

Significant effect on housing costs: None

Effect on small businesses: None

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code Section 11346.5(a)(13), the State Board must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of the State Board, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

The State Board invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations at the scheduled hearing or during the written comment period.

CONTACT PERSONS

Inquiries concerning the substance of the proposed regulations should be directed to:

Patrice Roseboom, Associate Governmental Program Analyst
California Department of Education
Curriculum Frameworks and Instructional Resources
1430 N Street, 3rd Floor
Sacramento, CA 95814
E-mail: *proseboo@cde.ca.gov*
Telephone: (916) 319-0881
FAX: (916) 319-0172

Requests for a copy of the proposed text of the regulations, the Initial Statement of Reasons, the modified text of the regulations, if any, or other technical information upon which the rulemaking is based or questions on the proposed administrative action may be directed to the Regulations Adoption Coordinator, or to the backup contact person, Najia Rosales, at (916) 319-0860.

AVAILABILITY OF INITIAL STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Regulations Adoption Coordinator will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at her office at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulation, and the Initial Statement of Reasons. A copy may be obtained by contacting the Regulations Adoption Coordinator at the above address.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

Following the public hearing and considering all timely and relevant comments received, the State Board may adopt the proposed regulations substantially as described in this notice. If the State Board makes modifications that are sufficiently related to the originally proposed text, the modified text (with changes clearly indicated) will be available to the public for at least 15 days before the State Board adopts the regulation as revised. Requests for copies of any modified regulations should be sent to the attention of the Regulations Adoption Coordinator at the address indicated above. The State Board will accept written comments on the modified regulations for 15 days after the date on which they are made available.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, a copy of the Final Statement of Reasons may be obtained by contacting the Regulations Adoption Coordinator at the above address.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, the text of the regulations in underline and strikeout, and the Final Statement of Reasons, can be accessed through the California Department of Education's Website at http://www.cde.ca.gov/regulations.

REASONABLE ACCOMMODATION FOR ANY INDIVIDUAL WITH A DISABILITY

Pursuant to the *Rehabilitation Act of 1973,* the *Americans with Disabilities Act of 1990,* and the *Unruh Civil Rights Act,* any individual with a disability who requires reasonable accommodation to attend or participate in a public hearing on proposed regulations, may request assistance by contacting Patrice Roseboom, Curriculum Frameworks and Instructional Resources, 1430 N Street, Sacramento, CA, 95814; telephone, (916) 319-0881; fax, (916) 319-0172. It is recommended that assistance be requested at least two weeks prior to the hearing.

Economic and Fiscal Impact Analysis
Proposed Amendment of Title 5, CCR, Regulations
Relating to the Instructional Materials – Procedures

The Fiscal Policy Office has reviewed for economic and fiscal impact the proposed regulations adding sections 9517.1 and amending Section s 9515 and 9517, to Article 2.1, of Subchapter 1, of Chapter 9, of Division 1, of Title 5, California Code of Regulations, relating to Instructional Materials – Procedures.

What would the proposed regulations do?

The proposed amendments provide clarification regarding primary and follow-up adoptions and minor revisions that reflect current practice. The new section provides for the implementation of Education Code Section 60227. Specifically, the regulations clarify the steps and requirements for conducting a follow-up adoption, including the fee to be assessed on the publishers and manufacturers that participate in a follow-up adoption.

Do the proposed regulations impose a local cost mandate?

No. The proposed amendments to the regulations would not create a new program or higher level of service in an existing program.

Do the proposed regulations impose costs upon the state?

Yes. Though the proposed amendments to the regulations are not attributable to statute or initiative, the regulations do impose a fiscal impact on the state; however, the state using their existing budget and resources, along with the fees provided in Education Code Sections 60227(e), (f), and (h) and the added amendments, shall absorb the additional minor cost.

> EC §60227(e) The department, prior to incurring substantial costs for the followup adoption, shall require that a publisher or manufacturer who wishes to participate in the followup adoption first declare the intent to submit one or more specific programs for the followup adoption and specify the specific grade levels to be covered by each program. After a publisher or manufacturer has declared the intent to submit one or more programs and the grade levels to be covered by each program, a fee shall be assessed by the department. The fee shall be payable by the publisher or manufacturer even if the publisher subsequently chooses to withdraw a program or reduce the number of grade levels covered. A submission by a publisher or manufacturer may not be reviewed for purposes of adoption, either in a followup adoption or in any other primary or followup adoption conducted thereafter, until the fee assessed has been paid in full.
>
> (f) (1) It is the intent of the Legislature that the fee not be so substantial that it prevents small publishers or manufacturers from participating in a followup adoption.
> (2) Upon the request of a small publisher or manufacturer, the State Board of Education may reduce the fee for participation in the followup adoption.

(3) For purposes of this section, "small publisher" and "small manufacturer" mean an independently owned or operated publisher or manufacturer who is not dominant in its field of operation, and who, together with its affiliates, has 100 or fewer employees, and has average annual gross receipts of ten million dollars ($10,000,000) or less over the previous three years.

(h) Notwithstanding Section 13340 of the Government Code, revenue derived from fees charged pursuant to subdivision (c) is hereby continuously appropriated and available to the department from year to year until expended. Revenue derived from fees charged pursuant to subdivision (c) may be used to pay costs associated with any followup adoption and any costs associated with the review of instructional materials.

Do the proposed regulations impact local business?

No. The proposed amendments to the regulations should have no impact on local business.

Do the proposed regulations impact private sector businesses and/or employees or small businesses?

No. The imposition of fees assessed on publishers and manufacturers is attributable to statute (see above); therefore the regulations do not impose a fiscal impact on the private sector.

This analysis reflects the attached Economic and Fiscal Impact Statement.

Original on File

Donald E. Killmer, Consultant — Date
Fiscal and Administrative Services Division

Gerald J. Skelton, Director — Date
Fiscal and Administrative Services Division

Note: The purpose of the Department's review of regulations for Economic or Fiscal Impact is in part to, determine prior to the Department's submission of the Notice of Proposed Rulemaking to the Office of Administrative Law (OAL), if the regulations impose a mandate upon the locals and if so if there is a cost or savings. Additionally, the review may make a determination of what the cost or savings "may" be and if there is precedence in the determination of the potential costs through previous claims reimbursable through the mandate process authorized in state statute and set forth by the CSM.

If the Department determines that a potential mandate and an additional cost exists, the Department is required to forward that information (via the STD. 399 and this analysis) to the Department of Finance (DOF) for their review. The review by DOF does not need to be completed prior to the Department's submission of the Notice of Proposed Rulemaking to OAL but must be completed prior to the closing of the "Rulemaking Record" and prior to OAL forwarding of the "Record" to the Secretary of State. The DOF review contains an approval or disapproval; typically regulations that impose or could potentially impose an additional cost upon the state are disapproved and the department is required to amend the regulation to eliminate the cost or pull the "Record".

ITEM #23

CALIFORNIA STATE BOARD OF EDUCATION

MARCH 2004 AGENDA

SUBJECT	
Curriculum Commission: Adoption of Criteria for Evaluating K-8 Science Instructional Materials for 2006 Primary Adoption	☒ **Action**
	☒ **Information**
	☒ **Public Hearing**

RECOMMENDATION

Hold a public hearing and adopt Criteria for Evaluating K-8 Science Instructional Materials for 2006 Primary Adoption

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

Previous State Board of Education actions include the following:

- In February 2002 the State Board adopted the *Science Framework for California Public Schools, Kindergarten Through Grade Twelve*.
- In March 1999 the State Board adopted Criteria for Evaluating K-8 Science Instructional Materials for the 2000 Primary Adoption. The criteria and adoption were based on *California Science Content Standards.*
- In October 1998 the State Board adopted the *Science Content Standards for California Public Schools, Kindergarten Through Grade Twelve*.

SUMMARY OF KEY ISSUES

Background

The Curriculum Commission, as the advisory body to the State Board of Education on the adoption of curriculum and instructional materials, approved this Draft Criteria on January 16, 2004. The Commission is submitting this Draft Criteria to the State Board of Education in order to fulfill the statutory obligations of Education Code Section 60200 which requires the State Board of Education to adopt criteria for the submission of K-8 science instructional materials. Initial submission of K-8 science instructional materials will take place in March 2006 with Commission action on recommendations in September 2006, and State Board adoption in November 2006.

Key Curriculum Commission actions regarding the proposed criteria have included:

- In January 2004 the Curriculum Commission continued the review and editing of the Draft Criteria and received public comments and written and electronic correspondence. Based upon the concerns of science educators, the Commission made additional changes to the Draft Criteria so that instructional materials would support direct instruction and hands-on learning. The revisions to the Draft Criteria will allow flexibility and support for teachers in meeting the needs of all students. The revised Draft Criteria were approved by the Curriculum Commission and have been posted on the Curriculum Framework and Instructional Resources Division (CFIR) Web site.

- In November 2003 the Curriculum Commission continued the review of the revised Draft Criteria which included previously approved changes and edits. The Commission received public comments and written correspondence addressing the Draft Criteria, and further edits were included in the Draft Criteria which were posted on the CFIR Web site on December 9, 2003.

- In October 2003 CFIR staff worked with the Chair and Vice-Chair of the Science Subject Matter Committee to incorporate suggested edits and address concerns presented during public comments on the Draft Criteria.

- In September 2003 the Curriculum Commission began discussions on the Draft Criteria with CFIR staff input on the need to provide publishers with very specific and detailed directions and information. CFIR staff was directed to work with the Chair and Vice Chair of the Science Subject Matter Committee to incorporate suggested changes and edits to a revised version of the Draft Criteria for review by the Commission in November 2003. Public comment was received with regard to the need for publishers to provide materials that contained the highest accuracy of content information.

- In January 2003 the Science Subject Matter Committee of the Curriculum Commission adopted as one of its annual goals the review of the Science Criteria in preparation for the 2006 K-8 Science Primary Adoption.

FISCAL ANALYSIS (AS APPROPRIATE)

Based upon the cost of preparing and printing the Criteria for Evaluating K-8 History-Social Science Instructional Materials, the anticipated cost of preparing and printing the Criteria for Evaluating K-8 Science Instructional Materials is $2,800.

ATTACHMENT

Attachment 1: The Draft Criteria for Evaluating K-8 Science Instructional Materials (13 Pages).

Criteria for Evaluating K-8 Science Instructional Materials

Introduction

Instructional materials are adopted by the state for the purpose of helping teachers present the content set forth in the Science Content Standards for California Public Schools (referred to in this document as simply the "California Science Standards"). To accomplish this purpose, this document establishes the criteria for evaluating instructional materials, as defined in Education Code Section 60010. These criteria will govern the evaluation of instructional materials for kindergarten through grade eight that are submitted for adoption beginning with the 2006 Adoption of Science Instructional Materials, and they will be helpful to publishers in developing their submission.

The California Science Standards are challenging. In the initial years of implementing the 2003 Science Framework for California Public Schools (referred to in this document as simply the "California Science Framework"), a major goal of most local education agencies across the state will be to facilitate the transition from what many students have traditionally been taught in science to the rigorous content presented in the California Science Standards. Instructional materials play a central role in facilitating this transition.

The State Board of Education (State Board) will adopt science programs that provide effective learning materials for all students - those students who have mastered most of the content taught in the earlier grades and those who have not - and that specifically address the needs of teachers who instruct a diverse student population. These criteria,

in keeping with the California Science Framework, do not specify a single pedagogical approach, although the framework incorporates certain commonsense pedagogical features. The State Board encourages publishers to select research-based pedagogical approaches that comprehensively cover the rigorous California Science Standards, reflect the California Science Framework, make judicious use of instructional time, present science in interesting and engaging ways, and otherwise give teachers the resources they need to teach science effectively.

Evaluation Criteria

The criteria for evaluation of K-8 instructional materials are organized into five categories:

1. Science Content/Alignment with Standards. The content as specified in the California Science Standards, and presented in accord with the guidance provided in the California Science Framework.
2. Program Organization. The sequence and organization of the science program that provide structure to what students should learn each year.
3. Assessment. The strategies presented in the instructional materials for measuring what students know and are able to do.
4. Universal access. The resources and strategies that address the needs of special student populations, including students with disabilities, students whose achievement is either significantly below or above that typical of their class or grade level, and students with special needs related to English language proficiency.
5. Instructional planning and support. The instructional planning and support information and materials, typically including a separate edition specially designed for use by the teacher, that enable the teacher to implement the science program effectively.

In kindergarten through grade five, the California Science Standards are organized by grade level in three content strands: Physical Sciences, Life Sciences, and Earth Sciences. The standards for grades six through eight provide for a specific content focus in each year, with Earth Sciences being the focus in grade six, Life Sciences in grade seven, and Physical Sciences in grade eight. Investigation and Experimentation standards are also provided at each grade level (K-8) which must be taught in the context of these content strands.

In grades nine through twelve, the California Science Standards are organized by discipline. A set of Investigation and Experimentation standards common to all of the disciplines is also presented. Most high schools provide the grade nine through grade twelve science curriculum in discipline-specific courses, while some either additionally or exclusively provide integrated science courses that combine the various disciplines. To provide local education agencies and teachers with flexibility in presenting the material, the standards do not identify a particular discipline with a particular grade. Moreover, the standards do not specify a particular organization of the content of each discipline, although the California Science Framework suggests the logical sequencing of content in some places. Instructional materials may group related standards and address them simultaneously for purposes of coherence and utility.

Submissions that fail to meet Category 1, the Science Content/Alignment with Standards criteria, will not be considered satisfactory for adoption. Categories 2-5 will be considered

as a whole with each submission passing or failing these criteria as a group. However, every submission will be expected to have strengths in each of Categories 2-5 to be worthy of adoption.

Category 1: Science Content/Alignment with Standards

Science instructional materials must support teaching and learning of the California Science Standards, in accordance with the guidance provided in the California Science Framework. To be considered suitable for adoption, an instructional materials submission must provide:

1. Content that is scientifically accurate.
2. Comprehensive teaching of all California Science Standards at the intended grade level(s), as discussed and prioritized in the California Science Framework, Chapters 3 and 4. The only standards that may be referenced are the California Science Standards. There should be no reference to national standards or benchmarks or to any standards other than the California Science Standards.
3. Multiple exposures to the California Science Standards (introductory, reinforcing, and summative) leading to student mastery of each standard through sustained effort.
4. A checklist of California Science Standards in the teacher edition, with page number citations or other references that demonstrate multiple points of student exposure, and a reasonable and judicious allotment of instructional time for learning the content of each standard. Extraneous lessons or topics that are not directly focused on the standards are minimal, certainly composing no more than 10 percent of the science instructional time.

5. A table of evidence in the teacher edition, demonstrating that the California Science Standards can be comprehensively taught from the submitted materials with hands-on activities composing no more than 20 to 25 percent of science instructional time (as specified in the California Science Framework). Additional hands-on activities may be included, but must not be essential for complete coverage of the California Science Standards for the intended grade level(s), must be clearly marked as optional, and must meet all other evaluation criteria.
6. Investigations and experiments that are integral to, and supportive of the grade-appropriate Physical, Life, and Earth Science Standards, so that investigative and experimental skills are learned in the context of those content standards. The instructional materials must include clear procedures and explanations, in the teacher and student materials, of the science content embedded in hands-on activities.
7. Evidence in the teacher edition that each hands-on activity (whether part of the intended program or included as an additional activity) directly covers one or more California Science Standards, (in the grade-appropriate Physical, Life, or Earth Science strands), demonstrates scientific concepts, principles, and theories outlined in the California Science Framework, and produces scientifically meaningful data in practice. All hands-on activities (whether part of the intended program or included as an additional activity) must be safe and age appropriate.
8. Explicit instruction in science vocabulary that emphasizes the meanings of roots, prefixes, and suffixes, and the usage and meaning of common words in a scientific context.

9. Extensive grade-level appropriate reading and writing of expository text, and practice in the use of mathematics, aligned with, respectively the Reading Language-Arts Framework for California Public Schools and the Mathematics Framework for California Public Schools.
10. Examples, where directly supportive of the California Science Standards, of the historical development of science and its impact on technology and society. The contributions of minority persons, particularly those individuals who are recognized as prominent in their respective fields, should be included and discussed when it is historically accurate to do so.
11. Examples, where directly supportive of the California Science Standards, of principles of environmental science, such as conservation of natural resources and/or pollution prevention. These examples should give direct attention to the responsibilities of all people to create and maintain a healthy environment and to use resources wisely.

Category 2: Program Organization

The sequence and organization of the science program provides structure to what students should learn each year and allow teachers to convey the science content efficiently and effectively. The program content is organized and presented in a manner consistent with the guidance provided in the California Science Framework. To be considered suitable for adoption, an instructional materials submission must provide:

1. A logical and coherent structure that facilitates efficient and effective teaching and learning within a lesson, unit, and year.
2. Specific instructional objectives that are identified and sequenced so that prerequisite

knowledge is introduced before more advanced content.

3. Clearly stated student outcomes and goals that are measurable and standards-based.
4. Materials and assessments that include a cumulative and/or spiraled review of skills.
5. A program organization that provides the option of pre-teaching of the science content embedded in any hands-on activities.
6. A program organization that supports various lengths of instructional time and helps make efficient use of small blocks of time (that may be available during the instructional day) in kindergarten through grade three.
7. An overview of the content in each lesson or instructional unit that outlines the scientific concepts and skills to be developed. Topical headings need to reflect the framework and standards and to clearly indicate the content that follows.
8. Support materials that are an integral part of the instructional program. These may include video and audio materials, software, and student workbooks.
9. Tables of contents, indexes, glossaries, content summaries, and assessment guides that are designed to help teachers, parents/guardians, and students.
10. For grades four through eight, explicit statements of the relevant grade-level standards in both the teacher and student editions.

Category 3: Assessment

Instructional materials should contain strategies and tools for continually measuring student achievement, following the guidance provided in Chapter 6 of the California Science Framework. To be considered suitable for adoption, an instructional materials submission must provide:

1. Strategies and/or instruments teachers can use to determine students' entry-level

skills and knowledge, and methods of using the information in guiding instruction.

2. Multiple measures of individual student progress at regular intervals and at strategic points of instruction, such as lesson, chapter, and unit tests, or laboratory reports.
3. Suggestions on how to use assessment data to guide decisions about instructional practices and to help teachers determine the effectiveness of their instruction.
4. Guiding questions for monitoring student comprehension.
5. Answer keys for all workbooks and other related student resources.

Category 4: Universal Access

Resources and strategies must be provided to enable effective teaching of students with special needs, allowing them full access to the rigorous academic content specified in the Science Content Standards in accordance with the guidance set forth in Chapter 7 of the California Science Framework. The resources and strategies must support compliance with applicable state and federal requirements for providing instruction to diverse populations and students with special needs and should be consistent with any applicable policies of the State Board toward that end. To be considered suitable for adoption, an instructional materials submission must provide:

1. Suggestions based on current and confirmed research for strategies to adapt the curriculum and the instruction to meet students' identified special needs.
2. Strategies for students who are below grade level, including more explicit explanations of the science content to assist in accelerating student knowledge to grade level.
3. Teacher and student editions that include suggestions or reading materials for advanced learners who need an enriched or accelerated program or assignments.

4. Suggestions to help teachers pre-teach and reinforce science vocabulary and concepts with English learners.
5. Resources that provide specific help to meet the needs of students whose reading, writing, listening, and speaking skills are below grade level (in relationship to the English-Language Arts Content Standards for California Public Schools and the Reading-Language Arts Framework for California Public Schools) and help ensure that these students know, understand, and use appropriate academic language in science.
6. Evidence of adherence to the Design Principles for Perceptual Alternatives, Design Principles for Cognitive Alternatives, and Design Principles for Means of Expression, as detailed below.

The following design principles are guidelines for publishers to use in creating materials that will allow access for all students:

Design Principles for Perceptual Alternatives

- Consistent with federal copyright law, provide all student text in digital format so that it can easily be transcribed, reproduced, modified, and distributed in braille, large print (only if the publisher does not offer such an edition), recordings, American Sign Language videos, or other specialized accessible media for use by pupils with visual disabilities or other disabilities that prevent use of standard materials.
- Provide written captions and/or written descriptions in digital format for audio portions of visual instructional materials, such as videotapes (for those students who are deaf or hard-of-hearing).
- Provide educationally relevant descriptions for the images, graphic devices, or

pictorial information essential to the teaching of key concepts. (When key information is presented solely in graphic or pictorial form, it limits access for students who are blind or who have low vision. Digital images with verbal description provide access for those individuals and also provide flexibility for instructional emphasis, clarity, and direction.)

Design Principles for Cognitive Alternatives

- Use "considerate text" design principles including:
  - Adequate titles for each selection
  - Introductory subheadings for chapter sections
  - Introductory paragraphs
  - Concluding or summary paragraphs
  - Complete paragraphs including clear topic sentence, relevant support, and transitional words and expressions (e.g. furthermore, similarly)
  - Effective use of typographical aids - boldface print, italics
  - Adequate, relevant visual aids connected to the print, such as illustrations, photos, graphs, charts, maps
  - Manageable versus overwhelming visual and print stimuli
  - Identification and highlighting of important terms
  - List of reading objectives or focus questions at the beginning of each selection
  - List of follow-up comprehension and application questions
- Provide optional information or activities to enhance students' background knowledge. (Some students face barriers because they lack the necessary background knowledge. Pre-testing prior to an activity will alert teachers to the need for advanced

preparation. Instructional materials can include optional supports for background knowledge, to be used by students who need them.)

- Provide cognitive supports for content and activities including:
  - Assessments to determine background knowledge
  - Summaries of those key concepts from the standards that the content addresses
  - Scaffolds for learning and generalization
  - Opportunities to build fluency through practice

Design Principles for Means of Expression

- Explain in the teacher edition that there are various ways for students with special needs to use the materials and demonstrate their competence, and suggest modifications that teachers could use to allow students to access the materials and demonstrate their competence. For example, for students who have dyslexia (or difficulties physically forming letters, writing legibly, or spelling words), appropriate modifications of means of expression might include (but are not limited to) student use of computers to complete pencil and paper tasks, use of on-screen scanning keyboards, enlarged keyboards, word prediction, and spellcheckers.
- Provide support materials that will give students opportunities to develop oral and written expression.

Category 5: Instructional Planning and Support

Instructional materials must contain a clear "road map" for teachers to follow when planning instruction. To be considered suitable for adoption, an instructional materials submission must provide:

1. A teacher edition that describes what to teach, how to teach, and when to teach,

253 including ample and useful annotations and suggestions on how to present the
254 content in the student edition and in the ancillary materials.

255 2. A checklist of program lessons in the teacher edition, with cross-references to the
256 standards covered, and details regarding the instructional time necessary for overall
257 instruction and hands-on activities.

258 3. Lesson plans including suggestions for organizing resources in the classroom and
259 ideas for pacing lessons.

260 4. Blackline masters that are accessible in print and in digitized formats and are easily
261 reproduced. Dark areas are to be minimized to conserve toner.

262 5. Prioritization of critical components of lessons. Learning objectives and instruction are
263 explicit, and the relationship of lessons to standards or skills within standards is
264 explicit.

265 6. Clear grade-appropriate explanations of science concepts, principles, and theories
266 that are presented in a form that teachers can easily adapt for classroom use.

267 7. Lists of necessary equipment and materials for any hands-on activities, guidance on
268 obtaining these materials inexpensively, and explicit instructions for organizing and
269 safely conducting the instruction.

270 8. Strategies to address and correct common student errors and
271 misconceptions.

272 9. Suggestions for how to adapt each hands-on activity provided to direct instruction
273 methods of teaching.

274 10. Charts of time and cost of staff development services available for preparing teachers
275 to fully implement the science program.

11. Technical support and suggestions for appropriate use of audiovisual, multimedia, and information technology resources associated with a unit.
12. Strategies for informing parents and guardians about the science program and suggestions for how they can help to support student achievement.
13. Teacher editions containing full, adult-level explanations and examples of the more advanced science concepts, principles, and theories that appear in the lessons, so that teachers can refresh or enhance their own knowledge of the topics being covered as may be necessary.

Revised Science Criteria

Criteria for Evaluating K-8 Science Instructional Materials

Introduction

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The California Science Standards are challenging. In the initial years of implementing the 2003 Science Framework for California Public Schools (referred to in this document as simply the "California Science Framework"), a major goal of most local education agencies across the state will be to facilitate the transition from what many students have traditionally been taught in science to the rigorous content presented in the California Science Standards. Instructional materials play a central role in facilitating this transition. **Students should have the opportunity to learn science by direct instruction, by reading textbooks and supplemental materials, by solving Standards-based problems, and by doing lab investigations and experiments.**

The State Board of Education (State Board) will adopt science programs that provide effective learning materials for all students - those students who have mastered most of the content taught in

the earlier grades and those who have not - and that specifically address the needs of teachers who instruct a diverse student population. **Some teachers may not have specialized in science and may not have an extensive background in science, while others may hold supplemental authorizations in life or physical science or have had extensive training in science content and pedagogy. The publishers shall develop and submit programs that offer the flexibility to meet the diverse needs of students and teachers with varying science backgrounds.**

These criteria, in keeping with the California Science Framework, do not specify a single pedagogical approach, although the framework incorporates certain commonsense pedagogical features. The State Board encourages publishers to select research-based pedagogical approaches that comprehensively cover the rigorous California Science Standards, reflect the California Science Framework, make judicious use of instructional time, present science in interesting and engaging ways, and otherwise give teachers the resources they need to teach science effectively.

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3. Assessment. The strategies presented in the instructional materials for measuring what students know and are able to do.
4. Universal access. The resources and strategies that address the needs of special student populations, including students with disabilities, students whose achievement is either

Revised Science Criteria

significantly below or above that typical of their class or grade level, and students with special needs related to English language proficiency.

5. Instructional planning and support. The instructional planning and support information and materials, typically including a separate edition specially designed for use by the teacher, that enable the teacher to implement the science program effectively.

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Revised Science Criteria

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Revised Science Criteria

~~5.~~ A table of evidence in the teacher edition, demonstrating that the California Science Standards can be comprehensively taught from the submitted materials with hands-on activities composing ~~**no more than**~~ **at least** 20 to 25 percent of **the** science instructional **program** ~~**time**~~ (as specified in the California Science Framework). **Hands-on activities must be cohesive, connected and build on each other to lead students to a comprehensive understanding of the California Science Content Standards.** ~~**Additional hands-on activities may be included, but must not be essential for complete coverage of the California Science Standards for the intended grade level(s), must be clearly marked as optional, and must meet all other evaluation criteria.**~~

6. Investigations and experiments that are integral to, and supportive of the grade-appropriate Physical, Life, and Earth Science Standards, so that investigative and experimental skills are learned in the context of those content standards. The instructional materials must include clear procedures and explanations, in the teacher and student materials, of the science content embedded in hands-on activities.
7. Evidence in the teacher edition that each hands-on activity ~~**(whether part of the intended program or included as an additional activity)**~~ directly covers one or more California Science Standards, (in the grade-appropriate Physical, Life, or Earth Science strands), demonstrates scientific concepts, principles, and theories outlined in the California Science Framework, and produces scientifically meaningful data in practice. All hands-on activities ~~**(whether part of the intended program or included as an additional activity)**~~ must be safe and age appropriate.
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Revised Science Criteria

9. Extensive grade-level appropriate reading and writing of expository text, and practice in the use of mathematics, aligned with, respectively the Reading Language-Arts Framework for California Public Schools and the Mathematics Framework for California Public Schools.
10. Examples, where directly supportive of the California Science Standards, of the historical development of science and its impact on technology and society. The contributions of minority persons, particularly those individuals who are recognized as prominent in their respective fields, should be included and discussed when it is historically accurate to do so.
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3. Clearly stated student outcomes and goals that are measurable and standards-based.

Revised Science Criteria

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5. A program organization that provides the option of **preparing or** pre-teaching of the science content embedded in any hands-on activities.
6. A program organization that supports various lengths of instructional time and helps make efficient use of small blocks of time (that may be available during the instructional day) in kindergarten through grade three.
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5. Resources that provide specific help to meet the needs of students whose reading, writing, listening, and speaking skills are below grade level (in relationship to the English-Language Arts Content Standards for California Public Schools and the Reading-Language Arts

Framework for California Public Schools) and help ensure that these students know, understand, and use appropriate academic language in science.

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- Provide written captions and/or written descriptions in digital format for audio portions of visual instructional materials, such as videotapes (for those students who are deaf or hard-of-hearing).
- Provide educationally relevant descriptions for the images, graphic devices, or pictorial information essential to the teaching of key concepts. (When key information is presented solely in graphic or pictorial form, it limits access for students who are blind or who have low vision. Digital images with verbal description provide access for those individuals and also provide flexibility for instructional emphasis, clarity, and direction.)

Design Principles for Cognitive Alternatives

- Use "considerate text" design principles including:
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- Introductory subheadings for chapter sections
- Introductory paragraphs
- Concluding or summary paragraphs
- Complete paragraphs including clear topic sentence, relevant support, and transitional words and expressions (e.g. furthermore, similarly)
- Effective use of typographical aids - boldface print, italics
- Adequate, relevant visual aids connected to the print, such as illustrations, photos, graphs, charts, maps
- Manageable versus overwhelming visual and print stimuli
- Identification and highlighting of important terms
- List of reading objectives or focus questions at the beginning of each selection
- List of follow-up comprehension and application questions

• Provide optional information or activities to enhance students' background knowledge. (Some students face barriers because they lack the necessary background knowledge. Pre-testing prior to an activity will alert teachers to the need for advanced preparation. Instructional materials can include optional supports for background knowledge, to be used by students who need them.)

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- Assessments to determine background knowledge
- Summaries of those key concepts from the standards that the content addresses
- Scaffolds for learning and generalization
- Opportunities to build fluency through practice

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- Explain in the teacher edition that there are various ways for students with special needs to use the materials and demonstrate their competence, and suggest modifications that teachers could use to allow students to access the materials and demonstrate their competence. For example, for students who have dyslexia (or difficulties physically forming letters, writing legibly, or spelling words), appropriate modifications of means of expression might include (but are not limited to) student use of computers to complete pencil and paper tasks, use of on-screen scanning keyboards, enlarged keyboards, word prediction, and spellcheckers.
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Instructional materials must contain a clear "road map" for teachers to follow when planning instruction. To be considered suitable for adoption, an instructional materials submission must provide:

1. A teacher edition that ~~**describes what to teach, how to teach, and when to teach, including**~~ **includes** ample and useful annotations and suggestions on how to present the content in the student edition and in the ancillary materials.
2. A checklist of program lessons in the teacher edition, with cross-references to the standards covered, and details regarding the instructional time necessary for overall instruction and hands-on activities.
3. Lesson plans including suggestions for organizing resources in the classroom and ideas for pacing lessons.
4. Blackline masters that are accessible in print and in digitized formats and are easily reproduced. Dark areas are to be minimized to conserve toner.

Revised Science Criteria

5. Prioritization of critical components of lessons. Learning objectives and instruction are explicit, and the relationship of lessons to standards or skills within standards is explicit.
6. Clear grade-appropriate explanations of science concepts, principles, and theories that are presented in a form that teachers can easily adapt for classroom use.
7. Lists of necessary equipment and materials for any hands-on activities, guidance on obtaining these materials inexpensively, and explicit instructions for organizing and safely conducting the instruction.
8. Strategies to address and correct common student errors and misconceptions.
9. Suggestions for how to adapt each hands-on activity provided to ~~**direct instruction methods of teaching**~~ **other methods of teaching, including teacher modeling, teacher demonstration, direct instruction, or reading, as specified in the California Science Framework.**
10. Charts of time and cost of staff development services available for preparing teachers to fully implement the science program.
11. Technical support and suggestions for appropriate use of audiovisual, multimedia, and information technology resources associated with a unit.
12. Strategies for informing parents and guardians about the science program and suggestions for how they can help to support student achievement.
13. Teacher editions containing full, adult-level explanations and examples of the more advanced science concepts, principles, and theories that appear in the lessons, so that teachers can refresh or enhance their own knowledge of the topics being covered as may be necessary.

ITEM #24

CALIFORNIA STATE BOARD OF EDUCATION

MARCH 2004 AGENDA

SUBJECT	
Mathematics and Reading Professional Development Program (AB 466) (Chapter 737, Statutes of 2001): Including, but not Limited to, Approval of Training Providers and Training Curricula.	☒ **Action**
	☒ **Information**
	☐ **Public Hearing**

RECOMMENDATION

Approve the recommended provider and training curriculum for the purposes of providing professional development under the provisions of the Mathematics and Reading Professional Development Program (AB 466).

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

At the February 2002 meeting, the Board approved criteria for the approval of training providers and training curricula. The State Board has approved AB 466 training providers and training curricula at previous meetings.

SUMMARY OF KEY ISSUES

AB 466 established the Mathematics and Reading Professional Development Program, which provides incentive funding to districts to train teachers, instructional aides, and paraprofessionals in mathematics and reading. Once the providers and their training curricula are determined to have satisfied the State Board-approved criteria and been approved by the State Board, local education agencies may contract with the approved providers for AB 466 professional development.

The AB 466 review panel recommends approval of the following provider and training curriculum:

- Sacramento County Office of Education for professional development on Prentice Hall, *Timeless Themes, Timeless Voices*, Grades 9 and 10

FISCAL ANALYSIS (AS APPROPRIATE)

Approval of additional AB 466 providers allows more LEAs to access training for which $31.7 million was allocated for Fiscal Year 2003-04. Approval does not affect the total dollars available.

ATTACHMENT

None

ITEM # 25

CALIFORNIA STATE BOARD OF EDUCATION

MARCH 2004 AGENDA

SUBJECT	
Mathematics and Reading Professional Development Program (AB 466): Approval of Requests for Local Educational Agency (LEA) Reimbursement for 2003-04	☒ **Action** ☒ **Information** ☐ **Public Hearing**

RECOMMENDATION

The California Department of Education (CDE) recommends that the State Board of Education (SBE) approve the attached list of local educational agencies (LEAs) that have submitted a Request for Reimbursement, complied with required assurances for the AB 466 Program, and provided summary information regarding credentials held by each teacher successfully completing training.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

During 2002-03, the SBE approved AB 466 applications prior to a participating LEA commencing training. This process caused a time delay before an LEA could begin training. To avoid this delay in 2003-04, the SBE Executive Director and the CDE Deputy Superintendent for Curriculum and Instruction agreed that LEA compliance with required assurances would be approved by the SBE when LEAs submit a Request for Reimbursement form.

SUMMARY OF KEY ISSUES

Section 99237(a) of the *Education Code* stipulates that as a condition of receipt of funds an LEA shall submit a certified assurance, signed by the appropriate agency official and approved in a public session by the governing body of the agency, to the State Board of Education that contains its proposal to comply with assurances contained in Education Code Section 99237(a) and (b). Reimbursement compensates LEAs for teachers who have successfully completed 40 hours of intense professional development, 80 hours of follow-up professional development, or both.

FISCAL ANALYSIS (AS APPROPRIATE)

The Legislature appropriated $31.7 million for the AB 466 program for 2003-04. The total reimbursement for the LEAs included on the attached list alone is approximately $1.7 million. This amount combined with the reimbursements previously approved by the State Board in 2003-04 leaves an appropriation balance of $28.5 million. The bulk of reimbursement requests for 2003-04 is expected in the next several months.

ATTACHMENT

Attachment 1: Requests for Reimbursement 2003-04 Fiscal Year (2 pages)

ITEM #26

CALIFORNIA STATE BOARD OF EDUCATION

MARCH 2004 AGENDA

SUBJECT	
The Principal Training Program (AB 75): Approval of Local Educational Agencies (LEAs) and Consortia applications for funding and information on Evaluation Process for the Principal Training Program.	☒ **Action** ☒ **Information** ☐ **Public Hearing**

RECOMMENDATION

The California Department of Education (CDE) recommends that the State Board of Education approve the attached list of local educational agencies (LEAs) and Consortia that have submitted applications for funding under The Principal Training Program (AB 75), with specific amounts for each LEA or Consortium to be determined by CDE staff in accordance with the established practice for this program.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

The State Board of Education approved criteria and requirements for The Principal Training Program applications at the February 2002 meeting.

SUMMARY OF KEY ISSUES

The Principal Training Program requires the State Board of Education to approve all applications for funding. An evaluation of the Principal Training Program is required by statute as well as by the Bill and Melinda Gates Foundation grant awarded the California County Superintendents Educational Services Association (CCSESA), CDE's partnering organization for the program. Jerry Hayward has been retained by CCSESA to perform this evaluation. For information only, Mr. Hayward will present a brief overview of the evaluation process and content to the board.

FISCAL ANALYSIS (AS APPROPRIATE)

Administration of funding is dependent upon further information to be provided by LEAs and Consortia, such as names of administrator participants and number of hours in actual training. It is feasible that initial award requests will be amended throughout the three-year funding period. The estimated allocation resulting from approval of the applications in this agenda item is $90,000.

ATTACHMENT

Attachment 1: Local Educational Agencies Recommended for State Board of Education Approval (1 Page)
Attachment 2: Consortia Members Recommended for State Board of Education Approval (1 Page)
Attachment 3: Program Summary (1 Page)

PRINCIPAL TRAINING PROGRAM
Local Educational Agencies Recommended
For State Board of Education Approval
March 2004

Applications received during the months of December 2003 and January 2004

LOCAL EDUCATIONAL AGENCIES	Total Number of Site Administrators	Total Amount of State Funding Requested
BUTTE COUNTY		
Briggs Unified	2	$6,000
CONTRA COSTA COUNTY		
Walnut Creek Elementary	2	$6,000
LOS ANGELES COUNTY		
Hawthorne Elementary	6	$18,000
SAN MATEO COUNTY		
San Carlos Elementary	2	$6,000
SAN JOAQUIN COUNTY		
Lammersville Elementary	1	$3,000
STANISLAUS COUNTY		
Oakdale Joint Unified	3	$9,000
TOTAL	**16 (16 x $3000)**	**$48,000**

PRINCIPAL TRAINING PROGRAM
Consortium Members Recommended
For State Board of Education Approval
March 2004

Applications received during the months of December 2003 and January 2004

CONSORTIA With Recommended Membership	Total Number of Site Administrators In Consortium	Total Amount Of State Funding Requested
San Diego County Office of Education		
San Ysidro Elementary	8	$24,000
Shasta County Office of Education		
Paradise Unified	6	$18,000
TOTAL	**14 (14 x $3000)**	**$42,000**

PRINCIPAL TRAINING PROGRAM
Program Summary
March 2004

CURRENT REQUEST SUMMARY

Total Number of LEAs Recommended for March Approval	6
Total Number of Administrators	16
Total State Funds Requested by Single LEAs for March Approval: (16 x $3000)	$48,000

Total Number of New Consortia Recommended for March Approval

2

Total Number of Administrators	14
Total State Funds Requested by Consortiums for March Approval: (14 x $3000)	$42,000

Total State Funds Requested **$90,000**
(16 LEA participants + 14 Consortium participants) x $3000

SUMMARY TO DATE

Total Number of participating LEAs (389 Single LEA + 245 LEAs included in 20 SBE-Approved Consortia)	634
Total Number of Administrators anticipated for program participation	10,479

ITEM #27

CALIFORNIA STATE BOARD OF EDUCATION

MARCH 2004 AGENDA

SUBJECT	
The Principal Training Program (AB 75): Approval of Training Providers	☒ Action
	☒ Information
	☐ Public Hearing

RECOMMENDATION

The California Department of Education recommends that the State Board of Education (SBE) approve the list of Recommended Training Providers for The Principal Training Program (AB 75).

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

The SBE approved the original criteria and requirements for Principal Training Program applications at the February 2002 meeting. The training provider criteria were revised for clarification in February 2003. Applications to become an SBE-approved provider are reviewed using the approved criteria as revised.

SUMMARY OF KEY ISSUES

The Principal Training Program requires the State Board of Education to approve training providers.

FISCAL ANALYSIS (AS APPROPRIATE)

This item is solely for approval of training providers. Approval of the providers does not directly result in the expenditure of any funds. There are relatively minor state costs associated with the review of submissions by prospective training providers.

ATTACHMENT

Attachment 1: Principal Training Program: Recommended List of Training Providers (4 Pages)

Principal Training Program
Recommended List of Training Providers
March 2004

Module 1: Leadership and Support of Instructional Programs

Action Learning Systems

High School

Day 1 and Day 5	CDE Module 1: High School Level

High School (In partnership with Sacramento County Office of Education)

Hampton Brown	High Point (4-8)
McDougal-Littell	Concepts and Skills (6–8)

Imperial County Office of Education

High School Level

Day 1 and Day 5	CDE Module 1: High School Level
SRA/McGraw-Hill	REACH Reading System (4–8)
Holt, Rinehart & Winston	Literature and Language Arts (9-10)
McDougal-Littell	Concepts and Skills (6–8)

High School (In partnership with Sacramento County Office of Education)

Hampton Brown	High Point (4-8)
McDougal-Littell	Reading and Language Arts (9-10)

High School (In partnership with Stanislaus County Office of Education)

Prentice Hall	Prentice Hall Algebra 1, CA Ed. (8)

Los Angeles County Office of Education

High School (In partnership with Sacramento County Office of Education)

Day 1 and Day 5	CDE Module1: High School Level
Hampton Brown	High Point (4-8)
Holt, Rinehart & Winston	Literature and Language Arts (9-10)
McDougal-Littell	Concepts and Skills (6–8)
McDougal-Littell	Reading and Language Arts (9-10)
Prentice Hall	Prentice Hall Pre-Algebra, CA Ed. (7)
Prentice Hall	Prentice Hall Algebra 1, CA Ed. (8)
SRA/McGraw-Hill	REACH Reading System (4–8)

Principal Training Program
Recommended List of Training Providers
March 2004

Madera County Office of Education

High School Level

Day 1 and Day 5	CDE Module 1: High School Level
Hampton Brown	High Point (4-8)

Monterey County Office of Education

High School Level

Day 1 and Day 5	CDE Module 1: High School Level
Hampton Brown	High Point (4-8)

High School (In partnership with Sacramento County Office of Education)

McDougal Littell	Reading and Language Arts Program (9-10)

Orange County Office of Education

Middle School

Hampton Brown	High Point (4-8)
Holt, Rinehart & Winston	Literature and Language Arts (9-10)
McDougal-Littell	Concepts and Skills (6–8)

High School

Day 1 and Day 5	CDE Module 1: High School Level
Hampton Brown	High Point (4-8)
Holt, Rinehart & Winston	Literature and Language Arts (9-10)
McDougal-Littell	Concepts and Skills (6–8)

Sacramento County Office of Education

High School

Day 1 and Day 5	CDE Module 1: High School Level
McDougal Littell	Reading and Language Arts Program (9-10)

Principal Training Program
Recommended List of Training Providers
March 2004

San Bernardino County Office of Education

High School (In partnership with Sacramento County Office of Education)

Day 1 and Day 5	CDE Module 1: High School Level
SRA/McGraw Hill	SRA/REACH (4-8)
Hampton Brown	High Point (4-8)
Holt, Rinehart and Winston	Literature and Language Arts (9-10)
McDougal Littell	Reading and Language Arts Program (9-10)

San Diego County Office of Education

High School (In partnership with Sacramento County Office of Education)

Day 1 and Day 5	CDE Module 1: High School Level
SRA/ McGraw Hill	SRA/REACH (4-8)
Hampton Brown	High Point (4-8)
Holt, Rinehart and Winston	Literature and Language Arts (9-10)
McDougal Littell	Reading and Language Arts Program (9-10)
Prentice Hall	Prentice Hall Pre-Algebra, CA Ed. (7)
Prentice Hall	Prentice Hall Algebra 1, CA Ed. (8)
McDougal Littell	Concepts and Skills (6-8)

Santa Cruz County Office of Education

High School

Day 1 and Day 5	CDE Module 1: High School Level

High School (in partnership with Stanislaus County Office of Education)

SRA/McGraw Hill	SRA/REACH (4-8)
McDougal Littell	Concepts and Skills (6-8)

Principal Training Program
Recommended List of Training Providers
March 2004

Stanislaus County Office of Education

Middle School

Prentice Hall	Timeless Voices, Timeless Themes (7-8)

High School

Day 1 and Day 5	CDE Module 1: High School Level
McDougal Littell	Reading and Language Arts Program (9-10)
Holt, Rinehart and Winston	Literature and Language Arts (9-10)
McDougal Littell	Concepts and Skills (6-8)
Prentice Hall	Prentice Hall Algebra 1, CA Ed. (8)

Ventura COE

High School

Day 1 and Day 5	CDE Module 1: High School Level
SRA/McGraw Hill	SRA/REACH (4-8)

High School (In partnership with Sacramento County Office of Education)

McDougal Littell	Concepts and Skills (6-8)
Prentice Hall	Prentice Hall Pre Algebra, CA Ed. (7)
Prentice Hall	Prentice Hall Algebra 1, CA Ed. (8)

Middle School

SRA/McGraw Hill	SRA/REACH (4-8)

Middle School (In partnership with Sacramento County Office of Education)

McDougal Littell	Concepts and Skills (6-8)
Prentice Hall	Prentice Hall Pre Algebra, CA Ed. (7)
Prentice Hall	Prentice Hall Algebra 1, CA Ed. (8)

ITEM #28

CALIFORNIA STATE BOARD OF EDUCATION

MARCH 2004 AGENDA

SUBJECT	
Funding Approval for the California Healthy Kids Resource Center for State Fiscal Year 2003-2004	☒ Action
	☒ Information
	☐ Public Hearing

RECOMMENDATION

Approve $70,200 from the General Fund to support a contract with the California Healthy Kids Resource Center (CHKRC) totaling $120,000.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

The State Board of Education approved the use of state funds for the support of the CHKRC in fiscal year 2000 - 2001. The California Department of Education (CDE), Nutrition Services Division (NSD) has used federal funds to support the CHKRC during the last two years.

SUMMARY OF KEY ISSUES

In 1975, the Legislature enacted the Child Nutrition Facilities Act (Senate Bill 120) that provides matching funds for federal nutrition education activities and requires State Board of Education approval of how the state funds are to be used. The NSD utilizes these funds to provide nutrition education and training programs that support local educational agencies.

The CHKRC is a lending library of nutrition, food service, and health education materials. The materials are loaned to educators, health professionals, and food service professionals in schools and childcare agencies that are working to build children's skills to make healthy food choices. The CHKRC is funded by a variety of programs within the CDE.

Educators have used the services of the center for over 20 years to enhance classroom nutrition education, food service training activities, and educational programs for the school and child care community. Without this requested funding, CHKRC will be unable to provide nutrition and food service education services that educators have come to depend upon to guide California's children in making healthy food choices.

Federal funds will be used to cover the remaining contract amount. The CHKRC provides schools and childcare agencies with current nutrition and food service education information and resources that support the health and well-being of California's children.

FISCAL ANALYSIS (AS APPROPRIATE)

The State Board of Education approves funding for nutrition education programs pursuant to the Education Code guidelines. Only $70,200 from the General Fund is available this year to fund nutrition education activities due to reductions in the NSD's General Fund Budget. The NSD will use federal funding to cover the remaining contract amount.

The $70,200 (General Fund) is eligible for matching funds through the Department of Health Services' *California Nutrition Network for Healthy Active Families*. The NSD will receive approximately 50 per cent of the matching funds from the *Network* to support other nutrition education objectives. Only local and state funds are eligible for *Network* match. NSD is primarily funded with federal dollars; therefore, these general funds are critical to identifying matching dollars.

ATTACHMENT

Attachment 1: Background Information about the California Healthy Kids Resource Center (2 pages).

The California Healthy Kids Resource Center (CHKRC) provides nutrition and food service instructional and professional resources and technical assistance to California public and private non-profit schools, school districts, teacher preparation institutions, and child development programs. Last year, the CHKRC loaned over 2500 nutrition and food service education materials to educational agencies.

Instructional and Professional Resources – The CHKRC maintains an updated online catalog of nutrition and food service education materials. The CHKRC researches, evaluates, and purchases audiovisual and multimedia instructional and program materials. The materials in their collection emphasize nutrition education for disease prevention and intervention that promotes the development of lifelong healthy eating behaviors. Instructional materials that integrate with California content standards receive high priority. Attention is given to food service education materials that assist child nutrition personnel in planning and serving nutritionally adequate, tasty, appealing, and safe meals for students to eat. Materials that assist with the implementation of CDE's School Meals Initiative and the Child and Adult Care Food Program requirements receive high priority.

All materials are evaluated by the CHKRC's Material Review Board. This board is made up of teachers, child nutrition personnel, nutritionists, and health educators. Only those materials that receive the highest evaluation are considered for acquisition and circulation.

Users can electronically order materials or use printed catalogs to order materials. The CHKRC circulates materials on a free-loan basis for use by students, teachers, administrators, teacher-credential program faculty, other local education agency personnel, and parent or community groups working with child nutrition personnel or preschool to grade twelve students in school settings.

Technical Assistance – The CHKRC provides technical assistance and training in the areas of nutrition and food service education to support educators and child care professionals. The CHKRC participates in statewide and regional conferences and meetings. They also coordinate information about teleconferences sponsored by the National Food Service Management Institute and the Centers for Disease Control, as appropriate. Copies of the teleconferences are available.

The CHKRC:

- Develops teacher support materials such as teacher guides and lesson plans. These materials are designed to increase the effective classroom use of nutrition education resources and incorporate the most recent research on skill-based learning, behavior change, and effective health education;

- Maintains a Web site calendar of professional development opportunities. Summaries of key research articles related to nutrition and food service education are on the CHKRC Web site and copies of the full articles are made available for loan. Links to other Internet nutrition and food service education professional resources are also available; and

- Publishes a newsletter three times a year. The newsletter contains exemplary nutrition and food service curricula and/or programs, effective practices, and new resources. It is distributed to all schools, child development programs, county offices of education, and all active clients.

ITEM #29

CALIFORNIA STATE BOARD OF EDUCATION

MARCH 2004 AGENDA

SUBJECT	
Teaching As A Priority Block Grant Program: Approval of Evaluation in Accordance with *Education Code* Section 44735(h).	☒ **Action**
	☒ **Information**
	☐ **Public Hearing**

RECOMMENDATION

Approve the draft evaluation of the Teaching As A Priority Block Grant (TAP) program in accordance with *Education Code* Section 44735(h).

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

In November 2000, the State Board approved implementation of the TAP program in accordance with *Education Code* Section 44735(a). The Legislature appropriated funding for the TAP program in only two fiscal years, 2000-01 and 2002-03.

SUMMARY OF KEY ISSUES

Education Code Section 44735(h) requires the State Board of Education to submit an evaluation of the TAP program to the Legislature by January 1, 2004. Inadvertently, this evaluation was listed internally in the CDE as being due June 30, 2004. The mistake was recently recognized, and the attached draft evaluation has been prepared for consideration and approval at this time. The attached draft presents a limited analysis of the program based on available data. The draft recommends to the Legislature that an in-depth evaluation (taking advantage of field experience with the program in 2000-01 and 2002-03) be pursued prior to appropriating funds for the program's continuation in future years.

FISCAL ANALYSIS (AS APPROPRIATE)

Under the TAP program local allocations totaling more than $182 million were distributed during two fiscal years, 2000-01 and 2002-03. The attached draft recommends that in-depth evaluation of the program be undertaken prior to continuation. If this recommendation were to be accepted by the Legislature and the Governor, there would be a minor implication for the state General Fund – most likely less than $100,000, depending upon the complexity of the evaluation design. It is possible that private grant funds could be found for the in-depth evaluation activity, although no specific sources of grant funding have been identified.

ATTACHMENT

Attachment 1: Draft Evaluation: Teaching As A Priority Block Grant Program. (6 Pages)

Draft Evaluation
Teaching As A Priority Block Grant Program
March 2004

Program Background

The "Teaching As A Priority Block Grant" (hereinafter "TAP") program was enacted by Senate Bill 1666 (Chapter 70, Statutes of 2000), an urgency statute that took effect July 5, 2000.[1] SB 1666 was part of a six-bill education reform package sponsored by then-Governor Gray Davis, and it contained a number of provisions related to teacher recruitment and retention. The TAP program is embodied in *Education Code* Section 44735.

The TAP program is intended to attract and retain credentialed teachers (and reduce the number of teachers on emergency permits) in schools that are ranked in deciles 1 through 5 on the Academic Performance Index (API).[2] The program was based in part upon a legislative finding that:

> *Low-performing schools with a history of having high teacher turnover and inexperienced staff need more qualified teachers to substantially improve pupil achievement. While no one approach will likely meet the challenge of attracting and retaining individuals into hard-to-staff schools, financial incentives ought to be an important element in any effective strategy.*

TAP program funds – when appropriated in the annual Budget Act – are to be allocated on a competitive basis to school districts and may be used at the districts' discretion for recruitment and retention incentives, including, but not limited to:

- Signing bonuses;
- Improved work conditions;
- Additional compensation;
- Housing subsidies; and
- Pursuit of specialized certification related to the instruction of English learners, i.e., the Certificate of Language Acquisition and Development (CLAD) and the Bilingual Certificate of Language Acquisition and Development (BCLAD).

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[1] The TAP program was subsequently amended in substantive ways by Assembly Bill 1499 (Chapter 268, Statutes of 2001) and by Senate Bill 319 (Chapter 668, Statutes of 2002). This evaluation (except as noted) reflects the TAP program in its current form.

[2] When the TAP program was enacted, these schools were collectively known as "low-performing" schools. Legislation effective January 1, 2004, now identifies these schools as "high-priority" schools. (See Assembly Bill 96, Chapter 91, Statutes of 2003).

Funds are to be allocated on a per-pupil basis, with the per-pupil amount generated by students in schools ranked in API deciles 1, 2, or 3 being one-and-one-half times the per-pupil amount generated by students in schools in API deciles 4 and 5.

The TAP program envisions third-year funding of grants (except in small school districts) only being generated by students in schools that have shown a net decrease in the number of teachers with emergency permits during the preceding two years. However, appropriations for the program have been inconsistent, and this provision has never become operative.

The TAP program is administered by the California Department of Education with the approval of the State Board of Education, and it requires the State Board to submit an evaluation of the program to the Legislature.

Program Summary

Table 1 shows that appropriations were made for the TAP program in only two fiscal years, 2000-01 and 2002-03. In both years, the grant-based nature of the program, combined with the complexity of the amount-per-pupil calculation, precluded the allocation of the full appropriation. Because there were more schools participating in 2002-03 and fewer dollars appropriated, the per-pupil allocations were substantially lower in that year.

Table 1. Summary of Key Data Related to Funding

	2000-01	2002-03
Total Appropriation	118,650,000	88,650,000
Total Allocated	100,814,103	81,745,269
Districts with Participating Schools	278	349
Participating Schools	2,766	3,134
Deciles 1-3	(1,799)	(1,980)
Deciles 4-5	(967)	(1,154)
Students in Participating Schools	2,630,448	2,890,268
Deciles 1-3	(1,779,127)	(1,910,054)
Deciles 4-5	(851,321)	(980,214)
Amount Per-Pupil, Deciles 1-3	44	32
Amount Per-Pupil, Deciles 4-5	29	21

Table 2 shows that the proportion of teachers with credentials significantly improved in the schools participating in the TAP program between 2000-01 and 2002-03. Moreover, in comparison to the statewide average between the two years, the percentage of fully credentialed teachers in TAP-participating schools rose faster, and the percentage of teachers on emergency permits declined more significantly, both trends reflecting the positive changes intended.

Table 2. Summary of Key Data Related to Teacher Credential Status
TAP-Participating Schools in Comparison to Statewide Average

	2000-01		2002-03	
	TAP	State	**TAP**	State
Percentage with Full Credentials	**76.8**	85.9	**83.1**	88.0
Percentage in University Internships	**1.0**	1.4	**2.2**	2.0
Percentage in District Internships	**1.8**	.7	**1.0**	.8
Percentage in Pre-Internship Programs	**2.7**	1.7	**4.6**	3.1
Percentage with Emergency Permits	**16.4**	11.5	**8.6**	8.4
Percentage on Waivers	**1.3**	1.1	**.6**	.7

Table 3 shows how TAP allocations were expended by participating districts. In both years, expenditures were focused principally on compensation and work conditions. However, in 2002-03, somewhat less emphasis was placed on compensation, and more funding was devoted to work conditions and recruitment activities. In neither year were housing and relocation subsidies a major expenditure category.

Table 3. Percentage Breakdown of TAP Program Expenditures by Districts

	2000-01	2002-03
Recruitment Activities	**3.4**	**10.1**
Compensation-Related	**48.2**	**38.5**
Signing Bonuses	(23.2)	(14.2)
Retention Bonuses	(9.9)	(12.0)
Transfer Bonuses	(3.4)	(1.2)
Other	(11.7)	(11.1)
Improved Work Conditions	**39.8**	**43.0**
Professional Development	(18.2)	(14.7)
Teacher-Selected Materials	(11.3)	(9.1)
Other	(10.3)	(19.2)
Housing/Relocation Subsidies	**4.6**	**2.8**
Indirect	**3.9**	**5.2**
Other	**0.1**	**0.4**

Program Issues

Various issues surfaced during the implementation of the TAP program. These issues clearly had impacts on the program's effectiveness.

- "Improved work conditions" proved somewhat ambiguous. Some applicant districts, for example, even sought to include capital outlay expenditures.

- The timeline was problematic, given that API rankings did not come out until midway through the fiscal year.

- Indirect costs were not specifically excluded by statute and, therefore, consumed about five percent of the allocations in many districts.

- Teacher eligibility was not completely clear. For example, administrative judgments had to be made concerning credential holders who did not have full time classroom assignments, such as resource teachers, counselors, speech therapists, principals, nurses, and psychologists.

- Flexibility was needed in the internal allocation of funds among target schools (particularly schools in deciles 1 through 3) within a district. Rigidly limiting each such school to the funds generated by its students would have made it impossible to offer equitable incentives across a district in some cases.

- Limitations in the CDE state operations budget precluded the onsite review of any participating schools.

- The role of teacher bargaining units was unstated in the statute. In many cases, bargaining units appear to have played a significant role in determining how TAP program grants would be spent. In only one case did a TAP program grant have to be returned by a district for failure to reach agreement with the teachers' bargaining unit regarding expenditure of the funds.

- Recruitment and retention bonuses are inequitable to veteran fully credentialed teachers who are already serving in target schools.

Program Evaluation

Evaluating the TAP program is a daunting task for a number of reasons, among them being:

- Lack of funding for evaluation activities at the state level.
- The principal data that would be used for evaluation purposes are self-reported, unaudited submissions by school districts participating in the program.
- Appropriations for support of the program have been inconsistent.

Notwithstanding these limitations, it appears intuitively clear that the TAP program facilitated the recruitment and retention of more fully credentialed teachers in the target schools (and, thus, worked to reduce the number of teachers with emergency permits and waivers). This is evidenced by the fact that target schools made significant progress in "closing the gap" in the proportion of fully credentialed teachers on their faculties, coming much closer to the statewide average in 2002-03. However, the dollar amount expended per teacher recruited and/or retained under the TAP program was substantial.

In 2002-03, second-year participants in the TAP program were asked to report the number of teachers hired in 2000-01 as a consequence of the program.[3] The total reported was approximately 12,700 teachers, or roughly $7,900 per teacher (based on the $100.8 million allocated statewide in 2000-01).

Moreover, available data yield no answers to the following key questions that may be of significance in the consideration of whether to fund the TAP program in future years:

- Under the TAP program, do teachers recruited and/or retained in target schools in the short-term (one year) remain in those schools in the mid-term (three to five years) and the long-term (beyond five years)?

- Are the types of activities funded under the TAP program necessary on a continuing basis in view of other factors, such as the ongoing efforts of the Commission on Teacher Credentialing to reduce the numbers of emergency credentials and waivers, and the requirement of the federal No Child Left Behind Act of 2001 for all teachers in Title I schools (and ultimately in all schools) to be highly qualified teachers. The latter, in particular, leverages existing monies in the education system to achieve the principal objective of the TAP program, namely a reduction in the number of teachers with emergency permits and waivers.

- Among the various types of activities funded under the TAP program, which are more efficacious in achieving the program's principal objective. It may be, for example, that lower-cost interventions were more efficacious, or that lower-cost interventions were largely ineffective. Available data simply provide no basis to draw such conclusions.

- Do the negative effects of unintended consequences (e.g., the inequity of existing fully credentialed teachers in target schools receiving no benefit from the program) outweigh the positive effects? Can the unintended consequences be mitigated without extraordinary additional cost?

[3] This report by school districts essentially was a count of teachers receiving benefits from recruitment and retention activities funded by the TAP program. It must be concluded that at least in some cases, the affected teachers would have accepted assignments in target schools even absent the TAP-funded benefits. With respect to individual teachers, districts were not asked to speculate on what would have happened if the TAP program had not been in existence.

Recommendation

There is now a group of teachers, school administrators, and local school board members who have had real experience with the TAP program. Prior to appropriating funds for the program's continuation in future years, it is recommended that funds first be appropriated for an in-depth program evaluation that takes advantage of the base of field experience. The in-depth evaluation should pursue, at a minimum, the key questions outlined above.

ITEM # 30

CALIFORNIA STATE BOARD OF EDUCATION

MARCH 2004 AGENDA

SUBJECT	
Special Education: Approve Extension of the Submission Date for Special Education Local Plan Area (SELPA) Annual Budget and Service Plans.	☒ Action
	☒ Information
	☐ Public Hearing

RECOMMENDATION

Approve extension of the due date for the first Annual Budget and Service Plans to be submitted by Special Education Local Plan Areas (SELPAs) from June 30, 2004, to October 15, 2004.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

In June 1997, Congress re-authorized the Individuals with Disabilities Education Act (IDEA) as Public Law (PL) 105-17. In 1999, the new federal implementing regulations changed the required components of the special education local plans. SELPAs must have on file with the State Education Agency (SEA), which, for filing purposes, is the California Department of Education (CDE), documents that assure compliance with federal requirements. These documents are reviewed prior to allocating federal funds for the support of special education programs and services. Also in 1997, California completely overhauled its funding mechanism for special education with the enactment of Assembly Bill 602 (Chapter 854, Statues of 1997). Among other things, AB 602 requires SELPAs to submit an Annual Budget and Service Plan.

SUMMARY OF KEY ISSUES

As noted, SELPAs are now required to submit to the CDE an Annual Budget and Service Plan. CDE recommends that the State Board of Education extend the due date of this first Annual Budget and Service Plan from June 30, 2004, to October 15, 2004. This extension will ensure that SELPAs have adequate time to thoughtfully prepare their plans.

FISCAL ANALYSIS (AS APPROPRIATE)

SELPA Local Plans (in their entirety), including the Annual Budget and Service Plan, fulfill the federal requirements necessary to allocate federal funds to SELPAs. Federal funds comprise approximately ten percent of the total state and federal allocations specifically dedicated to special education programs and services. The proposed action under this agenda item (extending the due date for filing the first Annual Budget and Service Plan) has no impact on the amounts of state or federal funds to which SELPAs are entitled.

ATTACHMENT

None.

ITEM #31

CALIFORNIA STATE BOARD OF EDUCATION

MARCH 2004 AGENDA

SUBJECT	
Special Education: Adopt Regulation 3088.1 and 3088.2 regarding withholding funds to enforce special education compliance	☒ Action
	☒ Information
	☐ Public Hearing

RECOMMENDATION

Consider comments received during the public comment period and the public hearing and take action to adopt the regulations.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

The State Board of Education at the January 2004 meeting approved the Commencement of the rule making process for the proposed regulation. Staff was directed to conduct a public hearing which is scheduled to be held on March 8, 2004 at 8:00 AM. A summary of the public comments and responses to those comments will be prepared by staff as part of the Final Statement of Reasons and submitted as a Last Minute Memorandum to the Board.

SUMMARY OF KEY ISSUES

20 USC Section 1413 requires, among other things, that state education agencies monitor local education agencies to assure compliance with special education laws. 34 CFR 300.197 and Education Code section 56845 (a) and (b) authorize the Superintendent to withhold state and federal funds from a local education agency after reasonable notice and opportunity for a hearing if the superintendent finds the agency out of compliance with special education laws.

This proposed regulation is developed in response to the U.S. Department of Education Office of Special Education Policy (OSEP) expectation that state education agencies have a full continuum of enforcement options to compel compliance with special education laws.

Section 3088.1 specifies the required contents of a hearing notice and the timelines for conducting the hearing prior to making a decision whether to withhold funds. Section 3088.2 specifies when funds shall be withheld if the hearing officer concludes that the local education agency has not presented sufficient proof of compliance or mitigating circumstances precluding compliance. This section also stipulates that the superintendent may apportion state and federal funds previously withheld from the local education agency when it is determined that substantial progress toward compliance with special education laws has been made.

FISCAL ANALYSIS (AS APPROPRIATE)

The proposed regulations do not impose a local cost mandate. There would be minor cost to the State to implement the regulations.

ATTACHMENT

Attachment 1: Notice of Proposed Rulemaking (4 Pages)
Attachment 2: Economic and Fiscal Impact Statement (5 Pages)
Attachment 3: Initial Statement of Reasons (2 Pages)
Attachment 4: Proposed Regulation 3088.1, 3088.2 (2 Pages)

STATE OF CALIFORNIA
GOVERNOR

ARNOLD SCHWARENEGGER<

CALIFORNIA STATE BOARD OF EDUCATION
1430 N Street; P.O. Box 944272
Sacramento, CA 95814-5901

TITLE 5. EDUCATION

CALIFORNIA STATE BOARD OF EDUCATION

NOTICE OF PROPOSED RULEMAKING

Withholding Funds – Special Education Mandates

[Notice published January 23, 2004]

The State Board of Education (State Board) proposes to adopt the regulations described below after considering all comments, objections, or recommendations regarding the proposed action.

PUBLIC HEARING

Program staff will hold a public hearing beginning at **8:00 a.m. on Monday, March 8, 2004**, at 1430 N Street, Room 1101, Sacramento. The room is wheelchair accessible. At the hearing, any person may present statements or arguments, orally or in writing, relevant to the proposed action described in the Informative Digest. The State Board requests that any person desiring to present statements or arguments orally notify the Regulations Adoption Coordinator of such intent. The Board requests, but does not require, that persons who make oral comments at the hearing also submit a summary of their statements. No oral statements will be accepted subsequent to this public hearing.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Regulations Adoption Coordinator. The written comment period ends at **5:00 p.m. on Monday, March 8, 2004**. The Board will consider only written comments received by the Regulations Adoption Coordinator or at the Board Office by that time (in addition to those comments received at the public hearing). Written comments for the State Board's consideration should be directed to:

Debra Strain, Regulations Adoption Coordinator
California Department of Education
LEGAL DIVISION
1430 N Street, Room 5319
Sacramento, California 95814
Telephone: (916) 319-0860
FAX: (916) 319-0155

AUTHORITY AND REFERENCE

Authority: Section 33031, Education Code.

Reference: Section 56845, Education Code; 20 USC Section 1413; 34 CFR 300.197.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Special Education Division on behalf of the Superintendent of Public Instruction proposes that the Board adopt regulation Sections 3088.1 and 3088.2 regarding sanctions for withholding funds to enforce special education compliance authorized by Education Code section 33031. (Reference: 20 USC Section 1413, 34 CFR 300.197 and Education Code section 56845 (a) and (b)).

The purpose for adding Sections 3088.1 and 3088.2 to Title 5, California Code of Regulations, is to establish specific timelines and notice requirements for conducting a hearing which are prerequisites in both Federal and State law prior to withholding funds from local education agencies for noncompliance with special education law.

20 USC Section 1413 requires, among other things, that state education agencies monitor local education agencies to assure compliance with special education laws. 34 CFR 300.197 and Education Code section 56845 (a) and (b) authorize the Superintendent to withhold state and federal funds from a local education agency after reasonable notice and opportunity for a hearing if the superintendent finds the agency out of compliance with special education laws.

Section 3088.1 specifies the required contents of a hearing notice and the timelines for conducting the hearing prior to making a decision whether to withhold funds. Section 3088.2 specifies when funds shall be withheld if the hearing officer concludes that the local education agency has not presented sufficient proof of compliance or mitigating circumstances precluding compliance. This section also stipulates that the superintendent may apportion state and federal funds previously withheld from the local education agency when it is determined that substantial progress toward compliance with special education laws has been made.

DISCLOSURES REGARDING THE PROPOSED ACTION

Mandate on local agencies and school districts: None

Cost or savings to any state agency: None

Costs to any local agency or school district which must be reimbursed in accordance with Government Code section 17561: None

Other non-discretionary cost or savings imposed on local educational agencies: None

Cost or savings in federal funding to the state: None

Significant, statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states: None.

Cost impacts on a representative private person or businesses: The State Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Adoption of these regulations will not:

(1) create or eliminate jobs within California;
(2) create new businesses or eliminate existing businesses within California; or
(3) affect the expansion of businesses currently doing business within California.

Significant effect on housing costs: None.

Affect on small businesses: There is no affect on small businesses because any funds withheld for non-compliance with special education laws are primarily spent on services and not specific equipment, materials and supplies.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5(a)(13), the State Board must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of the State Board, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

The State Board invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations at the scheduled hearing or during the written comment period.

CONTACT PERSONS

Inquiries concerning the substance of the proposed regulations should be directed to:

Dennis Kelleher, Ed.D., Staff Liaison Consultant
California State Advisory Commission on Special Education
California Department of Education
1430 N STREET, ROOM 2401
Sacramento, CA 95814
E-mail: *dkellehe@cde.ca.gov*
Telephone: (916) 327-0842

Requests for a copy of the proposed text of the regulations, the Initial Statement of Reasons, the modified text of the regulations, if any, or other technical information upon which the rulemaking is based or questions on the proposed administrative action may be directed to the Regulations Adoption Coordinator, or to the backup contact person, Najia Rosales, at (916) 319-0860.

AVAILABILITY OF INITIAL STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Regulations Adoption Coordinator will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at her office at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations, and the initial statement of reasons. A copy may be obtained by contacting the Regulations Adoption Coordinator at the above address.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

Following the public hearing and considering all timely and relevant comments received, the State Board may adopt the proposed regulations substantially as described in this notice. If the State Board makes modifications that are sufficiently related to the originally proposed text, the modified text (with changes clearly indicated) will be available to the public for at least 15 days before the State Board adopts the regulations as revised. Requests for copies of any modified regulations should be sent to the attention of the Regulations Adoption Coordinator at the address indicated above. The State Board will accept written comments on the modified regulations for 15 days after the date on which they are made available.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, a copy of the Final Statement of Reasons may be obtained by contacting the Regulations Adoption Coordinator at the above address.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Rulemaking, the Initial Statement of Reasons, the text of the regulations in underline and strikeout, and the Final Statement of Reasons, can be accessed through the California Department of Education's website at *http://www.cde.ca.gov/regulations*.

Economic and Fiscal Impact Analysis
Proposed Amendment of Title 5, CCR, Regulations
Relating to the Supplemental Services

The Fiscal Policy Office has reviewed for economic and fiscal impact the proposed (version 08/20/03) regulation adding Sections 3088.1 and 3088.2, of Article 7, Subchapter 1, Chapter 3, Division 1, Title 5, of the California Code of Regulations, relating to Withholding Funds—Special Education Mandates.

What would the proposed regulations do?
The proposed regulations will establish procedures consistent with Federal and State law that enable the Superintendent of Public Instruction (SPI) to withhold funds from a local education agency (LEA) when noncompliance with special education mandates has been determined. The regulation also establishes that the SPI shall continue funding when it is determined that a non-complaint LEA has made substantial progress toward compliance with special education mandates.

Do the proposed regulations impose a local cost mandate?
No. The proposed regulations *would* create a new program or higher level of service in an existing program, however, the activities specified in the regulations are necessary in order to implement the federal and state statute; therefore, any costs associated with the activities are attributable to the federal and state statute and are therefore *not reimbursable*.

Do the proposed regulations impose costs upon the state?
Yes. The proposed regulations *would* impose costs upon the state, however, the activities specified in the regulations are necessary in order to implement the federal and state statute; therefore, any costs associated with the activities are attributable to the federal statute. It is further believed that the department will be able to absorb these additional costs within their existing budgets and resources.

Do the proposed regulations impact local business?
No. The proposed regulations should have no impact on local business.

This analysis reflects the attached Economic and Fiscal Impact Statement.

Donald E. Killmer, Consultant
Fiscal and Administrative Services Division

08/26/03
Date

Gerald C. Shelton, Director
Fiscal and Administrative Services Division

8/26/03
Date

G:\Policy\Fiscal Impact Statements\SpecEd-Withholding Funds\Withholding Funds.Analysis (no cost).doc

STATE OF CALIFORNIA

ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)

STD. 399 (Rev. 2-98)

See SAM Sections 6600 - 6680 for Instructions and Code Citations

DEPARTMENT NAME	CONTACT PERSON	TELEPHONE NUMBER
Education	Don Killmer	323-2591
DESCRIPTIVE TITLE FROM *NOTICE REGISTER* OR FORM 400		NOTICE FILE NUMBER
Withholding Funds - Special Education Mandates (version 08/20/03)		Z

ECONOMIC IMPACT STATEMENT

A. ESTIMATED PRIVATE SECTOR COST IMPACTS *(Include calculations and assumptions in the rulemaking record.)*

1. Check the appropriate box(es) below to indicate whether this regulation:

☐ a. Impacts businesses and/or employees

☐ b. Impacts small businesses

☐ c. Impacts jobs or occupations

☐ d. Impacts California competitiveness

☐ e. Imposes reporting requirements

☐ f. Imposes prescriptive instead of performance standards

☐ g. Impacts individuals

☐ h. None of the above *(Explain below. Complete the Fiscal Impact Statement as appropriate.)*

h. *(cont.)*_____

(If any box in Items 1 a through g is checked, complete this Economic Impact Statement.)

2. Enter the total number of businesses impacted:_____ Describe the types of businesses *(Include nonprofits)*:_____

Enter the number or percentage of total businesses impacted that are small businesses:_____

3. Enter the number of businesses that will be created: _____ eliminated: _____

Explain:_____

4. Indicate the geographic extent of impacts: ☐ Statewide ☐ Local or regional *(list areas)*: _____

5. Enter the number of jobs created:_____ or eliminated:_____ Describe the types of jobs or occupations impacted:_____

6. Will the regulation affect the ability of California businesses to compete with other states by making it more costly to produce goods or services here?

☐ Yes ☐ No If yes, explain briefly:_____

B. ESTIMATED COSTS *(Include calculations and assumptions in the rulemaking record.)*

1. What are the total statewide dollar costs that businesses and individuals may incur to comply with this regulation over its lifetime? $_____

a. Initial costs for a small business: $_____ Annual ongoing costs: $_____ Years: ____

b. Initial costs for a typical business: $_____ Annual ongoing costs: $_____ Years: ____

c. Initial costs for an individual: $_____ Annual ongoing costs: $_____ Years: ____

d. Describe other economic costs that may occur:_____

ECONOMIC AND FISCAL IMPACT STATEMENT *cont. (STD. 399, Rev. 2-98)*

2. If multiple industries are impacted, enter the share of total costs for each industry:_____

3. If the regulation imposes reporting requirements, enter the annual costs a typical business may incur to comply with these requirements. *(Include the dollar costs to do programming, record keeping, reporting, and other paperwork, whether or not the paperwork must be submitted.)*: $_____

4. Will this regulation directly impact housing costs? ☐ Yes ☐ No If yes, enter the annual dollar cost per housing unit: $_____ and the number of units:_____

5. Are there comparable Federal regulations? ☐ Yes ☐ No Explain the need for State regulation given the existence or absence of Federal regulations: _____

Enter any additional costs to businesses and/or individuals that may be due to State - Federal differences: $_____

C. ESTIMATED BENEFITS *(Estimation of the dollar value of benefits is not specifically required by rulemaking law, but encouraged.)*

1. Briefly summarize the benefits that may result from this regulation and who will benefit:_____

2. Are the benefits the result of: ☐ specific statutory requirements, or ☐ goals developed by the agency based on broad statutory authority?

Explain:_____

3. What are the total statewide benefits from this regulation over its lifetime? $_____

D. ALTERNATIVES TO THE REGULATION *(Include calculations and assumptions in the rulemaking record. Estimation of the dollar value of benefits is not specifically required by rulemaking law, but encouraged.)*

1. List alternatives considered and describe them below. If no alternatives were considered, explain why not:_____

2. Summarize the total statewide costs and benefits from this regulation and each alternative considered:

Regulation:	Benefit: $_____	Cost: $_____
Alternative 1:	Benefit: $_____	Cost: $_____
Alternative 2:	Benefit: $_____	Cost: $_____

3. Briefly discuss any quantification issues that are relevant to a comparison of estimated costs and benefits for this regulation or alternatives:_____

4. Rulemaking law requires agencies to consider performance standards as an alternative, if a regulation mandates the use of specific technologies or equipment, or prescribes specific actions or procedures. Were performance standards considered to lower compliance costs? ☐ Yes ☐ No

Explain:_____

E. MAJOR REGULATIONS *(Include calculations and assumptions in the rulemaking record.)*
Cal/EPA boards, offices and departments are subject to the following additional requirements per Health and Safety Code section 57005.

ECONOMIC AND FISCAL IMPACT STATEMENT *cont. (STD. 399, Rev. 2-98)*

1. Will the estimated costs of this regulation to California business enterprises exceed $10 million ? ☐ Yes No *(If No, skip the rest of this section)*

2. Briefly describe each equally as effective alternative, or combination of alternatives, for which a cost-effectiveness analysis was performed:

   Alternative 1: _____

   Alternative 2: _____

3. For the regulation, and each alternative just described, enter the estimated total cost and overall cost-effectiveness ratio:

Regulation:	$ _____	Cost-effectiveness ratio: _____
Alternative 1:	$ _____	Cost-effectiveness ratio: _____
Alternative 2:	$ _____	Cost-effectiveness ratio: _____

FISCAL IMPACT STATEMENT

A. FISCAL EFFECT ON LOCAL GOVERNMENT *(Indicate appropriate boxes 1 through 6 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years)*

☐ 1. Additional expenditures of approximately $_____ in the current State Fiscal Year which are reimbursable by the State pursuant to Section 6 of Article XIII B of the California Constitution and Sections 17500 et seq. of the Government Code. Funding for this reimbursement:

   ☐ a. is provided in (Item _____, Budget Act of _____) or (Chapter _____, Statutes of _____

   ☐ b. will be requested in the _____ (FISCAL YEAR) Governor's Budget for appropriation in Budget Act of _____.

☑ 2. Additional expenditures of approximately $ TBA in the current State Fiscal Year which are not reimbursable by the State pursuant to Section 6 of Article XIII B of the California Constitution and Sections 17500 et seq. of the Government Code because this regulation:

   ☑ a. implements the Federal mandate contained in Public Law 107-110 "No Child Left Behind Act of 2001"

   ☐ b. implements the court mandate set forth by the _____

   court in the case of _____ vs. _____

   ☐ c. implements a mandate of the people of this State expressed in their approval of Proposition No. _____ at the _____ (DATE) election;

   ☐ d. is issued only in response to a specific request from the _____

   _____, which is/are the only local entity(s) affected;

   ☐ e. will be fully financed from the _____ (FEES, REVENUE, ETC.) authorized by Section

   _____ of the _____ Code;

   ☐ f. provides for savings to each affected unit of local government which will, at a minimum, offset any additional costs to each such unit.

☐ 3. Savings of approximately $_____ annually.

☐ 4. No additional costs or savings because this regulation makes only technical, non-substantive or clarifying changes to current law and regulations.

ECONOMIC AND FISCAL IMPACT STATEMENT *cont. (STD. 399, Rev. 2-98)*

☐ 5. No fiscal impact exists because this regulation does not affect any local entity or program.

☐ 6. Other.

B. FISCAL EFFECT ON STATE GOVERNMENT *(Indicate appropriate boxes 1 through 4 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.)*

☑ 1. Additional expenditures of approximately $ Unknown in the current State Fiscal Year. It is anticipated that State agencies will:

☑ a. be able to absorb these additional costs within their existing budgets and resources.

☐ b. request an increase in the currently authorized budget level for the _____ fiscal year.

☐ 2. Savings of approximately $_____ in the current State Fiscal Year.

☐ 3. No fiscal impact exists because this regulation does not affect any State agency or program.

☐ 4. Other.

C. FISCAL EFFECT ON FEDERAL FUNDING OF STATE PROGRAMS *(Indicate appropriate boxes 1 through 4 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.)*

☐ 1. Additional expenditures of approximately $_____ in the current State Fiscal Year.

☐ 2. Savings of approximately $_____ in the current State Fiscal Year.

☑ 3. No fiscal impact exists because this regulation does not affect any federally funded State agency or program.

☐ 4. Other.

SIGNATURE	08/26/03	TITLE Ed. Fiscal Services Consultant	
AGENCY SECRETARY [1] APPROVAL/CONCURRENCE		Chief Deputy Superintendent	DATE 8/26/03
DEPARTMENT OF FINANCE [2] APPROVAL/CONCURRENCE	PROGRAM BUDGET MANAGER		DATE 10/9/03

1. *The signature attests that the agency has completed the STD. 399 according to the instructions in SAM sections 6600-6680, and understands the impacts of the proposed rulemaking. State boards, offices, or departments not under an Agency Secretary must have the form signed by the highest ranking official in the organization.*

2. *Finance approval and signature is required when SAM sections 6600-6670 require completion of the Fiscal Impact Statement in the STD. 399.*

Initial Statement of Reasons Regulation 3088.1 & 3088.2

20 USC 1413; 34 CFR 300.197; EC 56845 and EC 33031 Withholding Funds for noncompliance

SPECIFIC PURPOSE OF THE REGULATION.

The proposed regulation will establish procedures consistent with Federal and State law that enable the Superintendent of Public Instruction to withhold funds from a local education agency when noncompliance with special education mandates has been determined. The regulation also establishes that the superintendent shall continue funding when it is determined that a non -complaint local education agency has made substantial progress toward compliance with special education mandates.

NECESSITY/RATIONALE

Proposed regulations Section 3088.1 and 3088.2 establish specific timelines and notice requirements for conducting a hearing which are prerequisites in both Federal and State law prior to withholding funds for noncompliance.

The U.S. Department of Education, Office of Special Education Programs (OSEP) expects state education agencies to monitor and hold local education agencies (LEAs) accountable for compliance with the provision of the Individuals with Disabilities Education Act by developing and implementing policies, procedures and regulations to enforce Federal special education laws and regulations under 20 USC 1413 and, 34 CFR 300.197. Similar state mandates exist pursuant to California Education Code 56845. Imposing special conditions and withholding funds are implemented when other documented interventions have been attempted, but failed to achieve the desired outcome to bring the local education agency into compliance and the agency has been given an opportunity for a hearing.

Failure of the California Department of Education (CDE) to adequately enforce compliance in the past has resulted in the imposition by OSEP of special conditions against California's Federal special education grant. Through the development and implementation of the Quality Assurance Process, which incorporates monitoring reviews, procedural safeguard referrals and complaint management, the special conditions imposed against CDE have been removed by OSEP with the understanding that the Special Education Division will monitor and enforce Federal and State laws to assure local education agency compliance .

TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY, REPORTS, OR DOCUMENTS.

The lack of a continuum of enforcement procedures to include withholding of funds from non compliant local education agencies will result in increased legal costs from

litigation against the state brought by advocates and parents representing students with disabilities.

REASONABLE ALTERNATIVES TO THE REGULATION AND THE AGENCY'S REASONS FOR REJECTING THOSE ALTERNATIVES.

No other alternatives to establishing regulations for conducting a hearing prior to withholding funds from non compliant local education agencies are available since both Federal and State law require a hearing prior to withholding funds.

REASONABLE ALTERNATIVES TO THE PROPOSED REGULATORY ACTION THAT WOULD LESSEN ANY ADVERSE IMPACT

No alternatives that would lessen any adverse impact have been identified

---

EVIDENCE SUPPORTING FINDING OF NO SIGNIFICANT ADVERSE ECONOMIC IMPACT

The CDE imposed special conditions against four districts in 2002, San Diego Unified, Los Angeles Unified, San Francisco Unified and Live Oak School District with the notification that the process to withhold funds for non-compliance with Federal and State Law would be initiated if immediate corrective actions were not taken within a specific time frame. Imposing special conditions upon these local education agencies along with the threat of withholding funds in these four cases brought about the desired outcome of compliance with special education laws when other previously tried means of intervention had failed. The Special Education Division was gratified that agreement was reached with these districts without having to resort to withholding funds.

> As a result of imposing special conditions against these four districts, the number of long term noncompliance special education items among all local education agencies has diminished substantially.

Title 5. EDUCATION

Division 1. State Department of Education

Chapter 3. Handicapped Children

SUBCHAPTER 1. SPECIAL EDUCATION

Article 7. Procedural Safeguards

Add §§ 3088.1 and 3088.2 to read:

§ 3088.1. Sanctions: Withholding Funds to Enforce Special Education Compliance.

(a) Prior to withholding funds pursuant to subdivision (a) of Education Code Section 56845, the Superintendent shall provide a local education agency with a reasonable notice and an opportunity for a hearing as follows:

(1) The department shall send the agency a written notice by certified mail:

(A) Stating the intent to withhold funds for noncompliance;

(B) Describing the nature of the noncompliance, and the specific corrective action (or actions) that the agency must take by an exact date (or dates) to come into compliance;

(C) Summarizing efforts to verify that required corrective actions have not already been taken by the agency;

(D) Specifying the approximate amount of funds to be withheld and the anticipated timing of the withholding; and

(E) Advising the agency of the opportunity for a hearing prior to the withholding, and the date by which the agency must deliver to the department in writing a request for a hearing, which date may be no less than 20 calendar days after the notice is received by the agency.

(2) If an agency requests a hearing pursuant to subparagraph (E) of paragraph (1):

(A) The department shall schedule the hearing within 20 calendar days of the receipt of the request and shall notify the agency of the time and place of the hearing;

(B) A hearing officer shall be assigned by the department to conduct the hearing;

(C) An audiotape of the hearing shall be made;

(D) The time allotted for the hearing shall be one hour;

(E) Technical rules of evidence shall not apply at the hearing, but relevant written evidence or oral testimony may be submitted;

35 (F) Facts and arguments presented by the agency shall focus exclusively on
36 what the agency has done to correct the noncompliance and/or whether
37 mitigating factors have prevented the agency from the initiating or completing
38 corrective action(s).
39 (3) A hearing conducted pursuant to paragraph (2) shall not reopen any finding of
40 noncompliance or any corrective action that has been ordered. The hearing officer's
41 purpose shall be to determine whether the agency presents sufficient proof of corrective
42 action (s) having been taken or of the presence of mitigating factors to justify either no
43 withholding of funds or a modification of intended withholding of funds.
44 (b) If a hearing is held pursuant to subdivision (a), the hearing officer shall submit a
45 recommendation to the Superintendent within 20 calendar days of the hearing's
46 conclusion. Upon considering the hearing officer's recommendation, the
47 Superintendent shall proceed with the withholding of funds (pursuant to the notice of
48 intent), modify the amount and/or timing of the withholding of funds, or not withhold
49 funds, and the affected local education agency shall be notified accordingly by the
50 department.
51 (c) If a hearing is not held pursuant to subdivision (a), the withholding of funds shall
52 take place pursuant to the written notice of intent delivered to the local education
53 agency.
54 NOTE: Authority cited: Section 56100, Education Code. Reference: Section 56845,
55 Education Code.
56 **§ 3088.2. Enforcement and Withholding of Funds.**
57 (a) If funds are withheld from a local education agency pursuant to subdivision (a) of
58 Education Code Section 56845, the funds may subsequently be apportioned to the
59 agency pursuant to subdivision (b) of Education Code Section 56845 upon the
60 submission to the department of:
61 (a) A written request by the agency; and
62 (b) Evidence that the agency has met the condition for apportionment specified in
63 subdivision (b) of Education Code Section 56845.
64 NOTE: Authority cited: Section 56100, Education Code. Reference: Section 56845,
65 Education Code.
66
67 12-17-03

ITEM #32

CALIFORNIA STATE BOARD OF EDUCATION

MARCH 2004 AGENDA

SUBJECT	
Vision Testing: Adopt Proposed Amendments to *California Code of Regulations, Title 5, Education*, Division 1, Chapter 2, Subchapter 3, Article 4	☒ **Action**
	☒ **Information**
	☐ **Public Hearing**

RECOMMENDATION

Consider comments received during the public comment period and at the public hearing and take action to adopt regulations.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

At the January 2004 meeting, the State Board of Education approved proposed regulations regarding vision testing for a 45-day public comment and review period. Written comments must be received by 5 p.m. on March 8, 2004, and a public hearing is scheduled for March 9, 2004.

SUMMARY OF KEY ISSUES

The purpose of the proposed amended regulations is to provide clarification for implementing *Education Code* sections 49452, 49455, and 49456. The current regulations were adopted between 1973 and 1977. Since that time, technology has changed the way vision testing is done, and more recent legislation has changed who may provide testing in the schools. Specifically, the proposed amended regulations:

- Clarify who may administer vision tests to pupils;
- Replace a brand name vision testing product with a generic term (thus offering the LEAs greater opportunities to be reimbursed for vision testing services through the LEA Medi-Cal Billing Option); and
- Clarify when a reevaluation for test failure is required.

A summary of comments received during the 45-day public comment period and at the public hearing, as well as any potential amendments based on those comments, will be presented at the March State Board meeting in a last minute memorandum.

FISCAL ANALYSIS (AS APPROPRIATE)

According to the Economic and Fiscal Impact Analysis, there is no fiscal impact as a result of these regulations. See Attachment 4 for details.

ATTACHMENT

Attachment 1: Notice of Proposed Rulemaking (4 Pages)
Attachment 2: Initial Statement of Reasons (3 Pages)
Attachment 3: Proposed Amendments to the *California Code of Regulations* (4 Pages)
Attachment 4: Economic and Fiscal Impact Analysis (5 Pages) (This attachment is not available for Web viewing. A printed copy is available for viewing in the State Board office.)

STATE OF CALIFORNIA Arnold Schwarzenegger, *Governor*

CALIFORNIA STATE BOARD OF EDUCATION
1430 N Street; P.O. Box 944272
Sacramento, CA 95814-5901

TITLE 5. EDUCATION

CALIFORNIA STATE BOARD OF EDUCATION

NOTICE OF PROPOSED RULEMAKING

Vision Testing

Notice published January 20, 2004

The State Board of Education (State Board) proposes to adopt the regulations described below after considering all comments, objections, or recommendations regarding the proposed action.

PUBLIC HEARING

Program staff will hold a public hearing from **12:30 p.m. to 2:30 p.m. on March 9, 2004**, at 1430 N Street, Room 1101, Sacramento. The room is wheelchair accessible. At the hearing, any person may present statements or arguments, orally or in writing, relevant to the proposed action described in the Informative Digest. The State Board requests that any person desiring to present statements or arguments orally notify the Regulations Adoption Coordinator of such intent. The Superintendent requests, but does not require, that persons who make oral comments at the hearing also submit a summary of their statements. No oral statements will be accepted subsequent to this public hearing.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Regulations Adoption Coordinator. The written comment period ends at **5:00 p.m. on March 8, 2004**. The State Board will consider only written comments received by the Regulations Adoption Coordinator by that time (in addition to those comments received at the public hearing). Written comments for the State Board's consideration should be directed to:

Debra Strain, Regulations Adoption Coordinator
California Department of Education
LEGAL DIVISION
1430 N Street, Room 5319
Sacramento, California 95814
E-mail: dstrain@cde.ca.gov
Telephone: (916) 319-0641
FAX: (916) 319-0155

AUTHORITY AND REFERENCE

Authority: Section 33031, *Education Code*.
Reference: Sections 44873, 44877, 44878, 49452, 49455 and 49456, *Education Code*.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The State Board proposes to amend Sections 591, 592, 593, 594, 595, and 596 in Title 5 of the *California Code of Regulations* (CCR). These sections concern the screening of pupil vision in the public schools.

The purpose of the proposed amended regulations is to provide clarification for implementing *Education Code* sections 49452, 49455, and 49456. Specifically, the proposed amended regulations clarify who may administer vision tests to pupils, what types of tests may be performed, and when a reevaluation for test failure is required. Technical amendments to each section include the addition of authority and reference citations.

Education Code sections 49452, 49455, and 49456 provide for vision screening in selected grades, basic components of the school vision testing program, and parent notification of suspected vision defects.

Section 590 as amended will replace the old name “Department of Public Health” with the current name “Department of Health Services.” The amendments provide other technical changes consistent with existing statute.

Section 591 as amended will reflect technical changes consistent with existing statute. The amendments remove “ophthalmologist,” as ophthalmologists are a subset of physicians already on the list of duly authorized providers of vision tests, and add “osteopath,” as osteopaths are licensed in California as a separate body. The amendments replace the term “screening” with “testing” to provide consistency with statute.

Section 592 as amended will reflect changes in technology and replace a brand name test with a generic term. The amendments also replace the term “screening” with “testing” to provide consistency with statute. Additionally, the amendments reflect technical changes consistent with existing statute.

Section 593 as amended will replace the term “eye screening test” with the term “vision test” to more accurately express the type of testing performed in the schools.

Section 594 as amended will reflect changes in technology and replace a brand name test with a generic term. This amended section will also clarify when a reevaluation for test failure is required. The amendments reflect technical changes consistent with existing statute. The amendments also eliminate a reference to the preparation and periodic update of program guidelines related to vision testing.
Section 595 as amended will replace the term “examination” with the term “appraisal” to more accurately express the type of testing performed in the schools. Additionally the

amendment will specify color vision appraisal for male pupils that is pursuant to the *Education Code* sections also specified in the amendment.

Section 596 amendments reflect technical changes consistent with existing statute.

DISCLOSURES REGARDING THE PROPOSED ACTION

Mandate on local agencies and school districts: None

Cost or savings to any state agency: None

Costs to any local agency or school district which must be reimbursed in accordance with *Government Code* section 17561: None

Other non-discretionary cost or savings imposed on local educational agencies: None

Cost or savings in federal funding to the state: None

Significant, statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states: None.

Cost impacts on a representative private person or businesses: The State Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Adoption of these regulations will not:

(1) create or eliminate jobs within California;
(2) create new businesses or eliminate existing businesses within California; or
(3) affect the expansion of businesses currently doing business within California.

Significant effect on housing costs: None.

Affect on small businesses: The proposed regulations will have no affect on small businesses because they only apply to local educational agencies.

CONSIDERATION OF ALTERNATIVES

In accordance with *Government Code* section 11346.5(a)(13), the State Board must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of the State Board, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

The State Board invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations at the scheduled hearing or during the written comment period.

CONTACT PERSONS

Inquiries concerning the substance of the proposed regulations should be directed to:

Linda Davis-Alldritt, Consultant
California Department of Education
SCHOOL HEALTH CONNECTIONS
1430 N Street, Suite 6408
Sacramento, CA 95814
E-mail: visionregs@cde.ca.gov
Telephone: (916) 319-0284

Requests for a copy of the proposed text of the regulations, the Initial Statement of Reasons, the modified text of the regulations, if any, or other technical information upon which the rulemaking is based or questions on the proposed administrative action may be directed to the Regulations Adoption Coordinator, or to the backup contact person, Najia Rosales, at (916) 319-0584.

AVAILABILITY OF INITIAL STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Regulations Adoption Coordinator will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at her office at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations, and the initial statement of reasons. A copy may be obtained by contacting the Regulations Adoption Coordinator at the above address.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

Following the public hearing and considering all timely and relevant comments received, the State Board may adopt the proposed regulations substantially as described in this notice. If the State Board of Education makes modifications that are sufficiently related to the originally proposed text, the modified text (with changes clearly indicated) will be available to the public for at least 15 days before the State Board adopts the regulations as revised. Requests for copies of any modified regulations should be sent to the attention of the Regulations Adoption Coordinator at the address indicated above. The State Board will accept written comments on the modified regulations for 15 days after the date on which they are made available.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, a copy of the Final Statement of Reasons may be obtained by contacting the Regulations Adoption Coordinator at the above address.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Rulemaking, the Initial Statement of Reasons, the text of the regulations in underline and strikeout, and the Final Statement of Reasons, can be accessed through the California Department of Education's website at http://www.cde.ca.gov/regulations

INITIAL STATEMENT OF REASONS
SECTIONS 591 – 596.

SPECIFIC PURPOSE OF THE AMENDED REGULATIONS
The proposed amended regulations will provide clarification for implementing *Education Code* sections 49452, 49455, and 49456. Specifically, the regulations clarify who may administer vision tests to pupils, what types of tests may be performed, and when a reevaluation for test failure is required.

NECESSITY/RATIONALE
The existing regulations were last amended in 1977. Since that time, there have been changes in vision testing techniques that are not reflected in the existing regulations. *Education Code* Section 49452 requires LEAs to test the vision of each pupil enrolled in the district's schools and specifies the individuals qualified to perform vision testing. *Education Code* Section 49455 specifies the frequency and basic components of the school vision testing program. The *California Code of Regulations* sections 590-596 provide guidance on vision testing; however, the language in the existing regulations limits the type of testing tool to the Snellen chart. While the Snellen chart is one type of testing tool, as technology has evolved, there are other vision testing tools now available to LEAs. The amended version of the regulations would replace the word "Snellen" with the generic term "optotype" and thereby not limit LEAs to one particular brand of testing tool.

The amendment to the *California Code of Regulations* section 594 provides guidance on sending written notice to the parents or guardians of pupils who do not pass the initial vision screening and follow-up reevaluation.

Other amendments to the existing regulations reflect statutory changes since 1977.

Section 590. Duly Authorized Agency Defined.
The amendments reflect technical changes consistent with existing statute.

Note: Authority cited: Section 33031, *Education Code*. Reference: Section 49452, *Education Code*.

Section 591. Employees Authorized to Give Tests.
The amendments reflect technical changes consistent with existing statute.

The amendments remove "ophthalmologist," as ophthalmologists are a subset of physicians already on the list of duly authorized providers of vision tests, and add "osteopath," as osteopaths are licensed in California as a separate body.

The amendments replace the term "screening" with "testing" to provide consistency with statute.

Note: Authority cited: Section 33031, *Education Code*. Reference cited: Sections 44873, 44877, 44878, and 49452, *Education Code*

Section 592. Acceptable Course in Vision Screening.
The amendments reflect changes in technology and replace a brand name test with a generic term.

The amendments replace the term "screening" with "testing" to provide consistency with statute.

The amendments reflect technical changes consistent with existing statute.

Note: Authority cited: Section 33031, *Education Code.* Reference: Section 49452 *Education Code*.

Section 593. Responsibility as to Eligibility.
The suggested term "vision test" replaces the term "eye screening test" to more accurately express the type of testing performed in the schools.

Note: Authority cited: Section 33031, *Education Code*. Reference: Section 49452, *Education Code*.

Section 594. Examination of Visual Acuity.
The amendments reflect technical changes consistent with existing statute.

The amendments reflect changes in technology and replace a brand name test with a generic term.

The amendments clarify when a reevaluation for test failure is required.

The amendments eliminate a reference to the preparation and periodic update of program guidelines related to vision testing.

Note: Authority cited: Section 33031, *Education Code.* Reference: Sections 33308.5, 49452, 49455, and 49456, *Education Code*

Section 595. Appraisal of Color Vision.
The amendments replace the term "examination" with the term "appraisal."

The amendments specify color vision appraisal for male pupils and add related Education Code sections.

Note: Authority and Reference cited: Section 33031, *Education Code*. Reference: Section 49452 and 49455, *Education Code*.

Section 596. Gross External Observation of the Children's Eyes, Visual Performance and Perception.
Section 596 amendments reflect technical changes consistent with existing statute.

Note: Authority cited: Section 33031, *Education Code*. Reference: Section 49452 and

49455, *Education Code*.

TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY, REPORTS, OR DOCUMENTS.
The State Board did not rely upon any other technical, theoretical, or empirical studies, reports or documents in proposing the adoption of this regulation.

REASONABLE ALTERNATIVES TO THE REGULATION AND THE AGENCY'S REASONS FOR REJECTING THOSE ALTERNATIVES.
This proposal is to amend out dated regulations, not create new regulations. Therefore, the consideration of alternatives is not applicable.

REASONABLE ALTERNATIVES TO THE PROPOSED REGULATORY ACTION THAT WOULD LESSEN ANY ADVERSE IMPACT ON SMALL BUSINESS.
As no adverse impact on small business has been identified, there is no need to examine reasonable alternatives to lessen the impact.

EVIDENCE SUPPORTING FINDING OF NO SIGNIFICANT ADVERSE ECONOMIC IMPACT ON ANY BUSINESS.
The proposed regulations would not have a significant adverse economic impact on any business.

Title 5. EDUCATION

Division 1. State Department of Education
Chapter 2. Pupils
Subchapter 3. Health and Safety of Pupils

ARTICLE 4. VISION ~~SCREENING~~ TESTING

Amend Sections 590 – 596 to read:

§590. Duly Authorized Agency ~~Defined~~.

~~"A duly authorized agency," as used in~~ Pursuant to Education Code Section 49452, ~~means~~ a county superintendent of schools may contract with an agency duly authorized to provide vision tests, which includes a city or county health department, a local health district, or the State Department of ~~Public~~ Health Services.

NOTE: Authority cited ~~for Article 4~~: Section 33031 ~~and 49452~~, Education Code. ~~Issuing agency: Superintendent of Public Instruction.~~ Reference: Section 49452, Education Code.

§591. Employees Authorized to Give Tests.

(a) An employee of ~~the governing board~~ a school district or of ~~the~~ a county superintendent of schools ~~who~~ may be ~~required or permitted~~ authorized to give vision tests pursuant to Education Code Section 49452 ~~to pupils enrolled in the district~~ and may be designated a "duly qualified supervisor of health" within the meaning of that section if the employee is ~~one of the following~~:

~~(a) A physician, ophthalmologist, optometrist, or nurse who holds both:~~

~~(1) A certificate of registration from the appropriate California board or agency.~~

~~(2) A health and development credential, or a standard designated service credential with a specialization in health.~~

(1) A physician and surgeon or osteopath employed pursuant to Education Code Section 44873.

(2) A school nurse employed pursuant to Education Code Section 44877.

(3) An optometrist employed pursuant to Education Code Section 44878.

~~Such an employee is a "qualified supervisor of health" as used in this article and in Education Code Section 49452.~~

(b) Any other certificated employee of the school district or of the county superintendent of schools ~~who holds a teaching credential issued by the State Board and who has filed~~

~~with the employing school district or county superintendent of schools, as the case may be,~~ may be authorized to give vision tests pursuant to Education Code Section 49452 if the employee has one of the following documents:

(1) A statement from a qualified supervisor of health that the employee has satisfactorily completed an acceptable course of in-service training in techniques and procedures in vision ~~screening~~ testing of at least six clock hours given by the qualified supervisor of health making the statement and that the employee is qualified to administer vision tests to pupils.

(2) A transcript from an accredited college or university evidencing that the employee has successfully completed an acceptable course in vision ~~screening~~ testing of at least one semester unit.

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 44873, 44877, 44878, and 49452, Education Code.

§592. Acceptable Courses in Vision ~~Screening~~Testing.

An acceptable course in vision ~~screening~~ testing is one that provides the following:

(a) Basic knowledge of the structure, normal development, and function of the eye and common anomalies of vision and factors influencing visual performance.

(b) Basic knowledge of signs and symptoms suggesting eye difficulty.

(c) Techniques and procedures in administering ~~Snellen~~ optotype and color vision tests. Such techniques and procedures shall include training in the following:

(1) Establishing test~~s~~ rapport with pupils.

(2) Seating of pupil and placing of equipment.

(3) Providing adequate lighting conditions for the testing situation.

(4) Recording test results.

(5) Referring pupils in need of follow-up.

(d) Practice in administering ~~Snellen~~ optotype and color vision tests under the supervision of a duly qualified supervisor of health.

NOTE: Authority cited: Section 33031, Education Code. Reference: Section 49452, Education Code.

§593. Responsibility as to Eligibility.

Each school district and county superintendent of schools shall determine and be responsible for the eligibility of personnel employed or permitted by the district or county superintendent of schools to administer ~~eye screening~~ vision tests or to conduct inservice training programs in techniques and procedures in administering such tests.

NOTE: Authority cited: Section 33031, Education Code. Reference: Section 49452.

§594. ~~Examination~~ Test of Visual Acuity.

(a) The ~~following definitions shall apply to terms used in~~ test of visual acuity administered pursuant to Education Code Sections 49452 and 49455 ~~. The examination of visual acuity~~ shall mean a test for visual acuity at the far point. This shall be conducted by means of ~~the Snellen Test~~ an optotype test. ~~Conduct of the test and the testing environment shall conform to procedures and settings as described in guidelines the most recent edition of "A Guide for Vision Testing in California Public Schools." issued by the California Department of Education. Consistent with the requirements of Education Code Section 33308.5, the California Department of Education may prepare and periodically update program guidelines relating to vision testing.~~ Test failure for the ~~initial vision~~ visual acuity test shall be defined as follows:

(~~a~~1) For children under six years of age: ~~Vision~~ Visual acuity of 20/50 or worse. The designation 20/50 or worse indicates the inability to identify accurately the majority of letters or symbols on the 40-foot line of the test chart at a distance of 20 feet.

(~~b~~2) For children six years of age or older: Visual acuity of 20/40 or worse. This means the inability to identify the majority of letters or symbols on 30-foot line of the chart.

(~~c~~3) For all children: A difference of visual acuity between the two eyes of two lines on the ~~Snellen Chart~~ optotype chart. This means, for example, visual acuity of 20/20 in one eye and 20/40 in the other or 20/30 in one eye and 20/50 in the other.

(b) If a pupil fails a visual acuity test that is conducted by an employee authorized to give vision tests pursuant to subdivision (b) of Section 591, ~~Following failure of the initial vision acuity screening test,~~ a reevaluation shall be ~~accomplished~~ conducted prior to ~~referral for definitive professional evaluation~~ a report being made to the pupil's parent or guardian. This reevaluation shall be ~~done by persons~~ conducted by an employee authorized to give vision tests pursuant to subdivision ~~as per Section 591~~(a) of ~~this Article~~ Section 591.

(c) If a pupil fails a visual acuity test conducted by an employee authorized to give vision tests pursuant to subdivision (a) of Section 591, a report shall be made to the pupil's parent or guardian as required by Education Code Section 49456.

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 3308.5, 49452, 49455, and 49456, Education Code.

§595. ~~Examination~~ Appraisal of Color Vision.

The ~~examination~~ appraisal of color vision ~~as used~~ in male pupils pursuant to Education Code Sections 49452 and 49455 shall mean a test employing pseudoisochromatic plates. Procedures and criteria of failure as described by the manufacturer shall be used.

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 49452 and 49455, Education Code.

§596. Gross External Observation of the Children's Eyes, Visual Performance and Perception.

Gross external observation of the children's eyes, visual performance and perception, ~~as used in~~ pursuant to Education Code Sections 49452 and 49455, shall mean continuous observation by teachers of the appearance, behavior and complaints of pupils that might indicate vision problems. Also, periodic investigation where pupils' school performance begins to give evidence that existence of the problem might be caused by a visual difficulty. Such an evaluation shall be done in consultation with the school nurse.

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 49452 and 49455, Education Code.

10-09-03

State of California **Department of Education**

LAST MINUTE MEMORANDUM

DATE: March 9, 2004

TO: MEMBERS, STATE BOARD OF EDUCATION

FROM: Sue Stickel, Deputy Superintendent
Curriculum and Instruction Branch

RE: Item No. 32

SUBJECT: Vision Testing: Proposed Amendments to *California Code of Regulations, Title 5, Education*, Division 1, Chapter 2, Subchapter 3, Article 4

In accordance with the Administrative Procedure Act (APA) and at the direction of the State Board of Education, proposed regulations for vision testing were made available for a 45-day public comment period, which ended at 5 p.m. on March 8, 2004. A public hearing was then held on March 9, 2004. Based on comments received, technical amendments are now proposed for the State Board's consideration. These technical amendments are indicated in bold text that has either **double underlines** (additions) or ~~double strikeouts~~ (deletions); please see Attachment 3, pages 3-4. The technical amendments, among other things, make reference to "a functional vision test" for students whose age or special needs make the customary assessment instrument (an optotype test) unsatisfactory. In some cases, the comments received did not justify amendments to the proposed regulations, as explained in the attached summary of written comments.

Attachment 4, Economic and Fiscal Impact Analysis, is included here because it was listed as an attachment in the original SBE item but was inadvertently omitted.

It is our understanding that the CDE Legal Division and the Chief Counsel of the State Board have agreed that the amendments presented in this memorandum are sufficiently technical that circulation for a supplemental 15-day public notice period is not necessary under the APA. Therefore, the CDE recommends that the State Board approve the proposed regulations with the technical amendments presented herein and direct staff to complete the rulemaking file and submit it to the Office of Administrative Law.

Attachment 1: Summary of Written Comments Received (2 Pages)
Attachment 2: Report on Public Hearing (1 Page)
Attachment 3: Proposed Amendments to the *California Code of Regulations* (4 Pages)
Attachment 4: Economic and Fiscal Impact Analysis (5 Pages) (This attachment is not available for Web viewing. A printed copy is available for viewing in the State Board office.)

Vision Testing Regulations
Summary of Written Comments Received

As of March 8, 2004, 5:00 p.m., we received 140 separate written comments from nearly 100 individuals concerning the proposed vision testing regulations. Among the comments received:

- Approximately 80 expressed concern that reference to the document *A Guide for Vision Testing in California Public Schools* had been eliminated from the proposed regulations. Response: Prior to the State Board's January 2004 meeting, it was determined that the incorporation by reference of "guidelines" in regulations is no longer an acceptable practice. Therefore, eliminating the existing reference to *A Guide for Vision Testing in California Public Schools* merely brought these regulations into line with current standards for regulations. The CDE has statutory authority (subject to certain conditions and limitations) to issue guidelines that are exemplary and not mandatory (under *Education Code* Section 33308.5). Once these regulations are in place, the CDE will consider development and issuance of guidelines related to vision testing.
- Approximately 20 expressed concern that the proposed regulations did not address functional vision testing. Response: Technical amendments are presented to include a reference to use of "a functional vision test" where that type of assessment instrument is appropriate.
- Seven requested clarification of or expressed concern over qualifications for performing vision testing. Response: The proposed regulations reflect the specifications of statute as regards qualifications. Amending the proposed regulations to address this concern would place the regulations at odds with the statute. (Please see *Education Code* Section 49452.)
- One pointed out a discrepancy between the proposed regulations and a policy statement issued by the American Academy of Pediatrics and the American Academy of Ophthalmology. Response: Technical amendments are presented to address this concern.

The foregoing and other substantive comments regarding the proposed regulations are summarized below, by section.

General Comments:
Four people suggested that the term vision "testing" should instead be vision "screening." Response: The existing regulations are inconsistent in the use of the terms "testing" and "screening." The proposed regulations make changes that bring this body of regulations into consistency with the statutory use of these terms. No change is recommended. (Please se *Education Code* Section 49452.)

Section 591
Four writers expressed their belief that public health nurses are qualified to perform vision testing in schools. Response: Qualifications for performing vision testing are

currently in statute. The proposed regulations are consistent with statute. (Please see *Education Code* Section 49452.) No change is recommended.

One writer stated that a six-hour training is inadequate and does not equate to a one-unit semester course in vision testing. Response: The proposed regulations have not changed the training requirement already in statute. It should be noted that increasing the training requirement would result in an increased cost to districts.

One writer expressed concern that while individuals could possibly be trained in six hours, they would not necessarily have the background to interpret the information. This writer also believes that as currently worded, the regulations would encourage districts to "take the easy way out by hiring outsiders to do the screening." Response: The proposed regulations have not changed the training requirement already in statute. As stated above, increasing the training requirement would result in an increased cost to districts. The performing of vision tests by individuals not employed by a school district is allowed by statute under certain conditions.

Section 594(a)

Eighty writers stated that the vision regulations should include CDE's revision and issuance of a document with guidelines for vision testing. They stated that the guidelines are the standards nurses refer to and utilize when screening students. They also commented that without guidelines nurses run the risk of not screening students correctly, which in turn affects not only students' health, but also their academic performance. Response: The incorporation by reference of guidelines in regulations is no longer appropriate legal practice. Subject to certain conditions and limitations, the CDE has authority to issue exemplary, non-mandatory guidelines under Education Code Section 33308.5. Once these regulations are in place, the development of guidelines relating to vision testing will be considered.

Twenty writers commented that when a child is unable to adequately perform the visual acuity test, the nurse would need to perform a functional vision test. They stated that by limiting the testing to an optotype test, a potentially significant portion of the school population might be excluded. Response: Technical amendments are presented to address this concern.

One writer stated that there is a discrepancy concerning referral criteria for vision screening between a policy statement issued by the American Academy of Pediatrics and American Academy of Ophthalmology and the proposed vision regulations. Response: Technical amendments are presented to address this concern.

Section 594(b)

Five writers questioned if the reevaluation of a child who fails the initial vision acuity test can be performed by the same person who administered the original test. Response: This issue is already sufficiently addressed in the regulations. Individuals authorized to do reevaluations are listed in Section 591(a).

REPORT ON PUBLIC HEARING CONDUCTED BY STAFF

DATE: March 9, 2004

TO: Members, State Board of Education

FROM: Caroline Roberts, Administrator, School Health Connections and Healthy Start

SUBJECT: Vision Testing: Proposed Amendments to *California Code of Regulations, Title 5, Education,* Division 1, Chapter 2, Subchapter 3, Article 4

Background
At the January 2004 meeting, the State Board initiated the permanent rulemaking process regarding vision testing. The State Board directed that the public hearing for this rulemaking process be conducted by staff in accordance with subdivision (b) of Section 18460 of Title 5 of the *California Code of Regulations*.

Report on Public Hearing
Consistent with the requirements of the Administrative Procedure Act, the public hearing regarding the proposed regulations was scheduled for Tuesday, March 9, 2004, at the California Department of Education, 1430 N Street, Room 1101, Sacramento, California, beginning at 12:30 p.m. An audiotape of the public hearing was made, and Maryanna Rickner will provide a copy of the audiotape to any State Board member so desiring.

The public hearing was called to order at 12:30 p.m. on the prescribed date. A brief welcoming and introductory statement was given. In the course of that statement, the individual presiding noted that a technical error had been made in the Notice of Proposed Rulemaking, published January 23, 2004. At the top of the document, the heading reads “Title 5. Education; California Superintendent of Public Instruction; Notice of Proposed Rulemaking.” The words “California Superintendent of Public Instruction” should be replaced with “California State Board of Education,” correctly indicating that these are State Board regulations rather than Superintendent’s regulations.

This will be appropriately handled as a notation in the Final Statement of Reasons instead of as an amendment to the Informative Digest.

No members of the public were present, so the hearing was temporarily recessed. Thirty minutes later, no members of the public had arrived. The public hearing was adjourned at 1 p.m.

Title 5. EDUCATION

Division 1. State Department of Education
Chapter 2. Pupils
Subchapter 3. Health and Safety of Pupils

ARTICLE 4. VISION ~~SCREENING~~ TESTING

Amend Sections 590 – 596 to read:

§590. Duly Authorized Agency ~~Defined~~.

~~"A duly authorized agency," as used in~~ Pursuant to Education Code Section 49452, ~~means~~ a county superintendent of schools may contract with an agency duly authorized to provide vision tests, which includes a city or county health department, a local health district, or the State Department of ~~Public~~ Health Services.

NOTE: Authority cited ~~for Article 4~~: Section 33031 ~~and 49452~~, Education Code. ~~Issuing agency: Superintendent of Public Instruction.~~ Reference: Section 49452, Education Code.

§591. Employees Authorized to Give Tests.

(a) An employee of ~~the governing board~~ a school district or of ~~the~~ a county superintendent of schools ~~who~~ may be ~~required or permitted~~ authorized to give vision tests pursuant to Education Code Section 49452 ~~to pupils enrolled in the district~~ and may be designated a "duly qualified supervisor of health" within the meaning of that section if the employee is ~~one of the following~~:

~~(a) A physician, ophthalmologist, optometrist, or nurse who holds both:~~

~~(1) A certificate of registration from the appropriate California board or agency.~~

~~(2) A health and development credential, or a standard designated service credential with a specialization in health.~~

(1) A physician and surgeon or osteopath employed pursuant to Education Code Section 44873.

(2) A school nurse employed pursuant to Education Code Section 44877.

(3) An optometrist employed pursuant to Education Code Section 44878.

~~Such an employee is a "qualified supervisor of health" as used in this article and in Education Code Section 49452.~~

(b) Any other certificated employee of the school district or of the county superintendent of schools ~~who holds a teaching credential issued by the State Board and who has filed~~

~~with the employing school district or county superintendent of schools, as the case may be,~~ may be authorized to give vision tests pursuant to Education Code Section 49452 if the employee has one of the following documents:

(1) A statement from a qualified supervisor of health that the employee has satisfactorily completed an acceptable course of in-service training in techniques and procedures in vision ~~screening~~ testing of at least six clock hours given by the qualified supervisor of health making the statement and that the employee is qualified to administer vision tests to pupils.

(2) A transcript from an accredited college or university evidencing that the employee has successfully completed an acceptable course in vision ~~screening~~ testing of at least one semester unit.

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 44873, 44877, 44878, and 49452, Education Code.

§592. Acceptable Courses in Vision ~~Screening~~Testing.

An acceptable course in vision ~~screening~~ testing is one that provides the following:

(a) Basic knowledge of the structure, normal development, and function of the eye and common anomalies of vision and factors influencing visual performance.

(b) Basic knowledge of signs and symptoms suggesting eye difficulty.

(c) Techniques and procedures in administering ~~Snellen~~ optotype and color vision tests. Such techniques and procedures shall include training in the following:

(1) Establishing test~~s~~ rapport with pupils.

(2) Seating of pupil and placing of equipment.

(3) Providing adequate lighting conditions for the testing situation.

(4) Recording test results.

(5) Referring pupils in need of follow-up.

(d) Practice in administering ~~Snellen~~ optotype and color vision tests under the supervision of a duly qualified supervisor of health.

NOTE: Authority cited: Section 33031, Education Code. Reference: Section 49452, Education Code.

§593. Responsibility as to Eligibility.

Each school district and county superintendent of schools shall determine and be responsible for the eligibility of personnel employed or permitted by the district or county superintendent of schools to administer ~~eye screening~~ vision tests or to conduct inservice training programs in techniques and procedures in administering such tests.

NOTE: Authority cited: Section 33031, Education Code. Reference: Section 49452.

§594. ~~Examination~~ Test of Visual Acuity.

(a) The ~~following definitions shall apply to terms used in~~ test of visual acuity administered pursuant to Education Code Sections 49452 and 49455 ~~. The examination of visual acuity~~ shall mean a test for visual acuity at the far point. This shall be conducted by means of ~~the Snellen Test~~ an optotype test. ~~Conduct of the test and the testing environment shall conform to procedures and settings as described in guidelines the most recent edition of "A Guide for Vision Testing in California Public Schools." issued by the California Department of Education. Consistent with the requirements of Education Code Section 33308.5, the California Department of Education may prepare and periodically update program guidelines relating to vision testing.~~ Test failure for the ~~initial vision~~ visual acuity test shall be defined as follows:

(~~a~~1) For children under six years of age: ~~Vision~~ Visual acuity of 20/50 or worse. The designation 20/50 or worse indicates the inability to identify accurately the majority of letters or symbols on the **~~40~~ 20**-foot line of the test chart at a distance of **~~20~~ 10** feet.

(~~b~~2) For children six years of age or older: Visual acuity of 20/40 or worse. This means the inability to identify the majority of letters or symbols on **~~30~~ 15**-foot line of the chart **at a distance of 10 feet**.

(~~c~~3) For all children: A difference of visual acuity between the two eyes of two lines **or more** on the ~~Snellen Chart~~ optotype chart. ~~**This means, for example, visual acuity of 20/20 in one eye and 20/40 in the other or 20/30 in one eye and 20/50 in the other.**~~

(b) For pupils who, because of age or special needs are not able to be tested with an optotype test, other types of vision testing, such as a functional vision test, may be utilized, using procedures and criteria of failure as described by the manufacturer.

(**~~b~~c**) If a pupil fails a **~~visual acuity~~ vision** test that is conducted by an employee authorized to give vision tests pursuant to subdivision (b) of Section 591, ~~Following failure~~

~~of the initial vision acuity screening test,~~ a reevaluation shall be ~~accomplished~~ conducted prior to ~~referral for definitive professional evaluation~~ a report being made to the pupil's parent or guardian. This reevaluation shall be ~~done by persons~~ conducted by an employee authorized to give vision tests pursuant to subdivision ~~as per Section 591~~(a) of ~~this Article~~ Section 591.

(~~c~~**d**) If a pupil fails a ~~**visual acuity**~~ **vision** test conducted by an employee authorized to give vision tests pursuant to subdivision (a) of Section 591, a report shall be made to the pupil's parent or guardian as required by Education Code Section 49456.

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 3308.5, 49452, 49455, and 49456, Education Code.

§595. ~~Examination~~ Appraisal of Color Vision.

The ~~examination~~ appraisal of color vision ~~as used~~ in male pupils pursuant to Education Code Sections 49452 and 49455 shall mean a test employing pseudoisochromatic plates. Procedures and criteria of failure as described by the manufacturer shall be used.

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 49452 and 49455, Education Code.

§596. Gross External Observation of the Children's Eyes, Visual Performance and Perception.

Gross external observation of the children's eyes, visual performance and perception, ~~as used in~~ pursuant to Education Code Sections 49452 and 49455, shall mean continuous observation by teachers of the appearance, behavior and complaints of pupils that might indicate vision problems. Also, periodic investigation where pupils' school performance begins to give evidence that existence of the problem might be caused by a visual difficulty. Such an evaluation shall be done in consultation with the school nurse.

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 49452 and 49455, Education Code.

ITEM # 33

CALIFORNIA STATE BOARD OF EDUCATION

MARCH 2004 AGENDA

SUBJECT	
Immediate Intervention/Underperforming Schools Program (II/USP): Waiver Policy for higher-performing II/USP schools that do not make "significant growth" and are subject to state sanctions	☒ **Action** ☒ **Information** ☐ **Public Hearing**

RECOMMENDATION

The California Department of Education (CDE) recommends that the State Board of Education (SBE) adopt the waiver policy for higher-performing II/USP schools based upon Option 2 as presented in this item.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

At the January 2004 SBE meeting, two II/USP state-monitored schools (Hester Elementary and Providencia Elementary) requested that the SBE approve their waiver requests to be taken out of the sanctions/intervention process and to be placed "on watch" for another year. The waivers were based on the premise that the schools were higher-performing and therefore should not be subject to state sanctions. The SBE postponed the waiver requests to the March meeting and requested that CDE staff develop a waiver policy for higher-performing II/USP schools that are subject to state sanctions.

SUMMARY OF KEY ISSUES

In 1999, the Legislature enacted II/USP, which provides schools in decile ranks 1-5 an opportunity to apply for funding to improve student achievement in exchange for greater accountability. Schools participating in the program received $50,000 in the first year to develop an improvement plan and $200 per student annually to implement the plan for two to three years. In return for the funding, schools agreed to be held accountable for steadily increasing student achievement. According to the law, schools that do not demonstrate "significant growth" as defined by the SBE become subject to state sanctions/intervention at the end of the two or three year period. Based on the recommendation of the Public Schools Accountability Act (PSAA) Advisory Committee, the SBE defined "significant growth" as making at least one point of growth on the schoolwide Academic Performance Index (API).

Three cohorts of approximately 430 schools each have participated, or are still participating, in II/USP. Twenty-four II/USP Cohort I schools were identified as state-

monitored in 2002-03 and therefore became subject to state interventions. One of the schools has subsequently closed. In the current year, 33 schools (27 in II/USP Cohort I and 6 in II/USP Cohort II) have been identified as state-monitored.

All schools currently identified as state-monitored have been assigned a School Assistance and Intervention Team (SAIT). SAIT teams verify the results of an Academic Program Survey (APS) which focuses on the essential components for instructional success. Based on the results, the SAIT recommends corrective actions to improve student achievement and provides the schools with the necessary support to implement the corrective actions.

There have been a few occasions where higher-performing schools have become subject to state sanctions. For instance, a school may have made substantial growth in its first and second year of participation in the II/USP, but not made its growth targets, and then dropped down a few points on its API in its third year of participation. Even though the school has an API decile rank of 6 or higher, the school would be subject to state sanctions because it did not meet the "significant growth" criterion in its third year, or in subsequent years while "on watch."

Based upon the request of the SBE members in January, CDE staff have developed two options for a waiver policy that could be applied to schools that are subject to state sanctions but are considered higher-performing schools. Both options would allow the school to waive out of the sanction process and be placed "on watch."

Both options are also based on the requirement that the school be in decile rank 6 or higher. Schools that have negative growth on their current-year schoolwide API must be able to demonstrate that the school is actually a higher-performing school, which means they must be in decile rank 6 or higher according to law. The options differ in terms of congruence with federal law.

Option 1

API Decile Rank[1]	Decile rank of 6 or higher
Multi-year growth[2]	The school exceeded its growth target in the previous year to the extent that the growth covered the total growth expectation for both years. (For example, the growth target was 6 points the current year and 5 points the previous year. Therefore, in the previous year the school must have grown by at least 11 points, accounting for the current year's schoolwide API point deficit on its schoolwide API to cover the growth expectation for the current year.)
API for student groups	A majority of the numerically significant student groups showed positive growth on the API each of the previous two years.

[1] Underperforming schools are defined by law (E.C. 52053) as those schools in decile ranks 1 through 5.
[2] This provision ensures that the pattern of achievement is not consistently declining.

Option 2

API Decile Rank	Decile rank of 6 or higher
Multi-year growth	The school exceeded its growth target in the previous year to the extent that the growth covered the total growth expectation for both years.
AYP	The school met NCLB Adequate Yearly Progress (AYP). (Meeting AYP means meeting annual measurable objectives (AMOs) in language arts and mathematics schoolwide and for all student groups; meeting participation rate requirements; meeting API requirements; and for high schools, meeting graduation rate requirements.)

The CDE recommends Option 2.

The criteria in both options ensure that schools with steadily declining API scores will not be waived out of the sanctions process because only the previous year's API scores may be used. For instance under Option 1, if the SBE looked at the previous two years of API growth, a school could significantly exceed its growth target the first year, only make "significant growth" the second year and make negative growth the third year. In this scenario, the school would still qualify for a waiver if the growth in the first year were sufficient enough to cover the total growth expectation for the three years, even though the API growth trend is downward.

However, Option 2 requires schools to have all significant student groups meet the NCLB AYP requirement. Including NCLB in the criteria takes into account that a large percentage of II/USP schools receive Title I funds. Staff believe that schools that do not meet the criteria in Option 2 would benefit from the SAIT process.

In analyzing the data of the two schools that submitted wavier requests, Hester Elementary and Providencia Elementary, Hester Elementary fails to meet the criteria in either option because it is in decile rank 5. Providencia Elementary would meet the criteria under either option and be placed "on watch" status.

FISCAL ANALYSIS (AS APPROPRIATE)

Schools that receive a waiver to be taken out of the state sanctions/intervention process will be placed "on watch" and will not receive additional funding allocated for state-monitored schools. This includes $75,000 for elementary and middle schools and $100,000 for high schools to conduct the SAIT process and $150 per student annually for the implementation of the corrective actions for two to three years. Placing higher-performing II/USP schools "on watch" will reduce the cost of state sanctions and interventions.

ATTACHMENT

Attachment 1: California State Board of Education Policy: Waiver guidelines for higher-performing II/USP schools that do not make "significant growth" and are subject to state intervention. (2 pages)

	California State Board of Education Policy	POLICY # **XX-04**
	WAIVER GUIDELINES Immediate Intervention/Underperforming Schools Program (II/USP): Higher-performing II/USP schools that do not make "significant growth" and are subject to state intervention	DATE **DRAFT**

REFERENCES: Authority:

Authority: Education Code Section 33050
Purpose: To waive provisions of Education Code Sections *52055.5 (b) and (h)*

HISTORICAL NOTES

None

Education Code (EC) Section(s) involved:

Education Code Sections 52055.5 (b) and (h)

(b) Twenty-four months after receipt of funding pursuant to Section 52054.5, a school that has not met its growth targets each year and has failed to show significant growth, as determined by the State Board of Education, shall be deemed a state-monitored school.

(h) A school that has not met its growth targets within 36 months of receiving funding pursuant to Section 52054.5, but has shown significant growth, as determined by the State Board of Education, shall continue to be monitored by the Superintendent of Public Instruction until it meets its annual growth target or the statewide performance target. If, in any year between the third year of implementation funding and the first year the school meets its growth target, the school fails to make "significant growth", as determined by the State Board of Education, that school shall be deemed a state-monitored school and subject to the provisions of paragraphs (1) to (10), inclusive, of subdivision (b).

Background

In 1999, the State Legislature enacted II/USP, which provides schools in decile ranks 1-5 an opportunity to apply for funding to improve student achievement in exchange for greater accountability. Schools participating in the program received $50,000 in the first year to develop an improvement plan and $200 per student annually to implement the plan for two to three years. In return for the funding, schools agreed to be held accountable for steadily increasing student achievement. According to the law, schools that do not demonstrate "significant growth" as defined by the State Board of Education become subject to state sanctions/intervention at the end of the two or three year period. Based on the recommendation of the Public Schools Accountability Act (PSAA) Advisory Committee, the State Board has defined "significant growth" as making at least one point of growth on the schoolwide API.

There have been a few occasions where higher-performing schools have become subject to state sanctions. For instance, a school may have made substantial growth in its first and second year of participation in the II/USP, but not made its growth targets, and then dropped down a few points on its API in its third year of participation. Even though the school has an API decile rank of 6 or higher, the school would be subject to state sanctions because it did not meet the "significant growth" criterion in its third year, or in subsequent years while "on watch."

Waiver Guidelines/Criteria

In order to evaluate a waiver request to release higher-performing II/USP schools from the state sanctions/intervention process and be placed "on watch," the State Board of Education (SBE) requests that those Local Educational Agencies (LEAs) applying for a waiver provide documentation which the California Department of Education (CDE) professional staff will then use to review and make recommendations about the waiver request. The waiver request should include the following:

1. Verification that the school has a statewide rank of 6 or higher
2. Verification that the school exceeded its growth target in the previous year to the extent that the growth covered the total growth expectation for both years. (For example, the growth target was 6 points the current year and 5 points the previous year. Therefore, in the previous year the school must have grown at least 11 points accounting for the current year's schoolwide API point deficit on its schoolwide API to cover the growth expectation for the current year.)
3. Verification that the school has met NCLB Adequate Yearly Progress (AYP). (Meeting AYP means meeting annual measurable objectives (AMOs) in language arts and mathematics schoolwide and for all student groups, meeting participation rate requirements, meeting API requirements, and for high schools meeting graduation rate requirements.)

ITEM #34

CALIFORNIA STATE BOARD OF EDUCATION

MARCH 2004 AGENDA

SUBJECT	
Immediate Intervention/Underperforming Schools Program (II/USP): Proposed Intervention for (Cohorts I and II) schools that failed to show significant growth.	☒ **Action**
	☒ **Information**
	☐ **Public Hearing**

RECOMMENDATION

1. Determine the remaining Cohort I and II schools that will be deemed state-monitored, and
2. Assign a School Assistance and Intervention Team (SAIT) to all state-monitored schools and allow local governing boards to retain legal rights, duties, and responsibilities with respect to any state-monitored school(s).

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

At the September 2003 State Board meeting, the State Board of Education (SBE) adopted a revised definition of significant growth to align it with current legislation. Education Code Section 52055.5 (h) requires that any year between the third year of II/USP funding and the time a school exits the program, if the school does not make significant growth, the school is to be deemed state-monitored. Therefore, a yearly assessment on the status of schools "under watch" is required. The State Board made a technical revision to the significant growth definition to align with this requirement:

"Making positive growth on the Schoolwide Academic Performance Index (API) in either of the two funded implementation years *and each year thereafter until the school exits the program.*"

At the November 2003 State Board Meeting, the Superintendent of Public Instruction recommended that thirty-nine II/USP schools (22 schools that demonstrated negative growth and 17 schools with invalid Growth APIs) be deemed state-monitored. The Board deemed twenty-two schools as state-monitored and required that their districts contract with an approved SAIT Provider.

A decision on 17 schools without valid API growth data was deferred until the January 2004 Board meeting in order to establish alternative criteria and provide these schools with an opportunity to demonstrate growth in student achievement. At the January 2004 Board meeting, Board members adopted an alternative definition of significant growth for schools with invalid APIs. It is based on the increase in the percentage of students (schoolwide) at or above proficient on the California Standards Test in English/language arts and mathematics (See Attachment 4 for alternative criteria).

At the January 2004 Board meeting, the members took the following actions:

- Six schools with invalid APIs that met the alternative criteria received a waiver that permitted them to be placed “on watch” status for the 2003-04 school year.
- Eleven schools without valid APIs that did not meet the alternative criteria or did not apply for a waiver were deemed state-monitored (10 of the schools were deferred from the November meeting and one school was added based upon the Phase II release of the API).
- Two new schools were deemed state-monitored because they made negative growth on the 2003 API (based on the release of the Phase II API data).
- Two schools that were previously deemed state-monitored had waivers approved that allowed the schools to be taken out of the sanctions process because of API data errors.
- Two schools were deferred until March 2004: Biggs High School because they were making corrections to their API data and Fruit Ridge Elementary because they qualified for a waiver under the alternative criteria for significant growth.

Therefore, there are currently 33 state-monitored schools for the 2003-04 school year, and 24 schools that became state-monitored in 2002-2003, although one school has subsequently closed.

SUMMARY OF KEY ISSUES

The Phase III release of the 2003 Schoolwide API results may yield a number of additional II/USP Cohort I schools that failed to make significant growth this past year and a number of additional schools in II/USP Cohort II that failed to make significant growth in each of two implementation years in the II/USP program. Education Code Section 52055.5(b) directs the SBE to deem II/USP schools not showing significant growth as state-monitored. The Superintendent of Public Instruction (SPI), with the approval of the SBE, shall invoke sanctions from one of two Education Code sections:

1. According to the provisions of Education Code Section 52055.5(a), the SPI shall:
   - Assume all the legal rights, duties, and powers of the governing board, unless the SPI and the SBE allow the local governing board to retain these rights.
   - Reassign the principal of that school, subject to a hearing, and
   - Do one or more of the following with respect to a state-monitored school:
     - Revise attendance options
     - Allow parents to apply directly to the SBE to establish a charter school
     - Assign the management of the school to a school management organization
     - Reassign other certificated employees of the school
     - Renegotiate a new collective bargaining agreement at the expiration of the existing one
     - Reorganize the school
     - Close the school, and/or
     - Place a trustee at the school for no more than 3 years.

2. As an alternative to the above, the SPI, with the approval of the SBE, may require districts to contract with a School Assistance and Intervention Team (SAIT) in lieu of other interventions and sanctions. If the State Board approves, the governing board of the school district may retain its legal rights, duties and responsibilities with respect to

that school. [Education Code Section 52055.51(a)]

- SAITs are teams of educators with experience in curriculum and instruction aligned to state standards, State Board-adopted texts in reading/language arts and mathematics, State Board-adopted intervention programs, academic assessment, and fiscal allocation.
- Teams are fielded by organizations approved by the SPI under criteria adopted by the SBE. Organizations are approved based on demonstrated evidence of turning around underperforming schools and trained on a state-designed intervention process.

SAIT teams verify information provided by the district on an Academic Program Survey, which results in a Report of Findings and Corrective Actions adopted by the local governing board, followed by the provision of technical assistance and support and quarterly monitoring of the school's academic progress toward meeting specified benchmarks for improvement. A Last Minute Memorandum will provide API Base and Growth information as part of attachments I, II and III for the appropriate years for each school.

FISCAL ANALYSIS (AS APPROPRIATE)

See related March Board item on Expenditure Plan for appropriation of funds to non-Title I SAIT schools (as provided in item 6110-123-0001 of the 2003 Budget Act). Funds for Title I SAIT schools are provided in item 6110-136-0890 Schedule 1 of the 2003 Budget Act.

ATTACHMENT

Attachment 4: Criteria for Cohort I and Cohort II II/USP Schools Without Valid APIs to Demonstrate Significant Academic Growth (2 pages)

The following attachments will be submitted in a Last Minute Memorandum:

Attachment 1: Table I - Contains the school performance data on the additional II/USP Cohort I schools that are subject to interventions/sanctions.

Attachment 2: Table II - Contains school performance data on the additional II/USP Cohort II schools that are subject to interventions/sanctions.

Attachment 3: Table III – Contains schools that qualify for waiver under the new waiver guidelines for schools without valid APIs as adopted by the State Board in January 2004.

Criteria for Cohort I II/USP Schools Without Valid APIs to Demonstrate Significant Academic Growth

Elementary schools must demonstrate that:

- The percentage of students (schoolwide) at or above the proficient level on the California Standards test in English/language arts increased by at least one percentage point from 2002 to 2003 (note: 0.99 does not equal 1.00), **and**
- The percentage of students (schoolwide) at or above the proficient level on the California Standards test in Mathematics Standards increased by at least one percentage point from 2002 to 2003.

Middle Schools must demonstrate that:

- The percentage of students at or above the proficient level (schoolwide) on the California Standards test in English/language arts increased by at least one percentage point from 2002 to 2003 (note: 0.99 does not equal 1.00), **and**
- The percentage of students (schoolwide) at or above the proficient level on the California Standards tests in the Mathematics Standards, General Math and Algebra I increased by at least one percentage point from 2002 to 2003.

High schools must demonstrate that:

- The percentage of students (schoolwide) at or above the proficient level on the California Standards test in English/language arts increased by at least one percentage point from 2002 to 2003 (note: 0.99 does not equal 1.00), **and**
- The percentage of students (schoolwide) at or above the proficient level on the California Standards test in General Mathematics, Algebra I and Geometry increased by at least one percentage point from 2002 to 2003.

Criteria for Cohort II II/USP Schools Without Valid APIs to Demonstrate Significant Academic Growth

Elementary schools must demonstrate that:

- The percentage of students (schoolwide) at or above the proficient level on the California Standards test in English/language arts increased by at least one percentage point from 2001 to 2002 **and** from 2002 to 2003 (note: 0.99 does not equal 1.00), **and**
- The percentage of students (schoolwide) at or above the proficient level on the California Standards test in Mathematics Standards increased by at least one percentage point from 2002 to 2003.

Middle Schools must demonstrate that:

- The percentage of students at or above the proficient level (schoolwide) on the California Standards test in English/language arts increased by at least one percentage point from 2001 to 2002 **and** from 2002 to 2003 (note: 0.99 does not equal 1.00), **and**
- The percentage of students (schoolwide) at or above the proficient level on the California Standards tests in the Mathematics Standards, General Mathematics and Algebra I increased by at least one percentage point from 2002 to 2003.

High schools must demonstrate that:

- The percentage of students (schoolwide) at or above the proficient level on the California Standards test in English/language arts increased by at least one percentage point from 2001 to 2002 **and** from 2002 to 2003 (note: 0.99 does not equal 1.00), **and**
- The percentage of students (schoolwide) at or above the proficient level on the California Standards test in General Mathematics, Algebra I, and Geometry increased by at least one percentage point from 2002 to 2003.

State of California **Department of Education**

LAST MINUTE MEMORANDUM

DATE: March 8, 2004

TO: MEMBERS, STATE BOARD OF EDUCATION

FROM: Sue Stickel, Deputy Superintendent
Curriculum and Instruction Branch

RE: Item No. 34

SUBJECT: Immediate Intervention/Underperforming Schools Program (II/USP): Proposed Intervention for (Cohorts I and II) schools that failed to show significant growth.

Attached are two charts, one for II/USP Cohort I and one for Cohort II, which indicate that two additional II/USP schools are subject to state sanctions (Biggs High School in Biggs Unified and Morningside High School in Inglewood Unified). The charts provide the appropriate years of Base Academic Performance Index (API), Growth API, and whether or not the school made schoolwide and comparable growth targets. Biggs High School failed to demonstrate significant growth on the 2003 API. Morningside High School does not have valid 2003 API Growth data and, based on the STAR data, does not meet the alternative criteria for demonstrating significant growth adopted by the Board in January 2004.

In addition, Biggs Elementary School was deemed state-monitored at the November 2003 State Board meeting. Since then the school has submitted corrected API data. The newly calculated growth API shows that the school has made significant growth. Therefore, based on the new data, California Department of Education (CDE) is requesting that the Board reverse its decision to deem Biggs Elementary a state-monitored school and instead place the school “on watch” for the 2003-04 school year.

Attachment 1: II/USP Cohort I Schools Subject to State Intervention (1 Page)
Attachment 2: II/USP Cohort II Schools Subject to State Intervention (1 Page)

II/USP Cohort I Schools Subject to State Intervention

District	School	2000 Base	2001 GROWTH	2001 SCH WIDE	2001 COMP IMP	2001 Base	2002 GROWTH	2002 SCH WIDE	2002 COMP IMP	2002 Base	2003 GROWTH	2003 SCH WIDE	2003 COMP IMP
Biggs Unified	Biggs High	652	-64	No	No	590	50	Yes	Yes	626	-2	No	Unknown

II/USP Cohort II Schools Subject to State Intervention

District	School	2000 Base	2001 GROWTH (planning)	2001 SCH WIDE	2001 COMP IMP	2001 Base	2002 GROWTH	2002 SCH WIDE	2002 COMP IMP	2002 Base	2003 GROWTH	2003 SCH WIDE	2003 COMP IMP
Inglewood Unified	Morningside High	462	13	No	No	489	-6	No	No	*	*	*	*

* Invalid API because the school failed to test a significant portion of students on the California Standards Test in mathematics

CALIFORNIA STATE BOARD OF EDUCATION

MARCH 2004 AGENDA

SUBJECT	
Immediate Intervention/Underperforming Schools Program (II/USP): School Assistance and Intervention Team (SAIT) Providers: Approve criteria for selection of SAIT Providers in 2004-05.	☒ **Action** ☒ **Information** ☐ **Public Hearing**

RECOMMENDATION

That the State Board approve the 2003-04 SAIT Provider criteria for the selection of SAIT Providers in 2004-05.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

At the July 10, 2003 State Board Meeting, the Board members approved the criteria for the selection of the 2003-04 SAIT Providers.

SUMMARY OF KEY ISSUES

Based on the criteria approved by the State Board in July 2003, CDE staff in collaboration with Board staff, developed and released a Request for Applications (RFA) to solicit SAIT Provider applications from County Offices of Education, Accredited Colleges and Universities and non-governmental educational organizations. The CDE received 49 applications. In October 2003, twenty-one county offices and 24 educational organizations were approved as SAIT Providers along with 198 Leads. All approved Leads attended one of two three-day trainings on the current SAIT process. (Training was provided in October 2003 in Northern California and in November 2003 in Southern California.)

The Department has received positive feedback on the current SAIT process, and is therefore requesting that the State Board re-approve the use of last year's SAIT Provider criteria for use in the 2004-05 application process. The previously approved criteria are as follows:

a. Knowledge of State Board-adopted academic content standards and frameworks
b. The teaching of standards-based reading, writing, language arts, and mathematics for students by grade span
c. Knowledge and use of universal access materials and other strategies to help English Learners acquire full academic proficiency in English and meet grade-level standards in the context of state statutory requirements
d. Knowledge and use of Student Testing and Reporting (STAR) assessments, as well as curriculum-embedded assessments, standardized, criterion-referenced, and other forms of assessment and their use to guide school planning

e. Accelerated interventions for underperforming students and schools, including the State Board-adopted reading intervention programs
f. Professional development that addresses standards-based instruction focused on State Board-adopted or aligned instructional materials that are in use at the school
g. Ability to provide the intensive support necessary for the school to successfully implement recommendations made by the SAIT.

In addition, it was suggested that team members also have knowledge and skills in the following areas:

h. Maximizing human and fiscal resources to accelerate the academic achievement of underperforming students
i. Evaluation and research-based reform strategies
j. Classroom management and discipline
k. Effective school management and leadership for “turning around” underperforming schools
l. Effective communication with parents, students, teachers, staff, and administrators in underperforming schools
m. Oral and written communication skills.

In addition to the above criteria SAIT Providers had to provide the following assurances:

- At the K-8 level that the team have a high degree of knowledge and skill in the K-8 instructional programs in English/language arts and mathematics that are in use at any of the elementary or middle schools the SAIT reviews
- At the 9-12 level that the team have a high degree of knowledge in standards-aligned English/language arts and mathematics instructional materials, including State Board-adopted reading/language arts interventions, and
- At all grade levels a minimum of one team member must have school and/or district administrative experience in the grade span in which the team will be working.

FISCAL ANALYSIS (AS APPROPRIATE)

Approval of the criteria will not have a fiscal impact.

ATTACHMENT

None

ITEM #36

CALIFORNIA STATE BOARD OF EDUCATION

MARCH 2004 AGENDA

SUBJECT	
Immediate Intervention/Underperforming Schools Program (II/USP): School Assistance and Intervention Team (SAIT): Approval of expenditure plan to support SAIT activities and corrective actions in "state-monitored" schools	☒ **Action** ☒ **Information** ☐ **Public Hearing**

RECOMMENDATION

The Department recommends approval of additional expenditures for intervention work in "state-monitored" schools.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

The State Board of Education has approved expenditure plans for state-monitored schools in May 2003, November 2003, and January 2004. The intervention activities have involved 16 elementary schools, six middle schools, and 11 high schools, and total expenditures have been approximately $10.2 million.

SUMMARY OF KEY ISSUES

The Department is required by Assembly Bill 312 [Section 5 (e)] to submit a plan to the Legislature for the expenditure of funds for state-monitored schools, after the plan is adopted by the State Board. Approval of this plan will allow the Department to notice the Legislature and to grant funds on a timely basis.

The funds appropriated in Budget Act 2003-04, Item 6110-136-0890, Schedule (1) and Item 6110-123-0001, Schedule (3) are available upon notice to the State Legislature to support schools in FY 2003-04 to work with School Assistance and Intervention Teams or schools subject to other state sanctions/interventions, as recommended by the State Superintendent of Public Instruction (SPI) and approved by the State Board of Education.

A Last Minute Memorandum will include funding amounts for any additional "state-monitored" schools.

FISCAL ANALYSIS (AS APPROPRIATE)

The fiscal impact of the expenditure plans recommended for approval under this agenda item will be provided in a Last Minute Memorandum.

ATTACHMENT

None

State of California **Department of Education**

LAST MINUTE MEMORANDUM

DATE: March 5, 2004

TO: MEMBERS, STATE BOARD OF EDUCATION

FROM: Sue Stickel, Deputy Superintendent
Curriculum and Instruction Branch

RE: Item No. 36

SUBJECT: Immediate Intervention/Underperforming Schools Program (II/USP): School Assistance and Intervention Team (SAIT): Approval of expenditure plan to support SAIT activities and corrective actions in "state-monitored" schools

The attached table shows the Expenditure Plan for schools identified in the March 2004 release of API data and will require funding to support II/USP corrective actions and SAIT activities.

Attachment 1: Expenditure Plan for SAIT Schools (2 Pages)

EXPENDITURE PLAN FOR SAIT SCHOOLS

Non-Title I Expenditures

Budget Act 2003-04, Item 6110-123-0001, Provision 3, requires that each elementary and middle school under II/USP state sanction will receive a minimum of $75,000 and each high school will receive a minimum of $100,000 to support the costs of a School Assistance and Intervention Team (SAIT). Districts receiving funds shall provide an in-kind match of services, or a match of school district funds in an amount equal to one dollar for every two dollars provided.

Budget Act 2003-04, Item 6110-123-0001, Provision 3, requires that each district that contracts with a SAIT team shall receive $150 per student to improve student learning, e.g., implement the corrective actions required by the SAIT. Districts receiving funds are required to provide a match of funds or in-kind services in an amount equal to the amount received.

1. SAIT costs for a non-Title I school recommended for identification as “state-monitored” in March 2004.	Biggs High:	**$ 100,000**
2. SAIT Corrective Action costs for a non-Title I school recommended for identification as “state-monitored” in March 2004.	Biggs High 273 students**:**	**$40,950**
	GRAND TOTAL:	**$140,950**

1. Biggs Elementary school is currently state-monitored but based on corrected API data the school made significant growth and should remain on watch. Pending reversal by the State Board of Education of the school’s state-monitored status, the school will not receive corrective action funds thereby saving the state $57,450.

EXPENDITURE PLAN FOR SAIT SCHOOLS

Title I Expenditures

Budget Act 2003-04, Item 6110-136-0890, Provision 6, requires that each elementary and middle school under II/USP state sanction will receive a minimum of $75,000 and each high school will receive a minimum of $100,000 to support the costs of a School Assistance and Intervention Team (SAIT). Districts receiving funds shall provide an in-kind match of services, or a match of school district funds in an amount equal to one dollar for every two dollars provided.

Budget Act 2003-04, Item 6110-136-0890, Provision 7, requires that each district that contracts with a SAIT team shall receive $150 per student to improve student learning, e.g., implement the corrective actions required by the SAIT. Districts receiving funds are required to provide a match of funds or in-kind services in an amount equal to the amount received.

3. SAIT costs for a Title I school recommended for identification as “state-monitored” in March 2004.	Morningside High:	**$ 100,000**
4. SAIT Corrective Action costs for a Title I school recommended for identification as “state-monitored” in March 2004.	Morningside High 1,681students**:**	**$252,150**
	GRAND TOTAL:	**$352,150**

CALIFORNIA STATE BOARD OF EDUCATION

MARCH 2004 AGENDA

SUBJECT	
Proposed State Board of Education (SBE) Waiver Policy and Guidelines: Algebra I Graduation Requirement for Seniors in 2003-2004.	☒ **Action**
	☒ **Information**
	☐ **Public Hearing**

RECOMMENDATION

Approve the Waiver Policy and Guidelines to be used for 2003-04 only.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

At the January 2004 State Board meeting, a waiver request was considered from the Santa Cruz City Schools pertaining to a provision of law (that became operative in 2003-04) requiring students to complete Algebra I (or its equivalent) as a condition of receiving a high school diploma. The SBE also requested that a waiver policy be drafted for approval at this meeting. The California Department of Education (CDE) distributed a letter to school districts and county offices of education summarizing the action taken on the Santa Cruz waiver and suggesting that waiver requests meeting similar parameters would be eligible for consideration as consent matters after SBE approval of a waiver policy.

SUMMARY OF KEY ISSUES

The California Department of Education Waiver Office has received 200 telephone and e-mail requests for additional information, questions, forms, and timelines for the March and May SBE Meetings.

It was discovered that there are many different circumstances in the state for which this waiver is being requested.

- A surprising number of LEAs indicated that they, like Santa Cruz, had failed to recognize the legislative change or failed to implement the new statute in the district.

- More commonly the statute had been adopted for “regular students” but not for alternative education programs in the district. Special Education, Adult Education, and Alternative and Continuing Education in particular seemed to be the types of students for whom the waiver is needed.

SUMMARY OF KEY ISSUES (continued)

- Of particular interest was the impact on Adult Education students, who are adults, yet are considered "seniors" for diploma purposes in 2003-04.

- Many LEAs reported starting new, specially-created courses to enable their students to have the opportunity to complete Algebra I in a short time period, as there is only one semester left in the school year.

CDE staff expect a large number of these waivers to be scheduled for hearing during the Waiver Request portion of the SBE agenda on Thursday, March 11, 2004. If this waiver policy is approved at this meeting, similar waivers that meet the waiver guidelines will be scheduled as a "Consent Matters" at the May 2004 meeting (and thereafter, if necessary).

FISCAL ANALYSIS (AS APPROPRIATE)

Approval of this waiver policy and the subsequent waivers will have no fiscal impact on either the state or the Local Educational Agency requesting the waiver.

ATTACHMENT

Attachment 1: Draft SBE Waiver Policy: Algebra I Graduation requirement: Waiver for Seniors in the 2003-04 graduating class (3 pages)

California State Board of Education Policy	POLICY #
	04-##
WAIVER GUIDELINES	DATE
Algebra I Graduation Requirement: Waiver for Seniors in the 2003-04 Graduating Class	**DRAFT MARCH 2004**

REFERENCES: Authority:
Education Code (EC) Section 33050 et. seq. (General Waiver Authority)

HISTORICAL NOTES

Statutory Provision/Regulation involved:
Education Code Section 51224.5(b): "Commencing with the 2003-04 school year and each year thereafter, at least one course, or a combination of the two courses in mathematics required to be completed pursuant to subparagraph (B) of paragraph (1) of subdivision (a) of Section 51225.3 by pupils while in grades 9 to 12, inclusive, prior to receiving a diploma of graduation from high school, shall meet or exceed the rigor of the content standards for Algebra I, as adopted by the State Board of Education pursuant to Section 60605."

Background:
In 2000, legislation was enacted to require students – as a condition of receiving a high school diploma – to complete Algebra I.1 The Algebra I requirement applies beginning with students graduating in 2003-04.

The State Board of Education has been advised that some students who would otherwise be eligible to receive a high school diploma in 2003-04 have not had the opportunity to complete Algebra I (prior to 2003-04) as the result of improper counseling or other failure by the local education agencies (LEAs) in which their schools are located. These waiver guidelines are for the purpose primarily of assisting students who confront these unfortunate circumstances.

As the guidelines include proposed conditions of waiver approval that must be undertaken by April 2, 2004, they are applicable only to waiver requests processed for the March 2004 State Board meeting, and for waiver requests received by April 2, 2004, which will be considered at the May 2004 State Board meeting.

Waiver requests that satisfy the proposed conditions outlined below are to be treated as consent matters on the agendas for the March and May 2004 State Board meetings.

1 *Education Code* Section 51225.4(b) specifies in effect that students must complete the content of Algebra I, which may be in the form of a specific course by that name or a series of integrated mathematics courses (typically also including the content of Geometry and Algebra II). Where these guidelines use the term "Algebra I," the broader meaning just described is intended.

Waiver Guidelines/Conditions and required documentation
The purpose of the waiver is to permit the local education agency (LEA) applying for the waiver to award high school diplomas to otherwise qualified students in the Class of 2004 who lack only the completion of Algebra I.2

1. All students who are otherwise eligible to receive a high school diploma in 2003-04, but who have not completed Algebra I, are currently enrolled in and are being encouraged to complete Algebra I during 2003-04.

2. All students (and their parents/guardians) in the graduating class of 2004-05, but who have not completed Algebra I will be:

   - Advised immediately of the Algebra I completion requirement; and

   - Receive counseling in selecting summer school classes in 2004 and/or regular classes during the 2004-05 school year to ensure that they have the opportunity to complete Algebra I (or its equivalent).

3. The LEA specifically acknowledges that the State Board of Education does <u>not</u> intend to consider as a consent matter waiver requests pertaining to the Algebra I completion requirement for students in the Class of 2005 and thereafter.

4. By Friday, April 2, 2004, the LEA provides the California Department of Education a status report on all of its students in the Class of 2004 and the Class of 2005 who have not completed Algebra I, and the efforts being made to facilitate their completion of the course. At a minimum, the status report is to include:

   - A listing of the names **(or a list of unique student identifiers)** of the affected 2003-04 seniors with a brief (one- or two-sentence) description of why each of the students did not complete Algebra I prior to 2003-04.

   - A certification, signed by the superintendent (or authorized designee) of the LEA, that the provision relating to notification of students/parents/guardians of the Class of 2005 has been met, supported by evidence such as a sample letter to students/parents/guardians and a directive to the high school's counselors.

   The status report shall be delivered to the Waiver Office, California Department of Education, 1430 N Street, Sacramento, California, 95814, along with (unless previously delivered) the waiver request. The Waiver Office (assisted as may be necessary by other CDE staff) is to review the documentation for completeness and consistency with these conditions, then present it to the Executive Director of the

2 The requirement to complete Algebra I as a condition of receiving a high school diploma applies to all students beginning in 2003-04, including, for example, students in adult, alternative, and charter schools and in special education.

State Board of Education with a recommendation as to whether the conditions have been met (or that processes are in place to ensure that the conditions will be met) as appropriate.

5. By Friday, April 30, 2004, the Executive Director of the State Board of Education will determine whether the conditions have been met (or that processes are in place to ensure that the conditions will be met) as appropriate.

   - For purposes of waivers acted upon at the March 2004 State Board meeting, if the Executive Director determines that the conditions have been (or will be) met, this waiver is operative. If the Executive Director determines that the conditions have not been (or will not be) met, this waiver is denied pursuant to the reasons justifying denial that are set forth in *Education Code* Section 33051(a)(1) – the educational needs of pupils are not adequately addressed – and (4) – pupil protections are jeopardized. If the waiver is denied in keeping with this procedure, the LEA will be offered the option of having the denial placed on the May 2004 State Board agenda for purposes of reconsideration, subject to the public notice limitations of the Bagley-Keene Open Meeting Act.

   - For purposes of waivers to be acted upon at the May 2004 State Board meeting, if the Executive Director determines that the conditions have been (or will be) met, the waiver will be recommended for approval. If the Executive Director determines that the conditions have not been (or will not be) met, the waiver will be recommended for denial pursuant to the reasons justifying denial that are set forth in *Education Code* Section 33051(a)(1) – the educational needs of pupils are not adequately addressed – and (4) – pupil protections are jeopardized.

Status of 2003-04 seniors – otherwise eligible to graduate – who lack completion of Algebra 1

Any 2003-04 high school senior – otherwise eligible to graduate – who lacks completion of Algebra I is **not eligible** to receive a diploma unless the LEA has an approved waiver. Waiver requests as outlined above are eligible for consideration as consent matters by the State Board of Education. Such a student may also become eligible to receive a diploma by completing Algebra I in summer school (2004), and any LEA who has a student in that circumstance is encouraged to give the student priority for summer school enrollment.

CALIFORNIA STATE BOARD OF EDUCATION

ITEM #WC-1

MARCH 2004 AGENDA

☒ **General Waiver**

SUBJECT	
Request by **Alhambra School District** to waive *Education Code* (*EC*) Section 52522(b) to increase their adult education state block entitlement of 5 percent to 7 percent for implementation of approved programs (Adult Education Innovation and Alternative Instructional Delivery Program). Waiver Number: 22-12-2003	☒ **Action** ☒ **Consent**

RECOMMENDATION

☐ Approval ☒ Approval with conditions ☐ Denial
Recommended one day less than two consecutive years so that *Education Code* (EC) Section 33051(c) will NOT apply.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

The first request for waiver of *Education Code* Section 52522(b) to increase a district's adult education state block entitlement of 5 percent to 7 percent for implementation of an approved Adult Innovation and Alternative Instruction Delivery Program was received and approved in June 2001.

In March 2002 the State Board of Education (SBE) took formal action and approved a waiver guideline policy for this program that includes four requirements and a special consideration for waiver renewal requests.

To date, non-consecutive (1 day less than full year) waivers have been granted to Los Angeles Unified School District for 2000-2002, 2002-2003, and 2003-2004; Torrance Unified School District has been approved for non-consecutive year waivers for 2001-2002 and 2002-2003; Simi Valley Unified School District has been approved for a first time waiver for 2002-2004; and Inyo County Office of Education has been approved for a first time waiver for 2002-2003. The SBE is currently considering the first time waiver request by Whittier Union High School District.

SUMMARY OF KEY ISSUES

In 1993 the California Legislature passed *EC* Section 52522 permitting the Superintendent of Public Instruction to approve adult school plans to spend up to 5 percent of their block entitlement on innovation and alternative instructional delivery. Application requirements include reimbursement and accountability worksheets for all

courses. Courses must be approved by the California Department of Education per *EC* Section 52515, and certification of an approved attendance accountability system is required. All ten mandated adult education program areas are eligible, however the majority of approved applications offer coursework in Elementary Basic Skills, English as a Second Language, Citizenship, and Parent Education.

Lower level adult learners are the primary beneficiaries of the Adult Education Innovation and Alternative Instructional Delivery Program. Checking out video and print materials, a decidedly low-cost, low-tech approach, has been the most prevalent intervention, however approved alternative instructional delivery modes also include live cable broadcast; audio check-out, text, workbook and study packet assignments; and computer-based delivery.

The SBE adopted waiver guidelines in March 2002 for local educational agencies (LEAs) that apply for a waiver to increase the percentage of their state block entitlement expendable for innovation and alternative instructional delivery from 5 percent to an amount not greater than 7 percent.

Alhambra school District has submitted all items requested in the SBE waiver guidelines and the review of documentation supports waiver approval.

The Department recommends approval for the 2003-2005 fiscal years on the basis of this information.

WAIVER GUIDELINES SUMMARY OF KEY ISSUES:

The waiver request includes the following:

Verification that all other requirements of the Adult Education Program in the LEA are in current statutory compliance.

☒ Approval ☐ Denial

Alhambra School District verification has been submitted and is on file

Verification that the ratio of average daily attendance for adult education innovation and alternative instructional delivery pupils to certificated employees responsible for adult education innovation and alternative instructional delivery shall not exceed the equivalent ratio of pupils to certificated employees for all other adult education programs operated by the district.

☒ Approval ☐ Denial

Alhambra School District verification has been submitted and is on file.

The average daily ratio of pupils to certificated employees is 25 students per teacher. The Innovation Program ratio is 14 students per teacher.

Verification that the district's prior three-year history for annual apportionment indicates growth, stability, or not more than a 4.5 percent decline per year. Changes in the number of students with limited access that may support overall ADA loss in the regular

adult education state apportionment program must be documented.

☒ Approval ☐ Denial

Alhambra School District verification has been submitted and is on file.

Verification indicates stability within the prior three-year history for annual apportionment as well as yearly growth. Since 1996–97 the Innovation Program has continuously generated (unclaimed) ADA in excess of the allowable 5 Percent.

A request for an increase of the adult block entitlement from **5 percent to an amount not greater than 7 percent**. Information and documentation in all of the following three areas will be required for consideration of the waiver:

- Increase Number of Students with Limited Access to Traditional Education Options

Alhambra School District verification of increase of population with limited access has been submitted and is on file. Seventy-two different zip codes compose the student base for the district. There continues to be an increase in the number of residents 65 and older and a majority of residents are renters.

☒ Approval ☐ Denial

- Increase Program Capacity

Alhambra School District verification has been submitted and is on file.

Documentation includes the expansion from two sites to fifteen sites increasing curriculum delivery and access to curriculum. The number of instructors has increased accordingly.

☒ Approval ☐ Denial

- Improved Student Assessment Documentation

Alhambra School District verification has been submitted and is on file.

The Innovation Program has increased (doubled) the test administrations of the Comprehensive Adult Student Assessment System (CASAS). A student questionnaire, translated into three languages, is also utilized to evaluate the program.

☒ Approval ☐ Denial

CONDITION OF RENEWAL

In order to be granted a renewal of this waiver, a district must also provide documentation demonstrating achievement of students in the Adult Education Innovation and Alternative Instructional Delivery Program that is equal to or better than that of students in the regular adult education state apportionment program.

Authority for Waiver: Education Code (EC) Section 33050

Bargaining unit(s) consulted on date(s): November 3, 2003

Position of bargaining unit(s) (choose only one):
☐ Neutral ☒ Support ☐ Oppose

Name of bargaining unit representative(s): Gloria Tauson, President, Alhambra Teachers Association, and Alice Clement, CTA and Alhambra Teachers Association

Public hearing identified by (choose one or more):
☐ posting in a newspaper ☒ posting at each school ☒ other (Bulk E-mail Message)

Public hearing held on date(s): December 9, 2003
Local board approval date(s): December 9, 2003

Advisory committee(s) consulted: Leadership Committee

Objections raised (choose one): ☒ None ☐Objections are attached on separate sheet

Date(s) consulted: December 9, 2003

Period of request: July 1, 2003 – June 30, 2005

FISCAL ANALYSIS (AS APPROPRIATE)

Approval adjusts the percentage within the district's fixed adult education block entitlement that can be used for innovation programs. This waiver does not increase the district's adult education block entitlement.

BACKGROUND INFORMATION

Waiver request forms and supporting documents are available for inspection in the Waiver Office

CALIFORNIA STATE BOARD OF EDUCATION

ITEM #WC-2

MARCH 2004 AGENDA

☒ **General Waiver**

SUBJECT	
Request by **Torrance Unified School District** to waive *Education Code* (EC) Section 52522(b) to increase from 5 percent to 7 percent the proportion of their adult education state block entitlement that may be used to implement approved adult education innovation and alternative instructional delivery programs. Waiver Number: 27-12-2003	☒ **Action** ☒ **Consent**

RECOMMENDATION

☐ Approval ☒ Approval with conditions ☐ Denial
Recommended for one additional year less one day, so that *Education Code* (EC) Section 33051(c) will NOT apply.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

The first request for waiver *Education Code* (EC) Section 5255(b) to increase from 5 percent to 7 percent the proportion of a district's adult education state block entitlement that may be used to implement approved adult innovation and alternative instruction delivery programs was received and approved in June 2001.

In March 2002 the State Board of Education (SBE) took formal action and approved a waiver guideline policy for this type of waiver request that includes four provisions and a special consideration for waiver renewal requests.

To date, non-consecutive (1 day less than full year) waivers have been granted to Los Angeles Unified School District for 2000–2002, 2002–2003, and 2003–2004; Torrance Unified School District has been approved for non-consecutive year waivers for 2001–2002 and 2002–2003; Simi Valley Unified School District has been approved for a first time waiver for 2002–2004; and Inyo County Office of Education has been a approved for a first time waiver for 2002–2003. The SBE is currently The SBE is currently considering first-time waivers for Whittier Union High School and Alhambra School District.

SUMMARY OF KEY ISSUES

In 1993 the California Legislature passed *EC* Section 52522 permitting the

Superintendent of Public Instruction to approve adult school plans to spend up to 5 percent of their block entitlement on innovation and alternative instructional delivery. Application requirements include reimbursement and accountability worksheets for all courses. Courses must be approved by the California Department of Education (CDE) per *EC* Section 52515, and certification of an approved attendance accountability system is required. All ten mandated adult education program areas are eligible, however the majority of approved applications offer coursework in Elementary Basic Skills, English as a Second Language, Citizenship, and Parent Education. Increased access to instruction for hard-to-serve adults is a basic tenet of adult education innovation and alternative instructional delivery programs. Checking out video and print materials, a decidedly low-cost, low-tech approach, has been the most prevalent intervention, however approved alternative instructional delivery modes also include live cable broadcast; audio check out, text, workbook and study packet assignments; and computer-based delivery.

The SBE adopted waiver guidelines in March 2002 for local education agencies (LEAs) that apply for a waiver to increase the percentage of their state block entitlement expendable for innovation and alternative instructional delivery from 5 percent to an amount not greater than 7 percent.

Torrance USD has submitted all items requested in the SBE waiver guidelines and the review of documentation supports waiver approval.

The Department recommends approval for the 2003-2004 fiscal year on the basis of this information.

WAIVER GUIDELINES SUMMARY OF KEY ISSUES:

The waiver request includes the following:

1. Verification that all other requirements of the Adult Education Program in the LEA are in current statutory compliance.

☒ Approval ☐ Denial

Torrance USD verification has been submitted and is on file. Verification includes fully compliant 2002 Coordinated Compliance Review.

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2. Verification that the ratio of average daily attendance for adult education innovation and alternative instructional delivery pupils to certificated employees responsible for adult education innovation and alternative instructional delivery shall not exceed the equivalent ratio of pupils to certificated employees for all other adult education programs operated by the district.

☒ Approval ☐ Denial

Torrance USD verification has been submitted and is on file.

The average daily ratio of pupils to certificated employees is 28 students per teacher. The Innovation Program ratio is 16 students per teacher.

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3. Verification that the district's prior three-year history for annual apportionment indicates growth, stability, or not more than a 4.5 percent decline per year. Changes in the number of students with limited access that may support overall A.D.A. loss in the regular adult education state apportionment program must be documented.

☒ Approval ☐ Denial

Torrance USD verification has been submitted and is on file.

Verification indicates stability within the prior three-year history for annual apportionment as well as yearly growth.

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4. A request for an increase from **5 percent to an amount not greater than 7 percent** of the amount of the adult block entitlement that may be used for innovation and alternative instructional delivery programs. Information and documentation in all of the following three areas will be required for consideration of the waiver:

- Increased Number of Students with Limited Access to Traditional Education Options

Torrance USD verification of increase of population with limited access has been submitted and is on file. Program history (1998–2004) reflects consistent service beyond permissive claim for compensation, including 7 percent approved waiver increase.

☒ Approval ☐ Denial

- Increased Program Capacity

Torrance USD verification has been submitted and is on file.

Documentation includes the Citizenship curriculum in response to community needs assessment increasing curriculum delivery and access to curriculum.

☒ Approval ☐ Denial

- Improved Student Assessment Documentation

Torrance USD verification has been submitted and is on file.
The Innovation Program is evaluated each year by an independent evaluator. A Testing Specialist position has been added, significantly improving data stream utilizing the Comprehensive Adult Student Assessment System (CASAS).

☒ APPROVAL ☐ DENIAL

CONDITION OF RENEWAL

In order to be granted a renewal of this waiver, a district must also provide documentation demonstrating achievement of students in the Adult Education

Innovation and Alternative Instructional Delivery Program that is equal to or better than that of students in the regular adult education state apportionment program.

Torrance USD verification has been submitted and is on file. CASAS testing data show equal or greater gains in student achievement (benchmarks) for students in the Adult Education Innovation and Alternative Instructional Delivery Program.

Authority for Waiver: Education Code (EC) Section 33050

Bargaining unit(s) consulted on date(s): December 5, 2003

Position of bargaining unit(s) (choose only one):
☐ Neutral ☒ Support ☐ Oppose

Name of bargaining unit representative(s): Mr. William Franchini, Executive Director Torrance Teachers Association

Public hearing identified by (choose one or more):
☒ posting in a newspaper ☒ posting at each school ☒ other (Board of Education Pre Agenda Site Council)

Public hearing held on date(s): December 1, 2003
Local board approval date(s): December 1, 2003

Advisory committee(s) consulted: December 5, 2003

Objections raised (choose one): ☒ None ☐Objections are attached on separate sheet

Date(s) consulted: December 5, 2003

Period of request: FY 2003-2004 (July 1, 2003 – June 29, 2004)

FISCAL ANALYSIS (AS APPROPRIATE)

Approval adjusts the percentage within the district's fixed adult education block entitlement. No additional funding would result from approval of this waiver request.

BACKGROUND INFORMATION

Waiver request forms and supporting documents are available for inspection in the Waiver Office.

CALIFORNIA STATE BOARD OF EDUCATION

ITEM #WC-3

MARCH 2004 AGENDA

☒ **Specific Waiver**

SUBJECT	
Request by **Muroc Joint Unified School District** for a waiver of Section 131(d)(1) of the Carl D. Perkins Vocational and Technical Education Act of 1998 (Public Law 105-332) Waiver Number: 24-12-2003	☒ **Action** ☒ **Consent**

RECOMMENDATION

☒ Approval ☐ Approval with conditions ☐ Denial

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

The State Board of Education adopted guidelines on February 8, 2001, Waiver Policy #2001-01 to assist CDE staff in reviewing waivers. The Board has approved these waivers in the past.

SUMMARY OF KEY ISSUES

Section 131(d)(1) of the Carl D. Perkins Vocational and Technical Education Act of 1998 (P. L. 105-332) requires local agencies whose allocations are less than $15,000 to enter into a consortium with other agencies for the purpose of meeting the $15,000 minimum grant requirement. Section 131(d)(2) of the Act permits states to waive the consortium requirement in any case in which the local educational agency is (a) in a rural, sparsely populated area, or is a public charter school operating secondary vocational and technical education programs; and (b) demonstrates it is unable to enter into a consortium to participate in the Perkins funding. Muroc Joint USD meets the waiver criteria and requests a waiver in order to receive its allocated funds for the 2003-04 and 2004-05 program years.

Note: On November 8, 2002, the State Board of Education approved the Muroc Joint USD request for a first time waiver for the 2000-01 and 2001-02 program years. The district did not request a renewal of the waiver for the 2002-03 program year because its allocation for that year exceeded the $15,000 minimum grant award and a waiver was not needed. The district's request for a waiver for the 2003-04 and 2004-05 program years is based on a 2003-04 allocation that is again below the $15,000 minimum grant award and a reasonable expectation that its 2004-05 allocation will also be less than $15,000.

Authority for the Waiver: Carl D. Perkins Vocational and Technical Education Act of 1998 (Public Law 105-332), Section 131(d)(2)

Bargaining unit(s) consulted on date(s): January 9, 2004

Position of bargaining unit(s) (choose only one):

☐ Neutral ☒ Support ☐ Oppose

Name of bargaining unit representative(s): Barbara Bishop, President—Muroc Education Association

Local board approval date(s): December 8, 2003

Period of request: July 1, 2003 through June 30, 2005

FISCAL ANALYSIS (AS APPROPRIATE)

Approval will enable Muroc Joint USD to receive its Perkins funds for the 2003-04 and 2004-05 program years.

BACKGROUND INFORMATION

The district's waiver request forms and supporting documents are available for inspection in the CDE waiver office.

CALIFORNIA STATE BOARD OF EDUCATION

ITEM #W-4

MARCH 2004 AGENDA

☒ **General Waiver**

SUBJECT	
Request by **California Virtual Academy @ San Diego Charter School** for a waiver of Title 5 of the *California Code of Regulations* (5 *CCR)* Section 11963.4(b)(3) to allow the charter school to receive full funding with less than 50 percent (but more than 30 percent) of expenditures required for certificated staff costs due to the characteristics of a "Virtual Education Program." Waiver Number: 10-9-2003	☒ **Action** ☐ **Consent**

RECOMMENDATION

☐ Approval ☐ Approval with conditions ☒ Denial
Reason: *Education Code* Section 33051(a)(6) "substantially increases state costs," and for the other reasons described in the following analysis.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

Senate Bill (SB) 740 (Chapter 892, Statutes of 2001) allows funding reductions for charter schools that offer nonclassroom-based instruction (*Education Code* Sections 47612.5 and 47634.2). Nonclassroom-based instruction occurs when a charter school does not require attendance of its pupils at the school site under the direct supervision and control of a qualified teaching employee of the school for at least 80 percent of the required instructional time. For 2003-04 and each fiscal year thereafter, the law states that funding reductions of 30 percent of qualifying charter schools' nonclassroom-based average daily attendance (ADA) shall be made unless the State Board of Education (SBE) determines that a greater or lesser percentage is appropriate for a particular charter school. Furthermore, pursuant to SB 740, a charter school is prohibited from receiving any funding for nonclassroom-based instruction unless the SBE determines its eligibility for funding.

SB 740 also established the Advisory Commission on Charter Schools (ACCS) to develop the criteria for the SBE to use in making funding determinations. The ACCS also provides recommendations to the SBE on appropriate funding determinations for nonclassroom-based charter schools and on other aspects of the SBE's duties under the Charter Schools Act.

The SBE adopted permanent regulations that were adopted in November 2003 that specified the criteria that a nonclassroom-based charter school must meet in order for the SBE to determine that the school shall receive 100 percent funding. For 2003-04

and each fiscal year thereafter, the full funding criteria are that at least 50 percent of the school's public revenues must be spent on certificated employee salaries and benefits and at least 80 percent of all revenues must be spent on instruction and instruction-related costs. Schools must spend a minimum of 40 percent on certificated employee salaries and benefits and 60 percent on instruction and instruction-related costs or the funding percentage is zero. Pursuant to the regulations, the SBE may approve a higher or lower funding level than the criteria would prescribe based upon mitigating circumstances of the school that indicate that a higher or lower funding level is appropriate.

There have been no other waiver requests of the SB 740 statutes or regulations before the SBE.

SUMMARY OF KEY ISSUES

California Virtual Academy @ San Diego Charter School is seeking a waiver of Title 5 *CCR* Section 11963.4(b)(3) to allow the charter school to receive full funding with less than 50 percent (but more than 30 percent) of expenditures required for certificated staff costs due to the characteristics of a "Virtual Education Program." The basis of California Virtual Academy's request is that on-line charter schools are currently being treated as independent study programs, and that the SB 740 requirements do not take into consideration the required funding distribution required toward instructional materials, computer equipment, and the on-line curriculum in their particular program. The school provides information showing approximate expenditures of 55 percent of the school's state funding to provide infrastructure requirements for the program before including teacher salaries, special education services, counseling, administrative services, and other costs.

CDE recommends denial of this waiver request for the following reasons: 1) *Education Code* Section 33051(a)(6): Approval of this waiver would potentially significantly increase state costs (or result in foregone savings). See the fiscal analysis for full discussion.

2) The funding determination process required by SB 740 was intended to include a variety of nonclassroom-based schools, and not just independent study charter schools. *Education Code* Section 47612.5(d)(1) states, "nonclassroom-based instruction includes, but is not limited to, independent study, home study, work study, and distance and computer-based education." It was always the intent of SB 740 to include virtual schools, i.e., distance and computer-based education, in the funding determination process. There are a variety of nonclassroom-based charter schools that are required to go through the SB 740 funding determination process. The California Virtual Academy schools are not the only charter schools in the state offering on-line instructional programs. All of these schools are required to meet SB 740 requirements (or demonstrate through that process why they should be exempted).

3) The ACCS, through the SB 740 funding determination process, provides funding recommendations to the SBE on nonclassroom-based charter schools. If one or more mitigating circumstances are factors for a school in not meeting the percentage criteria required for 100 percent funding, documentation can accompany the funding determination request form and the ACCS will fully consider this information in their

funding recommendation to the SBE. Representatives from the school always have an opportunity to appear before the ACCS and the SBE to present relevant information related to their school's operations. When the percentage criteria for full funding are not met, it is the charter school's responsibility to provide documentation to the ACCS and the SBE that demonstrates that the mitigating circumstance is compelling. Approval of this waiver would bypass a process already established for the SBE to consider this information. It would also be premature of the SBE to make this determination without the benefit of all the other information provided on the SB 740 forms.

Authority for Waiver: *Education Code* Section 33050

Bargaining unit(s) consulted on date(s): The school does not have any employee bargaining units.

Position of bargaining unit(s) (choose only one): The school does not have any employee bargaining units.

☐ Neutral ☐ Support ☐ Oppose

Name of bargaining unit representative(s): The school does not have any employee bargaining units.

Public hearing identified by (choose one or more):
☒ posting in a newspaper ☐ posting at each school ☒ other (Notice Posted at District Offices, Notice Posted at meeting site)

Public hearing held on date(s): 12/12/03
Local board approval date(s): 12/12/03

Advisory committee(s) consulted: No parent committee. Governing Board (with parents) reviewed waiver—no objections.

Objections raised (choose one): ☒ None ☐Objections are attached on separate sheet

Date(s) consulted: September 23, 2003

Period of request: 7/1/03 – 6/30/05

FISCAL ANALYSIS (AS APPROPRIATE)

The SB 740 regulations for 2003-04 require that at least 40 percent of public revenues be spent on certificated employee salaries and benefits to receive a funding level of 70 percent and at least 50 percent of public revenues spent on certificated employee salaries and benefits to receive full funding. California Virtual Academy is asking for full funding with less than 50 percent (but more than 30 percent) of expenditures required for certificated staff costs. Therefore, approval of this waiver could result in foregone

Proposition 98 savings to the state, assuming that the SBE would have approved this

school at the 70 percent funding level through the SB 740 funding determination process. Based on the current enrollment of 434 students and K-6 charter school funding rates of approximately $4,700 per pupil, these foregone savings could be at least $611,940 per year. If the school is unable to meet the minimum 40 percent criterion for any funding, and the SBE makes a zero percent funding determination through the SB 740 process, then the foregone savings would be about $2.0 million.

BACKGROUND INFORMATION

Waiver request form and background information are attached to this form.

CALIFORNIA STATE BOARD OF EDUCATION

ITEM #WC-5

MARCH 2004 AGENDA

☒ **Federal Waiver**

SUBJECT	
Request by **Novato Unified School District** to waive No Child Left Behind Act (NCLB); **Title IV, Part A, Section 4115 (a)(1)(c)** to use Safe and Drug Free Schools and Communities funds to support the cost of **Bully-Proofing Your School**, a K-8 program that offers a systems approach for handling bully/victim problems through the creation of a "caring community" approach. Waiver Number: Fed-11-2003	☒ **Action** ☒ **Consent**

RECOMMENDATION

☐ Approval ☒ Approval with conditions ☐ Denial

The district must submit a report to the Safe and Healthy Kids Program Office no later than March 2005 describing the progress made by the Center for the Study and Prevention of Violence's in evaluating the *Bully Proofing Your School* program. The district must submit a report to the Safe and Healthy Kids Program Office no later than March of 2006 describing Center for the Study and Prevention of Violence's progress in submitting the results of the evaluation to the National Registry of Effective Programs, the University of Colorado's Center for the Study and Prevention of Violence, and/or the California Healthy Kids Resource Center, for possible designation as a Model, Blueprint, or Validated Program. The district must be willing to take part in the formal evaluation if requested. The district must also evaluate its own comprehensive prevention program in accordance with the district's approved Local Educational Agency Plan.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

State Board Policy 03-01 contains guidelines for approval of applications for waiver of the NCLB requirements that Title IV funds be used for "science-based" prevention programs.

SUMMARY OF KEY ISSUES

This application requests a waiver so that the LEA may use the "promising" prevention program *Bully Proofing Your School* rather than a "science-based" prevention program as required by Title IV of NCLB. Per State Board Policy 03-01,

there are three conditions, which must be satisfied before approval of the use of a "promising" prevention program rather than an already-established science-based program. Each of those conditions is listed in bold below.

Is the program innovative? and,
Does the program demonstrate substantial likelihood of success?
These two conditions, for innovation and substantial likelihood of success, are satisfied because the program has already been designated as "favorable" by the University of Colorado's Center for the Study of Prevention and Violence. Policy 03-01 lists the Center as one of the nationwide research groups that may recognize a new program as "science-based."

Is there a plan and timeline for submitting the program for review and recognition? This condition requires that the plan be reviewed by one of the nationwide research groups identified in policy 03-01, that the applicant show a commitment to supporting the scientific evaluation of the program and willingness to take part in clinical trials designed to measure program effectiveness, and that the applicant provide an annual report to the California Department of Education describing adequate progress for submitting the program for recognition as a science-based program. This waiver request meets this criterion, because the program is in the second year of a three-year study of the program's effectiveness by the University of Colorado's Center for the Study and Prevention of Violence and it thus far shows a significant decline in verbal and physical bullying in the study schools.

Authority for Waiver: NCLB, Title IV, Part A, Section 4115(a)(3)

Local board approval date(s): 11/4/03

Period of request: 12/10/03

FISCAL ANALYSIS (AS APPROPRIATE)

Programmatic change – no fiscal impact.

BACKGROUND INFORMATION

Waiver request forms and supporting documents are available for inspection in the Waiver Office.

CALIFORNIA STATE BOARD OF EDUCATION

ITEM #WC-6

MARCH 2004 AGENDA

☒ **Federal Waiver**

SUBJECT	
Request by **Novato Unified School District** to waive No Child Left Behind Act (NCLB); Title IV, Part A, Section 4115 (a)(1)(c) to use Safe and Drug Free Schools and Communities funds to support the cost of **Get Real About Violence**, a researched-based, K-12, violence prevention program. Waiver Number: Fed-07-2003	☒ **Action** ☒ **Consent**

RECOMMENDATION

☐ Approval ☒ Approval with conditions ☐ Denial

The district must submit a report to the Safe and Healthy Kids Program Office no later than March 2005 describing the progress made by the United Learning in evaluating the *Get Real About Violence* program. The district must submit a report to the Safe and Healthy Kids Program Office no later than March of 2006 describing the progress made by United Learning in submitting the results of the evaluation to the National Registry of Effective Programs, the University of Colorado's Center for the Study and Prevention of Violence, and/or the California Healthy Kids Resource Center, for possible designation as a Model, Blueprint, or Validated Program. The district must be willing to take part in the formal evaluation if requested. The district must also evaluate its own comprehensive prevention program in accordance with the district's approved Local Educational Agency Plan.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

State Board Policy 03-01 contains guidelines for approval of applications for waiver of the NCLB requirements that Title IV funds be used for "science-based" prevention programs.

SUMMARY OF KEY ISSUES

This application requests a waiver so that the LEA may use the "promising" prevention program *Get Real About Violence* rather than a "science-based" prevention program as required by Title IV of NCLB. Per State Board Policy 03-01, there are three conditions, which must be satisfied before approval of the use of a "promising" prevention program rather than an already-established science-based program. Each of those conditions is listed in bold below.

Is the program innovative? and,
Does the program demonstrate substantial likelihood of success?
These two conditions, for innovation and substantial likelihood of success, are satisfied because the program has already been designated as "promising" by the Substance Abuse and Mental Health Administration's Center for Substance Abuse Prevention. Policy 03-01 lists the Center as one of the nationwide research groups that may recognize a new program as "science-based."

Is there a plan and timeline for submitting the program for review and recognition? This condition requires that the plan be reviewed by one of the nationwide research groups identified in policy 03-01, that the applicant show a commitment to supporting the scientific evaluation of the program and willingness to take part in clinical trials designed to measure program effectiveness, and that the applicant provide an annual report to the Waiver Office describing adequate progress for submitting the program for recognition as a science-based program. This waiver request meets this criterion, because the publisher, United Learning, has committed to an independent evaluation of the program and submittal to four of the independent bodies identified in Policy 03-01. Participating in clinical trials, if chosen by the independent evaluator, and providing an annual report to the Waiver Office are conditions for approval of the waiver.

Authority for Waiver: NCLB, Title IV, Part A, Section 4115(a)(3)

Local board approval date(s): 10/21/03

Period of request: August 2003 to July 2005

FISCAL ANALYSIS (AS APPROPRIATE)

Programmatic change – no fiscal impact.

BACKGROUND INFORMATION

Waiver request forms and supporting documents are available for inspection in the Waiver Office

CALIFORNIA STATE BOARD OF EDUCATION

ITEM #WC-7

MARCH 2004 AGENDA

☒ **Federal Waiver**

SUBJECT	
Request by **Ross Valley School District** to waive No Child Left Behind Act (NCLB); Title IV, Part A, Section 4115 (a)(1)(c) to use Safe and Drug Free Schools and Communities funds to support the cost of **Bully-Proofing**, a K-8 program that offers a systems approach for handling bully/victim problems through the creation of a "caring community". Waiver Number: Fed-14-2003	☒ **Action** ☒ **Consent**

RECOMMENDATION

☐ Approval ☒ Approval with conditions ☐ Denial

The district must submit a report to the Safe and Healthy Kids Program Office no later than March 2005 describing the progress made by the Center for the Study and Prevention of Violence's in evaluating the *Bully Proofing Your School* program. The district must submit a report to the Safe and Healthy Kids Program Office no later than March of 2006 describing Center for the Study and Prevention of Violence's progress in submitting the results of the evaluation to the National Registry of Effective Programs, the University of Colorado's Center for the Study and Prevention of Violence, and/or the California Healthy Kids Resource Center, for possible designation as a Model, Blueprint, or Validated Program. The district must be willing to take part in the formal evaluation if requested. The district must also evaluate its own comprehensive prevention program in accordance with the district's approved Local Educational Agency Plan.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

State Board Policy 03-01 contains guidelines for approval of applications for waiver of the NCLB requirements that Title IV funds be used for "science-based" prevention programs.

SUMMARY OF KEY ISSUES

This application requests a waiver so that the LEA may use the "promising" prevention program *Bully Proofing Your School* rather than a "science-based" prevention program as required by Title IV of NCLB. Per State Board Policy 03-01, there are three conditions, which must be satisfied before approval of the use of a

"promising" prevention program rather than an already-established science-based program. Each of those conditions is listed in bold below.

Is the program innovative and does the program demonstrate substantial likelihood of success?
These two conditions, for innovation and substantial likelihood of success, are satisfied because the program has already been designated as "promising" by the University of Colorado's Center for the Study of Prevention and Violence.
Ross Valley School District, Page 2

Policy 03-01 lists the Center as one of the nationwide research groups that may recognize a new program as "science-based."

Is there a plan and timeline for submitting the program for review and recognition?
This condition requires that the plan be reviewed by one of the nationwide research groups identified in policy 03-01, that the applicant show a commitment to supporting the scientific evaluation of the program and willingness to take part in clinical trials designed to measure program effectiveness, and that the applicant provide an annual report to the California Healthy Kids Office describing adequate progress for submitting the program for recognition as a science-based program.

This waiver request meets this criterion, because the program is in the second year of a three-year study of the program's effectiveness by the University of Colorado's Center for the Study and Prevention of Violence and it thus far shows a significant decline in verbal and physical bullying in the study schools. Because the evaluation of *Bully-Proofing Your School* is already underway, there is not much the applicant can do to take part in the clinical trials. Providing an annual report to the California Healthy Kids Office is a condition for approval of the waiver.

Authority for Waiver: Federal Waiver Authority: NCLB, Title IV, Part A, Section 115(a)(3)

Local board approval date(s): 1/13/04

Period of Request: 8/25/03 – 6/30/05

FISCAL ANALYSIS (AS APPROPRIATE)

Programmatic change – no fiscal impact.

BACKGROUND INFORMATION

Waiver request forms and supporting documents are available for inspection in the Waiver Office.

CALIFORNIA STATE BOARD OF EDUCATION

ITEM #WC-8

MARCH 2004 AGENDA

☒ **Federal Waiver**

SUBJECT	
Request by **Simi Valley School District** to waive No Child Behind Act (NCLB); Title IV, Part A, Section 4115 (a)(1)(c) to use Safe and Drug Free Schools and Communities funds to support the cost of **Get Real About Violence**, a violence prevention program for grades six through nine Waiver Number: Fed-15-2003	☒ **Action** ☒ **Consent**

RECOMMENDATION

☐ Approval ☒ Approval with conditions ☐ Denial

The district must submit a report to the Safe and Healthy Kids Program Office no later than March 2005 describing the progress made by the United Learning in evaluating the *Get Real About Violence* program. The district must submit a report to the Safe and Healthy Kids Program Office no later than March of 2006 describing the progress made by United Learning in submitting the results of the evaluation to the National Registry of Effective Programs, the University of Colorado's Center for the Study and Prevention of Violence, and/or the California Healthy Kids Resource Center, for possible designation as a Model, Blueprint, or Validated Program. The district must be willing to take part in the formal evaluation if requested. The district must also evaluate its own comprehensive prevention program in accordance with the district's approved Local Educational Agency Plan.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

The SBE previously adopted policy 03-01 that requires a program or activity supported with Safe and Drug Free School and Communities (SDFSC) funds to meet the principles of effectiveness. Attachment A of the policy lists those programs that provide scientific evidence that the program reduces violence or illegal drug use as required by Title IV, Part A Section 4115. A waiver to allow the use of SDFSC funds to support a program not listed on Attachment A is presented for consent when it meets the criteria otherwise listed in the SBE Waiver Policy.

SUMMARY OF KEY ISSUES

This application requests a waiver so that the LEA may use the "promising" prevention program *Get Real About Violence* rather than a "science-based" prevention program as required by Title IV of NCLB. Per State Board Policy 03-01,

there are three conditions, which must be satisfied before approval of the use of a "promising" prevention program rather than an already-established science-based program. Each of those conditions is listed in bold below.

Is the program innovative? and,
Does the program demonstrate substantial likelihood of success?
These two conditions, for innovation and substantial likelihood of success, are satisfied because the program has already been designated as "promising" by the Substance Abuse and Mental Health Administration's Center for Substance Abuse Prevention. Policy 03-01 lists the Center as one of the nationwide research groups that may recognize a new program as "science-based."

Is there a plan and timeline for submitting the program for review and recognition?
This condition requires that the plan be reviewed by one of the nationwide research groups identified in policy 03-01, that the applicant show a commitment to supporting the scientific evaluation of the program and willingness to take part in clinical trials designed to measure program effectiveness, and that the applicant provide an annual report to the Department describing adequate progress for submitting the program for recognition as a science-based program. This waiver applicant meets this condition and has submitted documentation that the curriculum evaluation of **Get Real About Violence** will be published by *Health* Communication in the last quarter of 2004. The publisher, United Learning, is also planning another evaluation study to begin in 2004 with both publication submittal and submittal to independent bodies in 2005. Participating in clinical trials, if chosen, and providing an annual report to the Department are conditions for approval of the waiver.

A supplement to the waiver application provided a description of the current curriculum evaluation of **Get Real About Violence**, the planned evaluation study and its publication, and the applicant's plan and timeline for program implementation.

Authority for Waiver: NCLB, Title IV, Part A, Section 4115(a)(3)

Local board approval date(s): 11-18-03

Period of request: 11-18-03 to 11-18-05

FISCAL ANALYSIS (AS APPROPRIATE)

Waiver approval will allow the district to use funds for this program.

BACKGROUND INFORMATION

Waiver request forms and supporting documents are available for inspection in the Waiver Office.

CALIFORNIA STATE BOARD OF EDUCATION

ITEM #WC-9

MARCH 2004 AGENDA

☒ **Federal Waiver**

SUBJECT	
Request by **Los Angeles Unified School District** to waive No Child Left Behind Act (NCLB); Title IV, Part A, Section 4115 (a)(1)(C) to use Safe and Drug Free Schools and Communities funds to support the cost of **Take Charge of Your Life,** a seventh and ninth grade prevention program Waiver Number: Fed-21-2003	☒ **Action** ☒ **Consent**

RECOMMENDATION

☐ Approval ☒ Approval with conditions ☐ Denial

That district must continue to take part in the University of Akron evaluation of *Take Charge of Your Life*. The district must submit a report to the Safe and Healthy Kids Program Office no later than March 2005 describing the progress made by the University of Akron in evaluating the *Take Charge of Your Life* program. The district must submit a report to the Safe and Healthy Kids Program Office no later than March of 2006 describing the progress made by University of Akron in submitting the results of the evaluation to the National Registry of Effective Programs, the University of Colorado's Center for the Study and Prevention of Violence, and/or the California Healthy Kids Resource Center, for possible designation as a Model, Blueprint, or Validated Program. The district must also evaluate its own comprehensive prevention program in accordance with the district's approved Local Educational Agency Plan.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

The SBE previously adopted policy 03-01 that requires a program or activity supported with Safe and Drug Free School and Communities (SDFSC) funds to meet the principles of effectiveness. Attachment A of the policy lists those programs that provide scientific evidence that the program reduces violence and illegal drug use as required by Title IV, Part A Section 4115. *Take Charge of Your Life* is not on the Attachment A. This is the first waiver submission for the *Take Charge of Your Life* curriculum.

SUMMARY OF KEY ISSUES

The waiver application from the **Los Angeles USD** regarding the ***Take Charge of Your Life,*** a 7th and 9th grade curriculum, has been reviewed to ensure compliance with the three major criteria described in SBE policy 03-01 that must be met in order for the waiver to be approved by the board. The waiver application's success in meeting each

of the three criteria is described as follows:

Is the program innovative?
The *Take Charge of Your Life* curriculum was specifically developed to be delivered by law enforcement officers as the new DARE program for middle and high school. It was created within the last two years by the Institute for Health and Social Policy, University of Akron and can be considered a new program. Previous evaluations of the former DARE program consistently found that there was little or no evidence that DARE had any impact on behavior and could not be considered an effective program. As a result, the publisher (DARE America) has been dedicated to developing completely new curriculums. A grant from the Robert Woods Johnson Foundation is supporting a five-year, multi-site clinical study of the *Take Charge of Your Life* curriculum. There are 14 California school districts taking part in the national study. The Los Angeles USD is one of the sites taking part in the study.

The DARE program claims to be the nation's most widely implemented prevention program as a result of using a highly developed network of training centers and law enforcement officers to deliver classroom lessons. The use of law enforcement officers to implement the program is the most unique aspect of the *Take Charge of Your Life* curriculum. However, the use of law enforcement officers in this regard has been a consistent and defining aspect of the DARE program for the last 19 years.

The *Take Charge of Your Life* curriculum draws on research about important prevention variables related to normative beliefs, personal attitudes, problem solving and resistance skills, consequences, peer influences, and media in affecting normative beliefs. The program design and content is now consistent with many other already available social-influences prevention curriculums. The *Take Charge of Your Life* curriculum is innovative relative to other available science-based prevention programs primarily because of its advantage for being implemented by a large number of school districts and its support from the law enforcement community.

The *Taking Charge of Your Life* curriculum meets the board's criteria for being innovative primarily based on being evaluated as a completely new program.

Does the program demonstrate substantial likelihood of success?
The University of Akron's Institute for Health and Social Policy incorporated the most up-to-date evidence and research-based strategies for drug use prevention programming into the new *Take Charge of Your Life* curriculum. There are 10 lessons presented in middle school to be reinforced with a set booster lessons in the ninth grade. Prevention research supports the importance of using a booster component to reinforce middle school prevention curriculum. The lessons emphasize active learning principles and "best teaching" practices that have been found to be consistent characteristics of effective prevention programs.

The University of Akron conducted a feasibility study to assess the readiness of the core components of *Take Charge of Your Life* in preparation for the full implementation of the national study. The first year interim report on the longitudinal study of *Take Charge of Your Life* does not yet provide student behavioral outcome data. However, the evaluators report that the feasibility study results provide evidence that the curriculum was successful in improving students' communication skills and changing normative

beliefs about substance use. The evaluator reports the program has robust results for increasing student refusal skills, decreasing student perception of peer drug

use, and decreasing perception of substance use acceptance. These claims support a conclusion that the *Take Charge of Your Life* curriculum demonstrates the likelihood of success. It is essential that the national study be completed and the results published in a peer-reviewed study so that the program's efficacy claims are subject to scientific scrutiny.

Is there a plan and timeline for submitting the program for review and recognition?

This condition requires that the program be evaluated and the outcomes of the evaluation be reviewed by one of the nationwide research groups identified in policy 03-01. This waiver request meets these criteria, because the publisher and developer of the program are supporting a study by the University of Akron that will determine the effectiveness of the program within the next two years. The applicant has confirmed that the outcomes of that evaluation will be submitted via the National Registry of Effective Programs to the Center for Substance Abuse Prevention (CSAP) for possible designation as a Model Program. Following through on this commitment to evaluation and submission for review by CSAP is therefore a condition for approval of the waiver.

Summary

The Department recommends that this waiver be approved, as it meets the three criteria in the State Board of Education policy.

Authority for Waiver: NCLB, Title IV, Part A, Section 4115(a)(3)

Local board approval date(s): 12-9-03

Period of request: 09-01-03 to O9-01-05

FISCAL ANALYSIS (AS APPROPRIATE)

Waiver approval will decrease the amount of NCLB, Title IV, Part A funds available to support science-based and proven-effective alcohol, tobacco, other drug and violence prevention programs consistent with the LEA's approved LEAP.

BACKGROUND INFORMATION

Documentation is attached to this Summary.

CALIFORNIA STATE BOARD OF EDUCATION

ITEM #WC-10

MARCH 2004 AGENDA

☒ **Federal Waiver**

SUBJECT	
Request by **Clovis Unified School District** to waive No Child Left Behind Act (NCLB); Title IV, Part A, Section 4115 (a)(1)(C) to use Safe and Drug Free Schools and Communities funds to support the cost of **Take Charge of Your Life,** a seventh and ninth grade prevention program Waiver Number: Fed-18-2003	☒ **Action** ☒ **Consent**

RECOMMENDATION

☐ Approval ☒ Approval with conditions ☐ Denial

The district must submit a report to the Safe and Healthy Kids Program Office no later than March 2005 describing the progress made by the University of Akron in evaluating the *Take Charge of Your Life* program. The district must submit a report to the Safe and Healthy Kids Program Office no later than March of 2006 describing the progress made by University of Akron in submitting the results of the evaluation to the National Registry of Effective Programs, the University of Colorado's Center for the Study and Prevention of Violence, and/or the California Healthy Kids Resource Center, for possible designation as a Model, Blueprint, or Validated Program. The district must be willing to take part in the formal evaluation if requested. The district must also evaluate its own comprehensive prevention program in accordance with the district's approved Local Educational Agency Plan.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

The SBE previously adopted policy 03-01 that requires a program or activity supported with Safe and Drug Free School and Communities (SDFSC) funds to meet the principles of effectiveness. Attachment A of the policy lists those programs that provide scientific evidence that the program reduces violence and illegal drug use as required by Title IV, Part A Section 4115. *Take Charge of Your Life* is not on the Attachment A. This is the first waiver submission for the *Take Charge of Your Life* curriculum.

SUMMARY OF KEY ISSUES

The waiver application from the **Clovis USD** regarding the ***Take Charge of Your Life,*** a 7th and 9th grade curriculum, has been reviewed to ensure compliance with the three major criteria described in SBE policy 03-01 that must be met in order for the waiver to be approved by the board. The waiver application's success in meeting each of the

three criteria is described as follows:

Is the program innovative?
The *Take Charge of Your Life* curriculum was specifically developed to be delivered by law enforcement officers as the new DARE program for middle and high school. It was

created by the Institute for Health and Social Policy, University of Akron, within the last two years and can be considered a new program. Previous evaluations of the former DARE program consistently found that there was little or no evidence that DARE had any impact on behavior and could not be considered an effective program. As a result, the publisher (DARE America) has been dedicated to developing completely new curriculums. A grant from the Robert Woods Johnson Foundation is supporting a five-year, multi-site clinical study of the *Take Charge of Your Life* curriculum. There are 14 California school districts taking part in the national study. The Clovis USD is not one of the sites taking part in the study. However, the district would like to use the program in combination with other science-based prevention programs listed in their approved Local Educational Agency Plan (LEAP).

The DARE program claims to be the nation's most widely implemented prevention program as a result of using a highly developed network of training centers and law enforcement officers to deliver classroom lessons. The use of law enforcement officers to implement the program is the most unique aspect of the *Take Charge of Your Life* curriculum. However, the use of law enforcement officers in this regard has been a consistent and defining aspect of the DARE program for the last 19 years.

The *Take Charge of Your Life* curriculum draws on research about important prevention variables related to normative beliefs, personal attitudes, problem solving and resistance skills, consequences, peer influences, and media in affecting normative beliefs. The program design and content is now consistent with many other already available social-influences prevention curriculums. The *Take Charge of Your Life* curriculum is innovative relative to other available prevention programs primarily because of its advantage for being implemented by a large number school districts and its support from the law enforcement community.

The *Taking Charge of Your Life* curriculum meets the board's criteria for being innovative primarily based on being evaluated as a completely new program.

Does the program demonstrate substantial likelihood of success?
The University of Akron's Institute for Health and Social Policy incorporated the most up-to-date evidence and research-based strategies for drug use prevention programming into the new *Take Charge of Your Life* curriculum. There are 10 lessons presented in middle school to be reinforced with a set booster lessons in the ninth grade. Prevention research supports the importance of using a booster component to reinforce middle school prevention curriculum. The lessons emphasize active learning principles and "best teaching" practices that have been found to be consistent characteristics of effective prevention programs.

The University of Akron conducted a feasibility study to assess the readiness of the core components of *Take Charge of Your Life* in preparation for the full implementation of the national study. The first year interim report on the longitudinal study of *Take Charge of Your Life* does not yet provide student behavioral outcome data. However, the

evaluators report that the feasibility study results provide evidence that the curriculum was successful in improving students' communication skills and changing normative beliefs about substance use. The evaluator reports the program has robust results for increasing student refusal skills, decreasing student perception of peer drug use, and decreasing perception of substance use acceptance. These claims support a

conclusion that the *Take Charge of Your Life* curriculum demonstrates the likelihood of success. It is essential that the national study be completed and the results published in a peer-reviewed study so that program's efficacy claims are subject to scientific scrutiny.

Is there a plan and timeline for submitting the program for review and recognition?
This condition requires that the program be evaluated and the outcomes of the evaluation be reviewed by one of the nationwide research groups identified in policy 03-01. This waiver request meets these criteria, because the publisher and developer of the program are supporting a study by the University of Akron that will determine the effectiveness of the program within the next two years. The applicant has confirmed that the outcomes of that evaluation will be submitted via the National Registry of Effective Programs to the Center for Substance Abuse Prevention (CSAP) for possible designation as a Model Program. Following through on this commitment to evaluation and submission for review by CSAP is therefore a condition for approval of the waiver.

Summary

The Department recommends that this waiver be approved, as it meets the three criteria in the State Board of Education policy.

Authority for Waiver: NCLB, Title IV, Part A, Section 4115(a)(3)

Local board approval date(s): 11-19-03

Period of request: 09-01-03 to 09-01-05

FISCAL ANALYSIS (AS APPROPRIATE)

Waiver approval will decrease the amount of NCLB, Title IV, Part A funds available to support science-based and proven-effective alcohol, tobacco, other drug and violence prevention programs consistent with the LEA's approved LEAP.

BACKGROUND INFORMATION

Documentation is attached to this Summary

CALIFORNIA STATE BOARD OF EDUCATION

ITEM #WC-11

MARCH 2004 AGENDA

☒ **Specific Waiver**

SUBJECT	
Request by **ten school districts** for a **retroactive waiver of *Education Code* (EC) Section 60119** regarding the Annual Public Hearing on the availability of textbooks or instructional materials. The district had an audit finding for fiscal year 2002-2003 that they **1) failed to hold the public hearing, or 2) failed to properly notice (10 days) the public hearing and/or 3) failed to post the notice in the required three public places.** 16-11-2003 – Mountain Union SD 17-12-2003 – Oxnard SD 20-01-2004 – Placer Union High SD 15-11-2003 – Santa Paula Elementary School District 09-10-2003 – Shaffer Elementary SD 31-12-2003 – Central SD 11-12-2003 – Hesperia Unified SD 29-12-2003 – San Ramon Valley SD 32-07-2003 – Lake Elsinore Unified SD 04-10-2003 – Turlock Joint Union High SD	☒ **Action** ☒ **Consent**

RECOMMENDATION

☒ Approval ☐ Approval with conditions ☐ Denial

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

The State Board of Education (SBE) has heard and approved a Waiver Policy number 01-06 Instructional Materials Sufficiency (*Education Code* Section 60119) Waiver of Retroactive Audit. None of these Local Educational Agencies (LEAs) have had a prior year finding and waiver of this type, so this goes to consent.

SUMMARY OF KEY ISSUES

During audits for fiscal year 2002-2003, it was discovered that the above LEAs did not hold the public hearings notice of sufficiency of instructional materials, or post the notice for ten days prior to the public hearing or post the required notice in three public places as required by *EC* Section 60119.

Since then, each LEA has held a fully compliant hearing and determined that it has sufficient instructional materials for each pupil in each school in the district. California Department of Education (CDE) staff verified all other requirements of the Specific Waiver request and none of the local educational agencies has had a previous waiver of this Education Code for the public hearing and ten day notice requirements and/or post the notice in three public places in the 1997-98, 1998-99, 1999-00 or 2000-01, 2001-02, 2002-03 years. Without the waiver, the local educational agencies will have to return **$7,715,975** to CDE. See attached specifics for each LEA.

Therefore, since the LEA have met the requirements for fiscal year 2003-2004, and agrees to comply with *E.C.* 60119 and ensure that the public hearing is held, noticed to the public hearing for ten days, and in three public places, CDE recommends approval of this waiver request.

Authority for the Waiver: EC 41344.3

Bargaining unit(s) consulted on date(s): Various dates

Position of bargaining unit(s) (choose only one):

☐ Neutral ☒ Support ☐ Oppose

Name of bargaining unit representative(s): Various dates

Local board approval date(s): Various dates

Period of request: July 1, 2002 through June 30, 2003

FISCAL ANALYSIS (AS APPROPRIATE)

This waiver if approved will relieve the districts of **$2,939,352** in total penalties.

BACKGROUND INFORMATION

Waiver request forms and supporting documents are available for inspection in the Waiver Office.

Failure to Hold the Public Hearing, and Complete a Local Board Resolution on the Sufficiency of Textbooks and Instructional Materials (within the 2002-2003 fiscal year)

***Education Code* (EC) Section 60119, Page 3 (Specifics on each LEA)**

CDSIS – 16-11-2003 – Mountain Union School District

- Audit finding for the 2002-2003 fiscal year that would require the return of $4,907 in Instructional Materials funds.
- The district failed to hold a public hearing for the determination of the sufficiency of instructional materials in accordance with E.C. Section 60119 in fiscal year 2002-2003. The district lost their superintendent during mid-school year and with the change in administration, the hearing was overlooked.
- Since then the district held a fully compliant public hearing as required by E.C. Section 60119 on September 16, 2003 for 2003-2004.
- CDE staff verified all other requirements of the Specific Waiver request.

CDSIS – 17-12-2003 – Oxnard School District

- Audit finding for the 2002-2003 fiscal year that would require the return of $716,753 in Instructional Materials funds.
- The district failed to hold a public hearing for the determination of the sufficiency of instructional materials in accordance with E.C. Section 60119 in fiscal year 2002-2003. The district inadvertently included the required public hearing on the July agenda.
- Since then the district held a fully compliant public hearing as required by E.C. Section 60119 by July 23, 2003 for 2003-2004.
- CDE staff verified all other requirements of the Specific Waiver request.

CDSIS – 20-01-2004 – Placer Union School District

- Audit finding for the 2002-2003 fiscal year that would require the return of $202,907 in Instructional Materials funds.
- The district failed to hold a public hearing for the determination of the sufficiency of instructional materials in accordance with E.C. Section 60119 in fiscal year 2002-2003. The district has created an annual calendar for board items so that this meeting will be not overlooked again.
- The district held a fully compliant public hearing as required by E.C. Section 60119 on January 13, 2004 for 2003-2004.
- CDE staff verified all other requirements of the Specific Waiver request.

CDSIS – 15-11-2003 – Santa Paula School District

- Audit finding for the 2002-2003 fiscal year that would require the return of $178,244 in Instructional Materials funds.
- The district failed to hold a public hearing for the sufficiency of instructional materials as required by EC Section 60119. Instead the district held the hearing after the end of the fiscal year in August.
- Since then the district held a fully compliant public hearing as required by E.C. Section 60119 by August 12, 2003 for 2003-2004.
- CDE staff verified all other requirements of the Specific Waiver request.

***Education Code* (EC) Section 60119, Page 4 (Specifics on each LEA)**

CDSIS – 09-10-2003 – Shaffer Elementary School District

- Audit finding for the 2002-2003 fiscal year that would require the return of $16,197 in Instructional Materials funds.
- The district failed to hold a public hearing in accordance with the requirements of EC Section 60119 in fiscal year 2002-2003.
- The district has since held a fully compliant hearing as required by EC Section 60119 on October 21, 2003 for the 2003-2004 year.
- CDE staff verified all other requirements of the Specific Waiver request.

Failure to Give Ten days Notice of the Public Hearing on the Sufficiency of Textbooks and Instructional Materials (within the 2001-2002 fiscal year)

CDSIS – 31-12-2003 – Central Elementary School District

- Audit finding for the 2002-2003 fiscal year that would require the return of $227,527 in Instructional Materials funds.
- The district posted the notice for six days instead of the required ten days notice in accordance with EC Section 60119 in fiscal year 2002-2003 for the sufficiency of textbooks and instructional materials.
- The district has since held a public hearing that was in full compliance with the requirements of EC Section 60119 on December 18, 2003 for the 2003-2004 year
- CDE staff verified all other requirements of the Specific Waiver request.

CDSIS – 11-12-2003 – Hesperia Unified School District

- Audit finding for the 2002-2003 fiscal year that would require the return of $680,973 in Instructional Materials funds.
- The district posted the notice as a regular public notice instead of the required ten days notice in accordance with EC Section 60119 in fiscal year 2002-2003 for the sufficiency of textbooks and instructional materials.
- The district has since held a public hearing that was in full compliance with the requirements of EC Section 60119 on January 12, 2004 for 2003-2004 year. In the future, the district will post the notice for ten days as required by

- CDE staff verified all other requirements of the Specific Waiver request.

CDSIS – 29-12-2003 – San Ramon Valley Unified School District

- Audit finding for the 2002-2003 fiscal year that would require the return of $911,844 in Instructional Materials funds.
- The district posted the notice for less than the required ten days in accordance with EC Section 60119 in fiscal year 2002-2003 for the sufficiency of textbooks and instructional materials.
- The district has since held a public hearing that was in full compliance with the requirements of EC Section 60119 on December 9, 2003.

- CDE staff verified all other requirements of the Specific Waiver request.

CDSIS-32-7-2003 Lake Elsinore Unified School District

- Audit finding the 2002-2003 fiscal year that would require the return of $771,549 in Instructional Materials funds.
- The district posted the public hearing for two days instead of the required ten days in accordance with EC Section 60119 in fiscal year 2002-2003 for the sufficiency of textbooks and instructional materials.
- The district has since held a public hearing that was in full compliance with the requirements of EC Section 60119 on July 22, 2003 for the 2003-2004 year.
- CDE staff verified all other requirements of the Specific Waiver request.

CDSIS-4-10-2003 Turlock Joint Unified School District

- Audit finding for the 2002-2003 fiscal year that would require the return of $175,334 in Instructional Materials funds.
- The district posted the notice for less than the required ten days in accordance with EC Section 60119 in fiscal year 2002-2003 for the sufficiency of textbooks and instructional materials.
- The district has since held a public hearing that was in full compliance with the requirements of EC Section 60119 on October 7, 2003 for the 2003-2004 year.
- CDE staff verified all other requirements of the Specific Waiver request.

CALIFORNIA STATE BOARD OF EDUCATION

ITEM #WC-12

MARCH 2004 AGENDA

☒ **Specific Waiver**

SUBJECT	
Request by **various school districts** to waive *Education Code* (EC) Section 49550, the State Meal Mandate during the Summer School Session. Waiver Number: (see attached list of districts)	☒ **Action** ☒ **Consent**

RECOMMENDATION

☒ Approval ☐ Approval with conditions ☐ Denial

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

Waivers of this type normally go to the State Board of Education Consent Calendar, as there is a statutory basis for the approval recommendation.

SUMMARY OF KEY ISSUES

Education Code (EC) Section 49550 states that each needy child who attends a public school be provided a nutritionally adequate free or reduced-price meal every school day. The following districts have requested a waiver of EC Section 49550 for the summer of 2004, and have certified their compliance with all required conditions necessary to obtain a waiver.

EC Section 49548 allows a waiver of EC Section 49550 during summer school if the district seeking the waiver has met *at least two* of the following four criteria:

a) The summer school session is of less than four hours duration and is completed by noon, allowing pupils to go home during the lunch period.

b) Less than 10 percent of needy pupils attending the summer school session are at the schoolsite for more than three hours per day.

c) A Summer Food Service Program for Children site is available within the school attendance area.

d) Serving meals during the summer school session would result in a financial loss to the school district, documented by the district, in an amount equal to one-third of the food service net cash resources or, if those cash resources are nonexistent, an amount equivalent to one month's operating costs.

Authority for the Waiver: *Education Code* (EC) Section 49548.

Bargaining unit(s) consulted on date(s): **Not required for summer school waivers.**

Position of bargaining unit(s) (choose only one): **Not required for summer school waivers.**

☐ Neutral ☐ Support ☐ Oppose

Name of bargaining unit representative(s): **Not required for summer school waivers.**

Local board approval date(s): **see table below.**

Period of request: **see table below.**

Agreement number:	**District name(s):**	**Effective Period of request(s)**	**Local Board Approval:**	**Criteria being met:**	**Waiver number:**
19-64766-0-01	Lowell Joint SD	06/14/04 to 07/09/04	1/12/04	☒ a) ☒ b) ☐ c) ☐ d)	21-12-2003
19-75333-0-01	Manhattan Beach USD	06/21/04 to 07/16/04	1/21/04	☒ a) ☒ b) ☐ c) ☐ d)	5-1-2004
04-61499-0-01	Manzanita ESD	06/14/04 to 07/15/04	1/21/04	☒ a) ☐ b) ☒ c) ☐ d)	6-1-2004
12-62984-0-01	Peninsula Union SD	06/14/04 to 07/16/04	2/3/04	☒ a) ☒ b) ☐ c) ☐ d)	4-1-2004
12-62794-0-01	Fieldbrook ESD	06/21/04 to 07/16/04	2/24/04	☒ a) ☒ b) ☐ c) ☐ d)	7-1-2004
15-63669-0-01	Midway SD	06/07/04 to 07/02/04	1/12/04	☒ a) ☒ b) ☐ c) ☐ d)	18-1-2004
10-62356-0-01	Pacific Un SD	06/14/04 to 07/09/04	1/13/04	☒ a) ☒ b) ☐ c) ☐ d)	17-1-2004
49-70979-0-01	Two Rock Un SD	06/21/04 to 08/20/04	1/13/04	☒ a) ☒ b) ☐ c) ☐ d)	12-1-2004
29-66407-0-01	Union Hill ESD	06/14/04 to 08/18/04	1/14/04	☒ a) ☐ b) ☐ c) ☒ d)	11-1-2004
12-62927-0-01	Loleta Un ESD	06/14/04 to 07/15/04	1/13/04	☒ a) ☒ b) ☐ c) ☐ d)	22-1-2004
12-63057-0-01	Trinidad Union SD	06/21/04 to 07/16/04	1/8/04	☒ a) ☐ b) ☐ c) ☒ d)	9-1-2004

FISCAL ANALYSIS (AS APPROPRIATE)

Approval of the waiver may reduce the draw on Proposition 98 funds at the State level. Local district finances may be affected.

BACKGROUND INFORMATION

Waiver request forms and supporting documents are available for inspection in the Waiver Office.

CALIFORNIA STATE BOARD OF EDUCATION

ITEM #WC-13

MARCH 2004 AGENDA

☒ **Specific Waiver**

SUBJECT:	
Request by **Los Angeles Unified School District** to waive *Education Code* (EC) Section 56366.1(g), the August 1 through October 31 timeline on annual certification renewal application for nonpublic agency (NPA) **Wayne Tashjian, Marriage and Family Therapist (MFT).** Waiver Number: 16-12-2003	☒ **Action** ☒ **Consent**

RECOMMENDATION

☒ Approval ☐ Approval with conditions ☐ Denial

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

California State Board of Education Policy 00-03, allows a special education local plan area (SELPA) director to submit a waiver when there is an urgent need to renew the certification when special education students are currently being provided with services by a nonpublic school or agency.

SUMMARY OF KEY ISSUES

Education Code Section 56366 and 56366.1 allows the certification of private service providers to be certified by California Department Education (CDE). This certification allows local education agencies a resource pool from which to purchase related special education services. Once an NPA is certified they must submit a renewal application by October 31 of each year. Wayne Tashijian did not submit the annual update for his agency for the 2003-04 school year.

Mr. Tashijian has been a certified nonpublic agency for more than ten years. He provides behavior intervention, counseling and parent training services to five school districts and 37 students in Los Angeles County. Due to the shortage of qualified service providers, failure to approve this waiver could result in school districts' inability to meet IEP requirements.

The Office of Nonpublic Schools and Agencies is recommending approval of this wavier.

Authority for the Waiver: *Education Code* 56101

Bargaining unit(s) consulted on date(s): Bargaining Unit consultation not required

Position of bargaining unit(s) (choose only one): Bargaining Unit consultation not required for this waiver.

☐ Neutral ☐ Support ☐ Oppose

Name of bargaining unit representative(s): Bargaining Unit consultation not required for this waiver.

Local board approval date(s): SELPA approved 1/13/04

Period of request: **11/1/03 – 3/11/04**

FISCAL ANALYSIS (AS APPROPRIATE)

There will be no fiscal impact. The nonpublic agency has submitted the application fee.

BACKGROUND INFORMATION

Waiver request forms and supporting documents are available for inspection in the Waiver Office.

CALIFORNIA STATE BOARD OF EDUCATION

ITEM #WC-14

MARCH 2004 AGENDA

☒ **Specific Waiver**

SUBJECT	
Request by **Santa Clarita Valley Special Education Local Plan Area (SELPA)** to waive *Education Code* (EC) Section 56366.1(g), the August 1 through October 31 timeline on annual certification renewal application for nonpublic agency (NPA) **Community Therapies.** Waiver Number: 33-12-2003	☒ **Action** ☒ **Consent**

RECOMMENDATION

☒ Approval ☐ Approval with conditions ☐ Denial

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

California State Board of Education Policy 00-03, allows a special education local plan area (SELPA) director to submit a waiver when there is an urgent need to renew the certification when special education students are currently being provided with services by a nonpublic school or agency (NPA).

SUMMARY OF KEY ISSUES

Education Code Section 56366 and 56366.1 allows the certification of private service providers by California Department Education (CDE). This certification allows local education agencies a resource pool from which to purchase related special education services. Once an NPA is certified they must submit a renewal application by October 31 of each year.

The renewal application for Community Therapies was not submitted for either the 2003 or 2004 calendar year. The agency mistakenly believed that this was not necessary since they held a certification with an expiration date of December 31, 2004.

Community Therapies is the only certified NPA in the Santa Clarita Valley SELPA that is qualified to provide orientation and mobility instruction services.

The Office of Nonpublic Schools and Agencies is recommending approval of this waiver.

Authority for the Waiver: *Education Code* Section 56101

Bargaining unit(s) consulted on date(s): Bargaining Unit consultation not required for this waiver.

Position of bargaining unit(s) (choose only one): Bargaining Unit consultation not required for this waiver.

☐ Neutral ☐ Support ☐ Oppose

Name of bargaining unit representative(s): Bargaining Unit consultation not required for this waiver.

Local board approval date(s): SELPA approved 12/18/03

Period of request: 1/1/03 – 3/11/04

FISCAL ANALYSIS (AS APPROPRIATE)

There will be no fiscal impact. The nonpublic agency will submit the application fee with the required renewal application.

BACKGROUND INFORMATION

Waiver request forms and supporting documents are available for inspection in the waiver office.

CALIFORNIA STATE BOARD OF EDUCATION

ITEM #WC-15

MARCH 2004 AGENDA

☒ **Specific Waiver**

SUBJECT	
Request from the **Mammoth Unified School District** to waive *Education Code* (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 (32 max) for **Jennifer McGraw** assigned **at Mammoth High School.** Waiver Number 7-10-2003	☒ **Action** ☒ **Consent**

RECOMMENDATION

☐ Approval ☒ Approval with conditions ☐ Denial

That the Resource Specialist will have an instructional aide for at least five hours daily and additional staff will be provided to monitor IEP implementation.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

Both EC 56362(c) and Title 5 CCR 3100, allow the State Board of Education to approve waivers of resource specialists to exceed the maximum caseload of 28 students by not more than four students. However, there are very specific requirements in these regulations, which must be met for approval, and if these requirements are not met the waiver must be denied.

The Resource Specialist program shall be under the direction of a Resource Specialist who is a credentialed special education teacher, or who has a clinical services credential with a special class authorization, who has had three or more years of teaching experience, including both regular and special education teaching experience, as defined by rules and regulations of the Commission on Teacher Credentialing and who has demonstrated the competencies for a resource specialist, as established by the Commission on Teacher Credentialing.

SUMMARY OF KEY ISSUES

Title 5 CCR & 3100(c)(2)(d)(2) states: The waiver stipulates that an affected resource specialist will have the assistance if an instructional aide at least five hours daily wherever that resource specialist's caseload exceeds the statutory maximum during the waiver's effective period.

- The waiver request indicates that an instructional aide will be provided at least 5 hours daily.

- The waiver request indicates the caseload for Resource Specialist will not exceed the maximum statutory limit of 28 students by more than four students.
- Additional staff has been added to monitor IEP implementation.
- Bargaining unit and the teacher support the waiver.
- Teacher will not have had a caseload exceeding 28 students for two consecutive years.

Authority for the Waiver: *Education Code* (EC) Section 56101 and Title 5 CCR, Section 3100

Bargaining unit(s) consulted on date(s): 10/9/03

Position of bargaining unit(s) (choose only one):

☐ Neutral ☒ Support ☐ Oppose

Name of bargaining unit representative(s): Kirk Stapp

Local board approval date(s): 10/9/03

Period of request: 8/25/03-6/16/04

FISCAL ANALYSIS (AS APPROPRIATE)

If this waiver is denied, the District will need to employ additional qualified staff or persons with emergency qualifications to provide services to special education students.

BACKGROUND INFORMATION

Waiver request forms and supporting documents are available for inspection in the Waiver Office.

CALIFORNIA STATE BOARD OF EDUCATION

ITEM #WC-16

MARCH 2004 AGENDA

☒ **Specific Waiver**

SUBJECT	
Request by **Clovis Unified School District** to waive *Education Code* (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. (32 maximum) **Linda Gillis/Sarah West** assigned at **Dry Creek Elementary School** Waiver Number: 32-12-2003	☒ **Action** ☒ **Consent**

RECOMMENDATION

☐ Approval ☒ Approval with conditions ☐ Denial

That the district provide the assistance of an instructional aide at a minimum of five hours per day to the Resource Specialist.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

Both EC 56362 (c) and Title 5 CCR 3100, allow the State board of Education to approve waivers of resource specialist to exceed the maximum caseload of 28 students by not more than four students. However, there are very specific requirements in these regulations, which must be met for approval, and if these requirements are not met the waiver must be denied.

The resource specialist program shall be under the direction of a resource specialist who is a credentialed special education teacher, or who has a clinical services credential with a special class authorization, who has had three or more years of teaching experience, including both regular and special education teaching experience, as defined by rules and regulations of the Commission on Teacher Credentialing and who has demonstrated the competencies for a resource specialist, as established by the Commission on Teacher Credentialing.

The State Board of Education has approved these waivers in the past. California Department of Education (CDE) staff uses Title 5 CCR §3100 as a guideline in reviewing these waivers.

SUMMARY OF KEY ISSUES

Title 5 CCR §3100(d)(2) states, The waiver stipulates that an affected resource specialist will have the assistance of an instructional aide at least five hours daily

whenever that resource specialist's caseload exceeds the statutory maximum during the waiver's effective period.

- Clovis Unified School District will provide the assistance of an instructional aide at a minimum of five hours per day to the Resource Specialist.
- It was confirmed on February 19, 2004 that Linda Gilis and Sarah West both agree to increase their student caseload from 28 student to not more than 32 students.
- Teacher will not have had a caseload exceeding 28 students for two consecutive years.
- Clovis Unified teachers are not represented by a bargaining unit, however the affected teacher did agree to this waiver.

Authority for the Waiver: EC 56101, 56362(c) and Title 5 CCR, Section 3100

Bargaining unit(s) consulted on date(s): Resource Specialist does not belong to an employee bargaining unit. The Clovis Unified School District does not have a collective bargaining agreement. This information was confirmed on February 19, 2004.

Position of bargaining unit(s) (choose only one): Resource Specialist does not belong to an employee bargaining unit. The Clovis Unified School District does not have a collective bargaining agreement.

☐ Neutral ☐ Support ☐ Oppose

Name of bargaining unit representative(s): Resource Specialist does not belong to an employee bargaining unit. The Clovis Unified School District does not have a collective bargaining agreement.

Local board approval date(s): SELPA approved 12/9/03

Period of request: 12-1-03 to 6-11-04

FISCAL ANALYSIS (AS APPROPRIATE)

If this waiver is denied, **Clovis Unified School District** will need to employ additional qualified staff or persons with emergency qualifications to provide to special education students.

BACKGROUND INFORMATION

Waiver Request and supporting documentation are available for inspection in the Waiver Office.

CALIFORNIA STATE BOARD OF EDUCATION

ITEM #W-1

MARCH 2004 AGENDA

☒ **General Waiver**

SUBJECT	
Request by **eight districts** to waive *Education Code* (EC) Section 51224.5(b), the requirement that all students graduating in the 2003-04 year be required to complete a course in Algebra I (or equivalent) to be given a diploma of graduation. Waiver Number: (see attached list of districts)	☒ **Action** ☐ **Consent**

RECOMMENDATION

☐ Approval ☒ Approval with conditions ☐ Denial
That the waiver be granted for the 2003-04 year, provided districts comply with conditions as approved in the State Board of Education Waiver Policy: Algebra I Graduation Requirement: Waiver for Seniors in the 2003-04 Graduating Class.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

At the January 2004 State Board meeting, a waiver request was considered from the Santa Cruz City Schools pertaining to a provision of law (that became operative in 2003-04) requiring students to complete Algebra I (or its equivalent[1]) as a condition of receiving a high school diploma. The SBE also requested that a waiver policy be drafted for their approval. California Department of Education (CDE) distributed a letter to school districts and county office of education summarizing the action taken on the Santa Cruz waiver and suggesting that waiver requests meeting similar parameters would be eligible for consideration as consent matters after SBE approval of a Waiver Policy for Algebra[1].

SUMMARY OF KEY ISSUES

Attached are eight districts who have requested the Algebra I Graduation requirement be waived to award diplomas for approximately 345 students who are otherwise qualified students in the Class of 2004 who lack only the completion of Algebra I. The listing of districts include an approximate number of students affected in each district, some general information about the status of the implementation of the Algebra I

1 *Education Code* Section 51225.4(b) specifies in effect that students must complete the content of Algebra I, which may be in the form of a specific course by that name or a series of integrated mathematics courses (typically also including the content of Geometry and Algebra II). Where these guidelines use the term "Algebra I," the broader meaning just described is intended.

requirement in the district, and what types of students are primarily affected by this waiver.

Each district has promised that they will be completing the conditions of approval as outlined in the Waiver Policy, and promise to submit by April 2, 2004 a status report of their students and activities. For purposes of waivers acted upon at the March 2004 State Board meeting, if the Executive Director determines that the conditions have been (or will be) met, this waiver is operative. If the Executive Director determines that the conditions have not been (or will not be) met, this waiver is denied pursuant to the reasons justifying denial that are set forth in *Education Code* Section 33051(a)(1) – the educational needs of pupils are not adequately addressed – and (4) – pupil protections are jeopardized. If the waiver is denied in keeping with this procedure, the attached LEA will be offered the option of having the denial placed on the May 2004 State Board agenda for purposes of reconsideration, subject to the public notice limitations of the Bagley-Keene Open Meeting Act.

The department recommends "conditional approval" of these waivers.

_____A
uthority for Waiver: Education Code (EC) Section 33050

Bargaining unit(s) consulted on date(s): see attached waivers from districts

Position of bargaining unit(s) (choose only one): see attached waivers from districts
☐ Neutral ☐ Support ☐ Oppose

Name of bargaining unit representative(s): see attached waivers from districts

Public hearing identified by (choose one or more): see attached waivers from districts
☐ posting in a newspaper ☐ posting at each school ☐ other (specify)

Public hearing held on date(s): see attached waivers from districts
Local board approval date(s): see attached waivers from districts

Advisory committee(s) consulted: see attached waivers from districts

Objections raised (choose one): ☐ None ☐Objections are attached on separate sheet

Date(s) consulted: see attached waivers from districts

Period of request: School Year 2003-04

FISCAL ANALYSIS (AS APPROPRIATE)

There is no statewide fiscal impact of these waiver approvals.

BACKGROUND INFORMATION

Documentation attached to this summary.

	Algebra I Waiver - Summary District Information							
District Name	**Know of**	**Prev. Notice**	**Comply**	**Seniors**	**Needing**	**This Waiver**		**No. of**
Waiver No	**Statute**	**to most 2004**	**to all**	**Reg.**	**Alt. Ed.**	**Spec. Ed**	**Adult Ed.**	**seniors**
	Change	**seniors**	**Conditions**					
Riverside USD	yes	yes	yes			X		80
Waiver No: 8-2-2004	except							
Special Education students had not received the notice, with all regular students statute was implemented by district policy and notice had been given.								
Gilroy USD	yes	Yes	Yes		X	X		5 to 10
Waiver No: 7-2-2004								
District had implemented the statute for all regular students, but there were some counseling errors, and students transferring into district w/o Algebra.								
West Sonoma USD	no	no notice	yes					60
Waiver No: 15-2-2004								
District unaware of statute change and had not noticed any students. Records found 60 students had not completed algebra one								
Jurupa Unified SD	yes	yes	yes			x		20
Waiver No:17-2-2004								
District had known about the statute changes and had notified most students. Waiver is needed for some. Special Education students not notified or failing to complete the course earlier.								
Lodi Unified SD	yes	yes	yes	x		x		60
Waiver No: 16-2-2004								
District was aware of the statute change and had notified all students. Some are in danger of not passing and are enrolled in a class this spring.								

	Algebra I Waiver - District Summary Information						**Page 2**	
District Name	**Know of**	**Prev. Notice**	**Comply**	**Seniors**	**Needing**	**This Waiver**		**No. of**
Waiver No	**Statute**	**to most 2004**	**to all**	**Reg.**	**Alt. Ed.**	**Spec. Ed**	**Adult Ed.**	**seniors**
	Change	**seniors**	**Conditions**					
El Rancho Unified SD	yes	yes	yes	X	X	X	X	33
Waiver No: 4-2-2004								
All regular students were noticed, however a few are at risk of failing, and are special education students, alternative, are getting their Diploma through the adult school.								
Alameda Unified SD	partial	partial	yes	X		X	X	80
Waiver No: 15-2-2004								
Some of the High Schools were aware and were counseling students, others had not done so, therefore there are about 80 students needing to complete the requirement to graduate this year.								
Tulelake Basin JUSD	yes	yes	yes	X	X			2
Waiver No; 21-2-2004								
District did full notice, two seniors are stiill attempting to pass, and are enrolled this spring.								

CALIFORNIA STATE BOARD OF EDUCATION

ITEM #W-2

MARCH 2004 AGENDA

☒ **General Waiver**

SUBJECT	
Request by **Sacramento County Office of Education** (COE) to waive *Education Code* (EC) Section 1206 and1208, the requirement that a county superintendent must possess an administrative credential as a condition of holding the superintendent position. Waiver Number: 14-2-2004	☒ **Action** ☐ **Consent**

RECOMMENDATION

☐ Approval ☒ Approval with conditions ☐ Denial
That this waiver be granted from February 1, 2004, for the purposes of recruitment and selection, through hiring, and (if applicable) the term of office of this Sacramento COE Superintendent, only.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

A waiver of this type has not been heard by the State Board of Education (SBE), at least since 1997, the length of the existing Waiver Office records.

SUMMARY OF KEY ISSUES

Sacramento COE is one of five counties among of the 52 in California that has an appointed county superintendent. With an appointed superintendent the relationship between the board and the superintendent is very close to that of a local school district in that many more of the actions of the superintendent must be ratified by the governing board prior to implementation.

EC Sections 1206 and 1208 require that a COE Superintendent, “shall possess a valid certification document authorizing administrative services” (a general administrative credential).

For regular school districts, the statute is much more flexible. EC 35026 through EC 35034 contain various provisions for local board waiver and waivers by the California Commission on Teacher Credentialing (CTC). These waivers would then allow the hiring of a superintendent in a school district who may not have an administrative credential. This is the process that was used to hire Ray Romer, in the Los Angeles Unified School District and Alan Bersin, in the San Diego Unified School District

The department checked with Dale Jansen, at the CTC, and confirmed that their office had no objections to the SBE granting a one time waiver of this provision for Sacramento County Office of Education recruitment and hiring of a superintendent (if necessary).

That this waiver be granted from February 1, 2004, for the purposes of recruitment and selection, through hiring, and (if applicable) the term of office of this Sacramento COE Superintendent, only.

Authority for Waiver: Education Code (EC) Section 33050

Bargaining unit(s) consulted on date(s): 12/07/04

Position of bargaining unit(s) (choose only one):
☐ Neutral ☒ Support ☐ Oppose

Name of bargaining unit representative(s): Michelle Mickela, President, CSEA
Gary Barker, President, SCOETA

Public hearing identified by (choose one or more):
☒ posting in a newspaper ☒ posting at each school ☐ other (specify)

Public hearing held on date(s): January 28, 2004

Local board approval date(s): January 28, 2004

Advisory committee(s) consulted: NA (instead the COE consulted community input from over 100 stakeholders)

Objections raised (choose one): ☒ None ☐Objections are attached on separate sheet

Date(s) consulted: various dates

Period of request: February 1, 2004, for the purposes of recruitment and selection (if applicable) of this Sacramento COE Superintendent only.

FISCAL ANALYSIS (AS APPROPRIATE)

The waiver will have no fiscal impact on state finances.

BACKGROUND INFORMATION

Documentation is attached to this summary

CALIFORNIA STATE BOARD OF EDUCATION

ITEM #W-3

MARCH 2004 AGENDA

☒ **General Waiver**

SUBJECT	
Request by **California Virtual Academy @ Kern Charter School** for a waiver of Title 5 of the *California Code of Regulations* (*CCR*) Section 11963.4(b)(3) to allow the charter school to receive full funding with less than 50 percent (but more than 30 percent) of expenditures required for certificated staff costs due to the characteristics of a "Virtual Education Program." Waiver Number: 9-9-2003	☒ **Action** ☐ **Consent**

RECOMMENDATION

☐ Approval ☐ Approval with conditions ☒ Denial
Reason: *Education Code* Section 33050(a)(6) "substantially increases state costs," and for the other reasons described in the following analysis.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

Senate Bill (SB) 740 (Chapter 892, Statutes of 2001) allows funding reductions for charter schools that offer nonclassroom-based instruction (*Education Code* Sections 47612.5 and 47634.2). Nonclassroom-based instruction occurs when a charter school does not require attendance of its pupils at the school site under the direct supervision and control of a qualified teaching employee of the school for at least 80 percent of the required instructional time. For 2003-04 and each fiscal year thereafter, the law states that funding reductions of 30 percent of qualifying charter schools' nonclassroom-based average dailiy attendance (ADA) shall be made unless the State Board of Education (SBE) determines that a greater or lesser percentage is appropriate for a particular charter school. Furthermore, pursuant to SB 740, a charter school is prohibited from receiving any funding for nonclassroom-based instruction unless the SBE determines its eligibility for funding.

SB 740 also established the Advisory Commission on Charter Schools (ACCS) to develop the criteria for the SBE to use in making funding determinations. The ACCS also provides recommendations to the SBE on appropriate funding determinations for nonclassroom-based charter schools and on other aspects of the SBE's duties under the Charter Schools Act.

The SBE adopted permanent regulations that were approved in November 2003 that specified the criteria that a nonclassroom-based charter school must meet in order for the SBE to determine that the school shall receive 100 percent funding. For 2003-04

and each fiscal year thereafter, the full funding criteria are that at least 50 percent of the school's public revenues must be spent on certificated employee salaries and benefits and at least 80 percent of all revenues must be spent on instruction and instruction-related costs. Schools must spend a minimum of 40 percent on certificated employee salaries and benefits and 60 percent on instruction and instruction-related costs or the funding percentage is zero. Pursuant to the regulations, the SBE may approve a higher or lower funding level than the criteria would prescribe based upon mitigating circumstances of the school that indicate that a higher or lower funding level is appropriate.

There have been no other waiver requests of the SB 740 statutes or regulations before the SBE.

SUMMARY OF KEY ISSUES

California Virtual Academy @ Kern Charter School is seeking a waiver of Title 5 *CCR* Section 11963.4(b)(3) to allow the charter school to receive full funding with less than 50 percent (but more than 30 percent) of expenditures required for certificated staff costs due to the characteristics of a "Virtual Education Program." The basis of California Virtual Academy's request is that on-line charter schools are currently being treated as independent study programs, and that the SB 740 requirements do not take into consideration the required funding distribution required toward instructional materials, computer equipment, and the on-line curriculum in their particular program. The school provides information showing approximate expenditures of 55 percent of the school's state funding to provide infrastructure requirements for the program before including teacher salaries, special education services, counseling, administrative services, and other costs.

CDE recommends denial of this waiver request for the following reasons: 1) *Education Code* Section 33051(a)(6): Approval of this waiver would potentially significantly increase state costs (or result in foregone savings). See the fiscal analysis for discussion.

2) The funding determination process required by SB 740 was intended to include a variety of nonclassroom-based schools, and not just independent study charter schools. *Education Code* Section 47612.5(d)(1) states, "nonclassroom-based instruction includes, but is not limited to, independent study, home study, work study, and distance and computer-based education." It was always the intent of SB 740 to include virtual schools, i.e., distance and computer-based education, in the funding determination process. There are a variety of nonclassroom-based charter schools that are required to go through the SB 740 funding determination process. The California Virtual Academy schools are not the only charter schools in the state offering on-line instructional programs. All of these schools are required to meet SB 740 requirements (or demonstrate through that process why they should be exempted).

3) The ACCS, through the SB 740 funding determination process, provides funding recommendations to the SBE on nonclassroom-based charter schools. If one or more mitigating circumstances are factors for a school in not meeting the percentage criteria required for 100 percent funding, documentation can accompany the funding determination request form and the ACCS will fully consider this information in their

funding recommendation to the SBE. Representatives from the school always have an opportunity to appear before the ACCS and the SBE to present relevant information related to their school's operations. When the percentage criteria for full funding are not met, it is the charter school's responsibility to provide documentation to the ACCS and the SBE that demonstrates that the mitigating circumstance is compelling. Approval of this waiver would bypass a process already established for the SBE to consider this information. It would also be premature of the SBE to make this determination without the benefit of all the other information provided on the SB 740 forms.

Authority for Waiver: *Education Code* Section 33050

Bargaining unit(s) consulted on date(s): The school does not have any employee bargaining units.

Position of bargaining unit(s) (choose only one): The school does not have any employee bargaining units.

☐ Neutral ☐ Support ☐ Oppose

Name of bargaining unit representative(s): The school does not have any employee bargaining units.

Public hearing identified by (choose one or more):
☒ posting in a newspaper ☐ posting at each school ☒ other (Notice Posted at District Offices, Notice Posted at meeting site)

Public hearing held on date(s): 12/11/03
Local board approval date(s): 12/11/03

Advisory committee(s) consulted: No parent committee. Governing Board (with parents) reviewed waiver—no objections.
Objections raised (choose one): ☒ None ☐Objections are attached on separate sheet

Date(s) consulted: September 22, 2003
Period of request: 7/1/03 – 6/30/05

FISCAL ANALYSIS (AS APPROPRIATE)

The SB 740 regulations for 2003-04 require that at least 40 percent of public revenues be spent on certificated employee salaries and benefits to receive a funding level of 70 percent and at least 50 percent of public revenues spent on certificated employee salaries and benefits to receive full funding. California Virtual Academy is asking for full funding with less than 50 percent (but more than 30 percent) of expenditures required for certificated staff costs. Therefore, approval of this waiver could result in foregone Proposition 98 savings to the state, assuming that the SBE would have approved this school at the 70 percent funding level through the SB 740 funding determination

process. Based on the current enrollment of 434 students and K-6 charter school funding rates of approximately $4,700 per pupil, these foregone savings could be at least $611,940 per year. If the school is unable to meet the minimum 40 percent criterion for any funding, and the SBE makes a zero percent funding determination through the SB 740 process, then the foregone savings would be about $2.0 million.

BACKGROUND INFORMATION

Waiver request form and background information are attached to this summary.

CALIFORNIA STATE BOARD OF EDUCATION

ITEM #W-5

MARCH 2004 AGENDA

☒ **General Waiver**

SUBJECT	
Request by **California Virtual Academy @ Kern Charter School** for a waiver of *Education Code* Section 51745.6 and Title 5, *California Code of Regulations* (*CCR*) sections 11704 and 11963.3(2) related to charter school independent study average daily attendance (ADA)-to-teacher ratios to allow a ratio that is 50 percent higher than the ratio required by these sections. (Prospective) Waiver Number: 11-9-2003	☒ **Action** ☐ **Consent**

RECOMMENDATION

☐ Approval ☒ Approval with conditions ☐ Denial
That the waiver be for one year only (2004-05) to evaluate this new type of virtual program and that the increase in the ADA-to-teacher ratio is only 10 percent above the ratio that would otherwise be applicable, but no greater than 30 to 1.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

In April 2001, the State Board of Education (SBE) adopted waiver guidelines for the independent study ADA-to-teacher ratio. The policy states that a waiver may be considered appropriate if the purpose of the higher ADA-to-teacher ratio is to redirect resources to pay for other services for the direct benefit of students in independent study, such as intensive counseling services provided by appropriately credentialed staff. The policy states that the SBE will consider waivers that meet certain conditions including:

(1) The request for a new maximum ADA-to-teacher ratio for the independent study is not greater than 10 percent above the ratio that would be applicable absent the waiver, and this agreed "new maximum ratio" will be maintained in all future years of the waiver.
(2) The district will expend all revenues generated by students in independent study on services for those students, recognizing the need to allow for reasonable indirect cost charges.
(3) The local educational agency will provide an annual report of expenditures and assurances to the CDE, using the standard report form supplied, the Local Education Agency Report to California Department of Education: Use of Apportionment Funds Generated by Students in Independent Study.

The waiver should also include the rationale for the requested ratio, explaining how the

proposed change would improve the quality of education offered to independent study students (e.g., what new or increased services would be provided with the additional revenue claimable through the waiver).

SUMMARY OF KEY ISSUES

California Virtual Academy @ Kern Charter School is seeking a waiver of *Education Code* Section 51745.6 and Title 5 *CCR* Sections 11704 and 11963.3(2) related to independent study ADA-to-teacher ratios for its charter school to allow a ratio that is 50 percent higher than the ratio required by these sections. The reported ADA-to-teacher ratio is currently 27.1 to 1. The charter school is requesting a waiver to allow it to collect apportionment based on a ratio of 40.6 to 1.

The basis of California Virtual Academy's request is that ADA-to-teacher ratio calculations are not appropriate for on-line charter school programs and that the school is providing an array of other student support services to its students, i.e., "On-line School," parent training, help line, and computer support. The California Virtual Academy on-line program takes away some of the traditional teacher duties, such as lesson planning, some instruction, and course-level testing and grading. The addition of students to each teacher will have no impact, therefore, on the quality of the educational program provided to students.

CDE notes that the SBE has grounds for denial of this waiver at the higher requested level, pursuant to *Education Code* Section 33050(a)(1), that the educational needs of the pupil are not adequately addressed. California Virtual Academy argues that the increase in students for each teacher, i.e. from 27 to 40, will not impact the quality of the educational program. CDE does not find this argument well supported. The educational needs of the students are better served with a lower ratio that enables greater contact between students and teachers.

However, consistent with the SBE adopted policy for "regular" independent study ADA-to-teacher ratios, CDE recommends that a 10 percent increase in the ADA-to-teacher ratio be allowed, with the ratio not to exceed 30 to 1. Although the SBE policy does not specifically address charter schools, the 10 percent increase in this case appears supported. CDE is not recommending that the other conditions of the SBE policy be applied in this case because the charter school already only serves independent study students and the school already reports its revenues and expenditures to the CDE through the SB 740 process.

Authority for Waiver: *Education Code* Section 33050

Bargaining unit(s) consulted on date(s): The School does not have any employee bargaining units.

Position of bargaining unit(s) (choose only one): The School does not have any employee bargaining units.

☐ Neutral ☐ Support ☐ Oppose

Name of bargaining unit representative(s): The School does not have any employee bargaining units.

Public hearing identified by (choose one or more):
☒ posting in a newspaper ☐ posting at each school ☒ other (Notice Posted at District Offices, Notice Posted at meeting site)

Public hearing held on date(s): 12/11/03
Local board approval date(s): 12/11/03

Advisory committee(s) consulted: No parent committee. Governing Board (with parents) reviewed waiver—no objections

Objections raised (choose one): ☒ None ☐Objections are attached on separate sheet

Date(s) consulted: September 22, 2003

Period of request: 7/1/03 – 6/30/05 requested. Approval recommended for the 2004-05 year only.

FISCAL ANALYSIS (AS APPROPRIATE)

There will be no fiscal impact to the state as a result of approval of this waiver. Allowing a greater ADA-to-teacher ratio will not increase the amount of funding provided to this school. However, it will allow the school redirect its resources away from teacher salaries and related expenditures to other uses.

BACKGROUND INFORMATION

Waiver request form and background information are attached to this summary.

CALIFORNIA STATE BOARD OF EDUCATION

ITEM #W-6

MARCH 2004 AGENDA

☒ **General Waiver**

SUBJECT	
Request by **California Virtual Academy @ San Diego Charter School** for a waiver of *Education Code* Section 51745.6 and Title 5, *California Code of Regulations* (*CCR*) sections 11704 and 11963.3(2) related to charter school independent study average daily attendance (ADA)-to-teacher ratios to allow a ratio that is 50 percent higher than the ratio required by these sections. (Prospective) Waiver Number: 8-9-2003	☒ **Action** ☐ **Consent**

RECOMMENDATION

☐ Approval ☒ Approval with conditions ☐ Denial

That the waiver be for one year only (2004-5) to evaluate this new type of virtual program and that the increase in the ADA-to-teacher ratio is only 10 percent above the ratio that would otherwise be applicable, but no greater than 30 to 1.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

In April 2001, the State Board of Education (SBE) adopted waiver guidelines for the independent study ADA-to-teacher ratio. The policy states that a waiver may be considered appropriate if the purpose of the higher ADA-to-teacher ratio is to redirect resources to pay for other services for the direct benefit of students in independent study, such as intensive counseling services provided by appropriately credentialed staff. The policy states that the SBE will consider waivers that meet certain conditions including:

(1) The request for a new maximum ADA-to-teacher ratio for the independent study is not greater than 10 percent above the ratio that would be applicable absent the waiver, and this agreed "new maximum ratio" will be maintained in all future years of the waiver.

(2) The district will expend all revenues generated by students in independent study on services for those students, recognizing the need to allow for reasonable indirect cost charges.

(3) The local educational agency will provide an annual report of expenditures and assurances to the CDE, using the standard report form supplied, the Local Education Agency Report to California Department of Education: Use of Apportionment Funds Generated by Students in Independent Study.

The waiver should also include the rationale for the requested ratio, explaining how the

proposed change would improve the quality of education offered to independent study students (e.g., what new or increased services would be provided with the additional revenue claimable through the waiver).

SUMMARY OF KEY ISSUES

California Virtual Academy @ San Diego Charter School is seeking a waiver of *Education Code* Section 51745.6 and Title 5 *CCR* sections 11704 and 11963.3(2) related to independent study ADA-to-teacher ratios for its charter school to allow a ratio that is 50 percent higher than the ratio required by these sections. The reported ADA-to-teacher ratio is currently 27.1 to 1. The charter school is requesting a waiver to allow it to collect apportionment based on a ratio of 40.6 to1.

The basis of California Virtual Academy's request is that ADA-to-teacher ratio calculations are not appropriate for on-line charter school programs and that the school is providing an array of other student support services to its students, i.e., "On-line School," parent training, help line, and computer support. The California Virtual Academy on-line program takes away some of the traditional teacher duties, such as lesson planning, some instruction, and course-level testing and grading. The waiver claims that the addition of students to each teacher will have no impact, therefore, on the quality of the educational program provided to students.

CDE notes that the SBE has grounds for denial of this waiver at the higher level requested pursuant to *Education Code* Section 33050(a)(1), that the educational needs of the pupil are not adequately addressed. California Virtual Academy argues that the increase in students for each teacher, i.e. from 27 to 40, will not impact the quality of the educational program. CDE does not find this argument well supported. The educational needs of the students are better served with a lower ratio that enables greater contact between students and teachers.

However, consistent with the SBE adopted policy for "regular" independent study ADA-to-teacher ratios, CDE recommends that a 10 percent increase in the ADA-to-teacher ratio be allowed, with the ratio not to exceed 30 to 1. Although the SBE policy does not specifically address charter schools, the 10 percent increase in this case appears supported. CDE is not recommending that the other conditions of the SBE policy be applied in this case because the charter school already only serves independent study students and the school already reports its revenues and expenditures to the CDE through the SB 740 process.

Authority for Waiver: *Education Code* Section 33050

Bargaining unit(s) consulted on date(s): The School does not have any employee bargaining units.

Position of bargaining unit(s) (choose only one): The School does not have any employee bargaining units.

☐ Neutral ☐ Support ☐ Oppose

Name of bargaining unit representative(s): The School does not have any employee bargaining units.

Public hearing identified by (choose one or more):
☒ posting in a newspaper ☐ posting at each school ☒ other (Notice Posted at District Offices, Notice Posted at meeting site)

Public hearing held on date(s): 12/12/03
Local board approval date(s): 12/12/03

Advisory committee(s) consulted: No parent committee. Governing Board (with parents) reviewed waiver—no objections.

Objections raised (choose one): ☒ None ☐Objections are attached on separate sheet

Date(s) consulted: September 23, 2003

Period of request: 7/1/03 – 6/30/05 requested. Approval recommended for 2004-5 year only.

FISCAL ANALYSIS (AS APPROPRIATE)

There will be no fiscal impact to the state as a result of approval of this waiver. Allowing a greater ADA-to-teacher ratio will not increase the amount of funding provided to this school. However, it will allow the school redirect its resources away from teacher salaries and related expenditures to other uses.

BACKGROUND INFORMATION

Waiver request form and background information are attached to this summary.

CALIFORNIA STATE BOARD OF EDUCATION

ITEM #W-7

MARCH 2004 AGENDA

☒ **General Waiver**

SUBJECT	
Request by **Bonita Unified School District** to waive *Education Code* (EC) Section 37202, equity length of time requirement, to allow a full day kindergarten pilot program at **Allen Avenue, Fred Ekstrand Elementary, Gladstone, Grace Miller, La Verne Heights Elementary, and J. Marion Roynon Elementary School.** Waiver Number: 1-9-2003	☒ **Action** ☐ **Consent**

RECOMMENDATION

☐ Approval ☒ Approval with conditions ☐ Denial
That the district provide an evaluation of the full day kindergarten pilot program before a renewal is considered.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

This waiver request for full day kindergarten programs in eight schools in Bonita Unified was on the January 8, 2004 SBE agenda. At that time, a CTA union representative spoke against the waiver before the State Board of Education (SBE), stating that the union had not participated in waiver request for eight schools. It was stated that when they agreed to support the request. Instead they had only supported the request for five schools.

Because of this concern the Board postponed action on the waiver to the March SBE.

SUMMARY OF KEY ISSUES

Bonita Unified re-did the entire waiver process including the board vote, public hearing and union contact and is now requesting only six schools be included in the waiver request to go to longer days in Kindergarten (revised waiver is attached). Bonita Unified is requesting a waiver of the equity length of time requirement, EC Section 37202, that states a district shall maintain an equal length of time in the school year for all its elementary schools.

The six schools are Allen Avenue School, Fred Ekstrand Elementary, Gladstone School, Grace Miller School, La Verne Heights Elementary, and J. Marion Roynon Elementary School. The actual minutes offered in kindergarten differs for each of the

six schools (see attached chart).

The district has adopted EC 8970-8974, the Early Childhood Program, which allows kindergartens to be held for more than 4 hours a day. Recent changes in content standards and school accountability have increased the pressure on kindergarten pupils to master skills previously acquired at the first grade level. In order to support this new emphasis, the district finds it necessary to lengthen the kindergarten day. The district surveyed parents and found that 90% of them were in favor of a longer day for their kindergarten pupils. This is being considered a pilot project, and the district will have to submit an evaluation before the waiver will be renewed.

The department now recommends approval of only 6 schools for one year 2003-2004.

Authority for Waiver: Education Code (EC) Section 33050

Bargaining unit(s) consulted on date(s): July 30 & 31, 2003, August 6, 18, 20 & 21, 2003, Jan 20, 2004

Position of bargaining unit(s) (choose only one):
☒ Neutral - BUTA ☒ Support - CSEA ☐ Oppose

Name of bargaining unit representative(s): Jim Himelhoch (BUTA President), Debbie Tully (BUTA President) negotiations Chair, Don Roberts (CSEA President)

Public hearing identified by (choose one or more):
☒ posting in a newspaper ☐ posting at each school ☐ other (specify)

Public hearing held on date(s): August 20, 2003 and February 11, 2004
Local board approval date(s): August 20, 2003 and February 11, 2004

Advisory committee(s) consulted: School Site Counsels

Objections raised (choose one): ☒ None ☐Objections are attached on separate sheet

Date(s) consulted: September 2003, January 21, 2004, January 26, 2004

Period of request: July 1, 2003 to June30, 2004

FISCAL ANALYSIS (AS APPROPRIATE)

There is no statewide fiscal impact.

BACKGROUND INFORMATION

Documentation is attached.

CALIFORNIA STATE BOARD OF EDUCATION

ITEM #W-8

MARCH 2004 AGENDA

☒ **Federal Waiver**

SUBJECT	
Request by **Clovis Unified School District** to waive No Child Left Behind Act (NCLB), Title IV, Part A, Section 4115 (a)(1)(c) to use Safe and Drug Free Schools and Communities funds to support the cost of **Here's Looking At You,** a K-12 grade prevention program. Waiver Number: Fed-17-2003	☒ **Action** ☐ **Consent**

RECOMMENDATION

☐ Approval ☐ Approval with conditions ☒ Denial

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

The SBE previously adopted policy 03-01 that requires a program or activity supported with Safe and Drug Free School and Communities (SDFSC) funds to meet the principles of effectiveness. Attachment A of the policy lists those programs that provide scientific evidence that the program reduces violence or illegal drug use as required by Title IV, Part A, Section 4115. The Here's Looking At You program is not on Attachment A, and does not meet the other criteria for waiver, so this request is recommended for denial. Previously, the State Board of Education denied similar waiver requests from other school districts to spend Title IV funds for this program.

SUMMARY OF KEY ISSUES

The waiver application from the Clovis USD regarding the Here's Looking At You program has been reviewed to ensure compliance with the three major criteria described in SBE policy 03-01 that must be met in order for the waiver to be approved by the board. The waiver application's success in meeting each of the three criteria is described as follows:

Is the program innovative?
The program has been in existence since 1992 and cannot be considered a new program.

The California Department of Education's publication, *Getting Results Update 2: Assessing the Effectiveness of Classroom Based Prevention Programs, 2001*, summarized the results from two published and seven unpublished studies that previously evaluated the Here's Looking At You (HLAY) program. The program's 10 year evaluation history further underscores that this is a traditional program rather than innovative.
The program includes concepts related to providing students with current information, opportunities to bond, and social skills common to many prevention curriculums based on the social influences model. Given the wide availability of social influences based programs, HLAY does not meet the State Board's criteria for being innovative compared to other programs.

Does the program demonstrate substantial likelihood of success?
Previously, Dr. Denise Hallfors, Ph.D., University of North Carolina, Chapel Hill, reviewed the two published and seven unpublished studies of HLAY available at that time for a report in *Getting Results, Update 2* (2001). Dr. Hallfors concluded that, "because of the lack of peer-reviewed studies and the weakness of unpublished study designs, Here's Looking At You should not be considered a research-based program that works."

The California Department of Education has asked the California Healthy Kids Resource Center director, Deborah Wood, Ph.D., to acquire a copy of the latest HLAY evaluation conducted by Farley and Associates (April 2003) and based on the scientific evidence presented by the evaluation determine if the program demonstrates substantial likelihood of success. Dr. Wood's conclusion is that, "the present evaluation of HLAY does not provide valid and reliable evidence of effectiveness, especially on students' substance-use behaviors. Without peer-reviewed studies on the impact of HLAY and given the design weaknesses and lack of instrumentation reliability data of the Farley and Associates (April 2003) unpublished study, there is not available evidence at this time to change the conclusions reported in *Getting Results, Update 2* (2001)." The HLAY program does not meet the State Board's criteria for demonstrating the likelihood of success.

Is there a plan and timeline for submitting the program for review and recognition?
The applicant has confirmed that the program developer is submitting the evaluation for publication in a peer-review journal. The applicant did not provide a plan or timeline for submitting the program for review as required by the State Board's criteria. However, other applicants wanting to use HLAY have indicated that the developer will submit the program to both the California Healthy Kids Resource Center and the Center for Substance Abuse Prevention Model Programs.

Authority for Waiver: NCLB, Title IV, Part A. Section 4115(a)(3)

Local board approval date(s): 11-19-03

Period of request: Period of request: September 1, 2003 to September 1, 2005

FISCAL ANALYSIS (AS APPROPRIATE)

Waiver denial will increase the amount of NCLB, Title IV, Part A funds available to support science-based and proven-effective alcohol, tobacco, other drug and violence prevention programs consistent with the LEA's approved Local Educational Agency Plan.

BACKGROUND INFORMATION

Waiver request forms and supporting documentation is attached to this summary.

CALIFORNIA STATE BOARD OF EDUCATION

ITEM #W-9

MARCH 2004 AGENDA

☒ **General Waiver**

SUBJECT	
Request by **Manhattan Beach Unified School District** to waive portions of *Education Code* (EC) Section 45272(a), to allow the district hire a substitute assistant who has been working in the district's Child Development Center, although she is not in the top three ranks. Waiver Number 28-12-2003	☒ **Action** ☐ **Consent**

RECOMMENDATION

☐ Approval ☒ Approval with conditions ☐ Denial
That this waiver applies on a one time, non-precedential basis only for the employee in question, and that EC 33051(c) will not apply.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

The State Board of Education (SBE) has never before acted on any waiver request regarding local district hiring practices, however this EC Section is waivable by the SBE under EC 33050, and the rule that all general waivers are approved unless one of 7 conditions is found per (EC 33051(a)(1-7).

SUMMARY OF KEY ISSUES

The District's request is straightforward. A temporary employee who is not in the top three places on the eligibility list is seeking a permanent position in the Child Development Center, and state law expressly prohibits such an action by the District.

The employee in question has worked as a substitute in the same position for many years, and has been adequately performing the tasks needed.

The district's Personnel Commission is in support of this waiver, and the union involved, California School Employees Association (CSEA) is in full support, and the Child Development Parent Teacher Association had no objections when it was discussed with them. The local board has also voted approval of the waiver request after a fully noticed public hearing.

The department therefore recommends approval of this waiver on very limited conditions as explained above.

Authority for Waiver: Education Code (EC) Section 33050

Bargaining unit(s) consulted on date(s): October 29, 2003

Position of bargaining unit(s) (choose only one):
☐ Neutral ☒ Support ☐ Oppose

Name of bargaining unit representative(s): Margie Strike and Jim Walker, CSEA

Public hearing identified by (choose one or more):
☒ posting in a newspaper ☐ posting at each school ☐ other (specify)

Public hearing held on date(s): December 10, 2003

Local board approval date(s): December 10, 2003

Advisory committee(s) consulted: Child Development Center Parent Teacher Association (PTA)

Objections raised (choose one): ☒ None ☐Objections are attached on separate sheet

Date(s) consulted: December 2, 2003

Period of request: 12/10/03 to 5/21/04

FISCAL ANALYSIS (AS APPROPRIATE)

This will have no fiscal impact, either locally or statewide.

BACKGROUND INFORMATION

Documentation is attached to this Summary.

CALIFORNIA STATE BOARD OF EDUCATION

ITEM #W-10

MARCH 2004 AGENDA

☒ **General Waiver**

SUBJECT	
Request **by Sacramento City Unified School District for Fruit Ridge Elementary School,** in Cohort I of the Immediate Intervention/Underperforming Schools Program (II/USP) postponed from January 8, 2004 (Invalid API) to waive sanctions in portions of *Education Code* (EC) Section 52055.5(h), in effect to keep the school on "watch" for the 2003-04 school year. Waiver Number: 3-2-2004	☒ **Action** ☐ **Consent**

RECOMMENDATION

☐ Approval ☒ Approval with conditions ☐ Denial

That Fruit Ridge Elementary be placed on "watch" status for the 2003-04 school year.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

At the January 2004 State Board meeting, the Board members approved an alternative method for II/USP schools with invalid growth APIs to demonstrate significant growth. The criteria the Board adopted for Cohort I II/USP elementary schools were as follows:

Elementary schools must demonstrate that:

- The percentage of students (schoolwide) at or above the proficient level on the California Standards test in English/language arts increased by at least one percentage point from 2002 to 2003 (note: 0.99 does not equal 1.00), and
- The percentage of students (schoolwide) at or above the proficient level on the California Standards test in Mathematics Standards increased by at least one percentage point from 2002 to 2003.

SUMMARY OF KEY ISSUES

Fruit Ridge Elementary has met the alternative criteria for schools without valid growth APIs to demonstrate significant growth. The percentage of students at or above proficient on the 2003 California Standards English/language arts test increased by 7.82%, and the percentage of students at or above proficient on the 2003 California Standards Mathematics Test increased by 10.63%.

Also, the percentage tested in English/language arts increased from 77.6% in 2002 to 99% in 2003 and the percentage tested in mathematics increased from 89.5% in 2002 to 99% in 2003.

If the Board grants the waiver, the school would be placed on "watch" status for the 2003-2004 school year. If the school makes all its growth targets on the 2004 API, it will exit the program.

Authority for Waiver: Education Code (EC) Section 33050

Bargaining unit(s) consulted on date(s): January 21, 2004

Position of bargaining unit(s) (choose only one):
☐ Neutral ☒ Support ☐ Oppose

Name of bargaining unit representative(s): Manuel Villarreal

Public hearing identified by (choose one or more):
☒ posting in a newspaper ☐ posting at each school ☐ other (specify)

Public hearing held on date(s): February 5, 2004
Local board approval date(s): February 5, 2004

Advisory committee(s) consulted: School Site Council

Objections raised (choose one): ☒ None ☐Objections are attached on separate sheet

Date(s) consulted: January 23, 2004

Period of request: 3/11/03-9/1/04

FISCAL ANALYSIS (AS APPROPRIATE)

If the waiver is granted, a total of $186,000 in Title I funds would be saved ($75,000 for the services of a SAIT team and $111,600 to implement the recommended corrective actions).

BACKGROUND INFORMATION

Documentation is attached to this summary.

CALIFORNIA STATE BOARD OF EDUCATION

ITEM #W-11

MARCH 2004 AGENDA

☒ **General Waiver**

SUBJECT	
Request by **Burbank Unified School District** for **Providencia Elementary School,** in Cohort I of the Immediate Intervention/Underperforming Schools Program (II/USP) deemed state monitored on Nov 12, 2003, (Valid API) to waive sanctions in portions of *Education Code* (EC) Section 52055.5(h) and remain on "watch" for the 2003-04 school year. Waiver Number: 6-12-2003	☒ **Action** ☐ **Consent**

RECOMMENDATION

☐ Approval ☒ Approval with conditions ☐ Denial

Pending decision on March, 2004 State Board of Education proposed Waiver Policy for Higher Performing II/USP schools that do not make significant growth.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

At the January 2004 State Board meeting, Providencia Elementary School, an II/USP state-monitored school, requested that the Board approve their waiver request to be taken out of the sanctions/intervention and to be placed "on watch" for another year. The waiver was based on the premise that the school is higher-performing and therefore should not be subject to state sanctions. The Board deferred the waiver request until March 2004 and requested that CDE staff develop a waiver policy for higher-performing II/USP schools that are subject to state sanctions.

SUMMARY OF KEY ISSUES

Overall, Providencia Elementary School is performing well, with a smaller percentage of students scoring below and far below basic than other state-monitored schools (see table below). Unfortunately, the school did not make significant growth on its 2003 API and therefore became subject to state sanctions.

2003 California Standards Tests			
	Percent of students at or above proficient	Percent of students at basic	Percent of students at below or far below basic
English/Language Arts	35.9%	36.9%	26.9%
Mathematics	42.7%	28.3%	28.1%

Burbank Unified School District - Providencia, Page 2

Providencia meets the criteria in both options that CDE staff submitted for consideration as a waiver policy for higher-performing II/USP schools (see related March Board item). The table below reflects how the school meets the criteria for option 2.

API Decile Rank	Current API Decile Rank of 7
Multi-year growth	In 2001-02, Providenica API growth target was 4 and it obtained a growth of 47 points. In 2002-03, its API growth target was 3 and the school went down 1 point. Therefore, the total API growth requirement for both years was 7 points. Since Providencia grew 47 points, its 2001-02 growth covered the total growth expectation for both years.
AYP	The school met NCLB Adequate Yearly Progress (AYP). (Meeting AYP means meeting annual measurable objectives (AMOs) in language arts and mathematics schoolwide and for all student groups; participation rate requirements; meeting API requirements; and for high schools, meeting graduation rate requirements.)

Authority for Waiver: Education Code (EC) Section 33050

Bargaining unit(s) consulted on date(s): November 24, 2003

Position of bargaining unit(s) (choose only one):
☐ Neutral ☒ Support ☐ Oppose

Name of bargaining unit representative(s): Mr. Kim Allender

Public hearing identified by (choose one or more):
☐ posting in a newspaper ☒ posting at each school ☒ other (specify) All Public Libraries

Public hearing held on date(s): December 4, 2003
Local board approval date(s): December 4, 2003

Advisory committee(s) consulted: School Site Councils

Objections raised (choose one): ☒ None ☐Objections are attached on separate sheet

Date(s) consulted: November 24, 2003

Period of request: 3/11/04 -9/1/04: modified from district request of 12/03 to 12/04. Start date was changed due to the direction given at the January State Board that the school continue with the SAIT process until such time a waiver was approved. The ending date was changed due to the API data being released in August 2004.

FISCAL ANALYSIS (AS APPROPRIATE)

If the waiver is approved, the school will not receive funds to implement the corrective actions recommended by the SAIT and the state will save $73,800 each year for two or three years.

BACKGROUND INFORMATION

Documentation will be attached.

CALIFORNIA STATE BOARD OF EDUCATION

ITEM #W-12

MARCH 2004 AGENDA

☒ **General Waiver**

SUBJECT	
Request by **San Jose Unified School District** for **Hester Elementary School,** in Cohort I of the Immediate Intervention/Underperforming Schools Program (II/USP) deemed state-monitored on Nov 12, 2003, (Valid API) to waive sanctions in portions of *Education Code* (EC) Section 52055.5(h) and remain "on watch" for the 2003-04 school year. Waiver Number: 3-12-2003	☒ **Action** ☐ **Consent**

RECOMMENDATION

☐ Approval ☐ Approval with conditions ☒ Denial: EC 33051(a)(1)
Pending decision on March 2004 State Board of Education proposed Waiver Policy for Higher Performing II/USP schools that do not make significant growth.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

Hester Elementary was deemed state-monitored at the November 12, 2003 meeting under the provisions of the II/USP because the school failed to make significant growth. Significant growth is defined as making at least one point of growth on the schoolwide API.

At the January 2004 State Board meeting, Hester Elementary School requested that the Board approve their waiver request to be taken out of the sanctions/intervention and to be placed "on watch" for another year. The waiver was based on the premise that the school is higher-performing and therefore should not be subject to state sanctions. The Board deferred the waiver request until March 2004 and requested that CDE staff develop a waiver policy for higher-performing II/USP schools that are subject to state sanctions.

SUMMARY OF KEY ISSUES

Hester has shown growth on the API 3 out of the last 4 years (first Growth API 1999-2000, through the most recent Growth API 2002-03), which is commendable. However, on the 2003 Growth API Hester Elementary went down 5 points, and based on the results of the California Standards Tests (CST) the school would clearly benefit from the services of a SAIT. Seventy-nine percent of Hester's students scored below the proficient level on the CST for English/language arts, and 70% of the students performed below the proficient level on the CST mathematics test (see table below).

2003 California Standards Tests			
	Percent of students at or above proficient	Percent of students at basic	Percent of students at below or far below basic
English/Language Arts	22%	35%	43%
Mathematics	30%	32%	38%

Hester does not meet the criteria in either of the options that CDE staff submitted for consideration as a waiver policy for higher-performing II/USP schools (see related March Board item) because it is in decile rank 5. The table below indicates which criteria for option 2 the school does and does not meet.

API Decile Rank	Current API Decile Rank of 5 (criteria requires a decile rank of 6 of higher)
Multi-year growth	In 2001-02, Hester's API growth target was 11 and it obtained a growth of 91 points. In 2002-03, it's API growth target was 6 and the school went down 5 points. Therefore, the total API growth requirement for both years was 17 points. Since Hester grew 91 points, its 2001-02 growth covered the total growth expectation for both years.
AYP	The school met NCLB Adequate Yearly Progress (AYP). (Meeting AYP means meeting annual measurable objectives (AMOs) in language arts and mathematics schoolwide and for all student groups; participation rate requirements; meeting API requirements; and for high schools, meeting graduation rate requirements.)

Authority for Waiver: Education Code (EC) Section 33050

Bargaining unit(s) consulted on date(s): November 26, 2003

Position of bargaining unit(s) (choose only one):
☐ Neutral ☒ Support ☐ Oppose

Name of bargaining unit representative(s): Marlene Mattoon

Public hearing identified by (choose one or more):
☒ posting in a newspaper ☐ posting at each school ☐ other (specify)

Public hearing held on date(s): December 9, 2003
Local board approval date(s): December 9, 2003

Advisory committee(s) consulted: School Site Councils

Objections raised (choose one): ☒ None ☐Objections are attached on separate sheet

Date(s) consulted: December 2, 2003

Period of request: 3/11/04-6/30/04: modified from district request of 12/03 to 6/04. Start date was changed due to the direction given at the January State Board that the school continue with the SAIT process until such time a waiver was approved.

FISCAL ANALYSIS (AS APPROPRIATE)

If the waiver is approved, the school will not receive funds to implement the corrective actions recommended by the SAIT and the state will save $57,450 each year for two-three years.

BACKGROUND INFORMATION

Documentation is attached to this summary.

CALIFORNIA STATE BOARD OF EDUCATION

ITEM #W-13

MARCH 2004 AGENDA

☒ **General Waiver**

SUBJECT	
Request by **Biggs Unified School District for Biggs Elementary School**, in Cohort I of the Immediate Intervention/Underperforming Schools Program (II/USP), to waive the II/USP timeline for the School Assistance and Intervention Team (SAIT) of *Education Code* (EC) Section 52055.51(d)(e) to be restarted to begin on March 11, 2004 Waiver Number: 18-2-2004	☒ **Action** ☐ **Consent**

RECOMMENDATION

☐ Approval ☒ Approval with conditions ☐ Denial

Approval: CDE recommends that the II/USP 90-day SAIT timeline be restarted on March 11, 2004 on the condition that Biggs Elementary School begins the School Assistance and Intervention Team (SAIT) process immediately.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

Biggs Elementary was deemed a state-monitored school at the November 2003 State Board meeting because the school failed to demonstrate significant growth on the 2003 Growth API. The Board required the district to enter into a contract with an approved SAIT Provider and the local governing board was allowed to retain its legal rights, duties, and responsibilities with respect to Biggs Elementary.

Below is the API history that was presented at the November Board meeting:

Biggs Elementary											
2000 Base	2001 Growth	2001 Sch Wide	2001 Comp Imp	2001 Base	2002 Growth	2002 Sch Wide	2002 Comp Imp	2002 Base	2003 Growth	2003 Sch Wide	2003 Comp Imp
669	19	Yes	Yes	694	-1	No	No	678	-99	No	Yes

SUMMARY OF KEY ISSUES

After the November 2003 State Board meeting, the district notified the Department that the API data used to deem Biggs Elementary state-monitored were incorrect. The district is currently working with Education Testing Services (ETS) to correct the data errors.

Since Biggs Elementary was in the process of correcting its API data, the district decided not to begin the SAIT process. Therefore, the school is in violation of the 90-day legislative timeline to complete the initial SAIT process. Legislation requires that no later than 60 days after the assignment of a SAIT, the team must complete the initial report and no later than 90 days after the assignment of a SAIT the local governing board shall adopt the recommendations in the report.

Authority for Waiver: Education Code (EC) Section 33050

Bargaining unit(s) consulted on date(s): 2/4/04

Position of bargaining unit(s) (choose only one):
☒ Neutral ☐ Support ☐ Oppose

Name of bargaining unit representative(s): Lynn Dearmond and Pricilla Sisty

Public hearing identified by (choose one or more):
☒ posting in a newspaper ☒ posting at each school ☐ other (specify)

Public hearing held on date(s): 3/4/04
Local board approval date(s): 3/4/04

Advisory committee(s) consulted: School Site Council

Objections raised (choose one): ☐ None ☐Objections are attached on separate sheet

Date(s) consulted: 2/11/04

Period of request: November 12, 2004 –March 11, 2004

FISCAL ANALYSIS (AS APPROPRIATE)

There is no fiscal impact associated with this waiver.

BACKGROUND INFORMATION

Documentation is attached to this Summary

CALIFORNIA STATE BOARD OF EDUCATION

ITEM #W-14

MARCH 2004 AGENDA

☒ **Specific Waiver**

SUBJECT	
Request by **Duarte Unified School District** to waive *Education Code* (EC) Section 46201(d), the longer day instructional time penalty for fiscal year 2002-2003 at **Andres Duarte Elementary School** due to a shortage of 900 instructional minutes. Waiver Number 12-7-2003	☒ **Action** ☐ **Consent**

RECOMMENDATION

☐ Approval ☒ Approval with conditions ☐ Denial

That the district maintain increased instructional time at Andres Duarte Elementary School from the required 36,000 minutes per year to 36,900 minutes per year (36,000 plus the 900 minutes short) for a period of two years beginning in 2003-2004 and continuing through 2004-2005, and report the increase in its yearly audits.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

The SBE has approved similar requests with conditions. EC Section 46206 authorizes waivers to be granted for fiscal penalties as a result of a shortfall in instructional time. This section of the Education Code is very prescriptive and states that a waiver may only be granted upon the condition that the school or schools in which the minutes, days, or both, were lost, maintain minutes and days of instruction equal to those lost in addition to the amount for twice the number of years that it failed to maintain the required minimum length of time for the instructional school year, minimum number of instructional days for the school year following the year, or both. The instructional time has to be made up beginning not later than the school year following the year in which the waiver was granted and continue for each succeeding school year until the condition is satisfied.

SUMMARY OF KEY ISSUES

The Duarte Unified School District requests a waiver of *Education Code* (EC) Section 46201(d), the longer day instructional time penalty, which states that thirty-four thousand minutes of instructional time must be offered at the kindergarten grade level. In the 2002-2003 school year, the district contracted with a private company to provide bus services for the school. The bus driver, unaware of the instructional time requirements, changed the schedule of his pickup and delivery to the school creating a shortage of five minutes for the kindergarten classes. The inexperienced staff at the school failed to recognize the

consequences of the continued late arrival and eventually the shortage accumulate to a total of 900 minutes for the school year.

The penalty for this error is $38,520.82. The district will begin to make up the instructional time beginning in school year 2003-2004 by increasing the instructional time at Andres Duarte Elementary School to 36,900 (36,000 plus 900).

Therefore, the department recommends approval on the condition that the district maintains increased instructional time at Andres Duarte Elementary School from the required 36,000 minutes per year to 36,900 minutes per year (36,000 plus the 900 minutes short) beginning in 2003-2004 and continuing through 2004-2005, and reports the increase in its yearly audits.

Authority for the Waiver: 46202

Bargaining unit(s) consulted on date(s): June 5, 2003

Position of bargaining unit(s) (choose only one):

☐ Neutral ☒ Support ☐ Oppose

Name of bargaining unit representative(s): Nancy Washington

Local board approval date(s): January 15, 2004

Period of request: July 1, 2002 through June 30, 2003

FISCAL ANALYSIS (AS APPROPRIATE)

The repayment amount for offering less than the 1986-87 minutes per *Education Code* (EC) Section 46201(d), as required by law is: 325.52 (Affected ADA) times $4,733.45 (Base Revenue Limit) equals $1,540,832.64 (Apportionment). 900 (Number of minutes short) divided by 36,000 (Number of required minutes) equals 0.025 (Percentage). $1,540,832.64 (Apportionment) times 2.50% (Percentage) equals $38,520.82 (Penalty).

BACKGROUND INFORMATION

Waiver request forms and supporting documents are attached to this summary.

CALIFORNIA STATE BOARD OF EDUCATION

ITEM #W-15

MARCH 2004 AGENDA

☒ **Specific Waiver**

SUBJECT	
Request by **Lake Elsinore Unified School District** to waive *Education Code* (EC) Section 46201(d), the longer day instructional time penalty for fiscal year 2002-2003 at **Cottonwood Canyon Elementary School** due to a shortage of 2,160 instructional minutes. Waiver Number 30-12-2003	☒ **Action** ☐ **Consent**

RECOMMENDATION

☐ Approval ☒ Approval with conditions ☐ Denial

That the district maintain increased instructional time at Cottonwood Canyon Elementary School from the required 36,000 minutes per year in Kindergarten to 38,160 minutes per year (36,000 plus the 2,160 minutes short) for a period of two years beginning in 2003-2004 and continuing through 2004-2005, and report the increase in its yearly audits.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

The SBE has approved similar requests with conditions. EC Section 46206 authorizes waivers to be granted for fiscal penalties as a result of a shortfall in instructional time. This section of the Education Code is very prescriptive and states that a waiver may only be granted upon the condition that the school or schools in which the minutes, days, or both, were lost, maintain minutes and days of instruction equal to those lost in addition to the amount for twice the number of years that it failed to maintain the required minimum length of time for the instructional school year, minimum number of instructional days for the school year following the year, or both. The instructional time has to be made up beginning not later than the school year following the year in which the waiver was granted and continue for each succeeding school year until the condition is satisfied.

SUMMARY OF KEY ISSUES

The Lake Elsinore Unified School District requests a waiver of *Education Code* (EC) Section 46201(d), the longer day instructional time penalty, which states that thirty-four thousand minutes of instructional time must be offered at the kindergarten grade level. In the 2002-2003 school year, the district erroneously included a nineteen-minute lunch period each day in the instructional time calculation to the kindergarten pupils. When the error was discovered during the audit, the bell schedule was immediately revised and the lunch period dropped for the

kindergarten pupils, however the total shortage was still 2,160.

The penalty for this error is $379,868.83. The district will begin to make up the instructional time beginning in school year 2003-2004 by increasing the instructional time at in Kindergarten classes at Cottonwood Canyon Elementary School to 38,160.

Therefore, the department recommends approval on the condition that the district maintains increased instructional time at Cottonwood Canyon Elementary School from the required 36,000 minutes per year to 38,160 minutes per year (36,000 plus the 2,160 minutes short) beginning in 2003-2004 and continuing through 2004-2005, and reports the increase in its yearly audits.

Authority for the Waiver: 46202

Bargaining unit(s) consulted on date(s): April 2003

Position of bargaining unit(s) (choose only one):

☐ Neutral ☒ Support ☐ Oppose

Name of bargaining unit representative(s): Karl Stuck

Local board approval date(s): December 17, 2003

Period of request: July 1, 2003 through June 30, 2005

FISCAL ANALYSIS (AS APPROPRIATE)

The repayment amount for offering less than the 1986-87 minutes per *Education Code* (EC) Section 46201(d), as required by law is: 1,260 (Affected ADA) times $5,024.72 (Base Revenue Limit) equals $6,331,147.20 (Apportionment). 2,160 (Number of minutes short) divided by 36,000 (Number of required minutes) equals 0.06 (Percentage). $6,331,147.20 (Apportionment) times 6.00% (Percentage) equals $379,868.83 (Penalty).

BACKGROUND INFORMATION

Waiver request forms and supporting documents are attached to this summary.

CALIFORNIA STATE BOARD OF EDUCATION

ITEM #W-16

MARCH 2004 AGENDA

☒ **Petition**

SUBJECT	
Petition request under *Education Code* (EC) Section 60421(d) and 60200(g) by **Palo Alto Unified School District** to purchase Instructional Resources (Ca. Edition of Full Option Science System (FOSS) K-5) using Instructional Materials Funding Realignment Program (IMFRP) monies Waiver Number 15-1-2004	☒ **Action** ☐ **Consent**

RECOMMENDATION

☐ Approval ☒ Approval with conditions ☐ Denial

That the district supplement the *Full Option Science System (FOSS)* program to ensure coverage of all science content standards, and make a report on how all science content standards are being covered if a petition is submitted for 2005-06 or thereafter. Approval is from January 13, 2004 to June 30, 2005.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

The petition process was continued in statute for use by districts with the Instructional Materials Funding Realignment Program, AB 1781, Statutes of 2002 with *Education Code* Section 60421(d). This is the second request from this district for a waiver for the *FOSS* program; in November 2003 the State Board approved a Schiff-Bustamante waiver for this district for the program. Dr. Sandra Mann, a member of the Curriculum Commission, earlier reviewed this program at the request of the State Board.

SUMMARY OF KEY ISSUES

Palo Alto Unified School District (PAUSD) submits this petition to use Instructional Materials Funding Realignment Program (IMFRP) funds for the purchase of *FOSS, Grades K*-5, *California Edition.*

The *FOSS Grades K-5* program was submitted for consideration for adoption as part of the 2000 Science Primary Adoption, but was not adopted. The district is seeking to use a revised 2003 California Edition that they assert addresses the weaknesses found in the program during the 2000 Adoption. The district has also implemented a professional development program that they state recognizes and meets the deficiencies uncovered in subsequent reviews of the program by members of the Curriculum Commission.

PAUSD adopted *FOSS* during its adoption cycles in 1992 (for the Grades 3-6 modules) and 1995 (for the K-2 modules), and teachers and students have been using the earlier edition since that time. The district's professional development program has incorporated *FOSS* as an integral part of training teachers in its overall science curriculum.

The publisher has provided a completed grade-level-specific standards map for the new edition of *FOSS* (attached). The complete program and the supplements proposed by PAUSD underwent a thorough and comprehensive content review by two members of the Curriculum Commission, as part of earlier Schiff-Bustamante waiver requests for *FOSS* from this and other districts. The Commissioners found that numerous standards were either partially met or not met across several grade levels of the program and the supplements. However, based on the district's high achievement scores, the State Board unanimously voted to approve PAUSD's waiver at their November 2003 meeting.

It is difficult to track student achievement in science, as the API does not reflect science and the first statewide assessment in Science (for 5th grade) is not slated to occur until 2004. However, PAUSD's twelve elementary schools all received a 9 or 10 API ranking in 2002. Since assessment data in science is unavailable, the general procedure is to use mathematics test data for waiver requests for science materials as a proxy. The district's test scores in mathematics (SAT-9, CAT-6, and CST) for the twelve elementary schools covered by this waiver request have been significantly higher than the state average. On the 2003 CAT-6 Mathematics Test, for example, PAUSD students achieved an National Percentile Rank (NPR) between 90-92 for grades 2nd through 5th, compared to 45-59 percentile for the same grade range statewide. More specific test results are provided in the Mathematics Assessment Information provided by the district as part of its waiver request (attached).

Authority for Petition: [Education Code (EC) Section 60421(d) and 604200(g)]

Public hearing identified by (choose one or more):
☐ posting in a newspaper ☒ posting at each school ☐ other (specify)

Public hearing held on date(s): January 13, 2004

Local board approval date(s): January 13, 2004

Period of request: January 13, 2004, through June 30, 2005. Statutory changes may preclude the need for this petition beyond 2004-05.

FISCAL ANALYSIS (AS APPROPRIATE)

LEA's K-8 IMFRP in the 2003-2004 year:	$	188,505
Estimated cost of requested materials:	$	20,000-25,000 annually
Percentage of K-8 IMFRP:		10.6-13.3%

BACKGROUND INFORMATION

Documentation is attached to this Summary.

ITEM #38

CALIFORNIA STATE BOARD OF EDUCATION

MARCH 2004 AGENDA

SUBJECT	
Assignment of Numbers for Charter School Petitions	☒ Action
	☒ Information
	☐ Public Hearing

RECOMMENDATION

California Department of Education (CDE) staff recommends that the State Board of Education (SBE) assign charter numbers to the charter schools identified on the attached list.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

The SBE is responsible for assigning a number to each approved charter petition. On the advice of legal counsel, CDE staff is presenting this routine request for a charter number as a standard action item.

Since the charter school law was enacted in 1992, the SBE has assigned numbers to 611 charter schools, including nine approved by the SBE after denial by the local agencies. Of these 611 schools, approximately 475 are estimated to be operating in the 2003-04 school year. In addition, the SBE has approved eight all-charter school districts containing a total of 15 charter schools.

SUMMARY OF KEY ISSUES

The law allows for the establishment of charter schools. A charter school typically is approved by a local school district or county office of education. The entity that approves a charter is also responsible for ongoing oversight. A charter school must comply with all the contents of its charter, but is otherwise exempt from most other laws governing school districts.

Education Code Section 47602 requires the SBE to assign a number to each charter school that has been approved by a local entity in the chronological order in which it was received. This numbering ensures that the state is within the cap on the total number of charter schools authorized to operate. As of July 1, 2003, the number of charter schools that may be authorized to operate in the state is 750. This cap may not be waived. This item will assign numbers to four more charter schools. Copies of the charter petitions are on file in the Charter School Division.

FISCAL ANALYSIS (AS APPROPRIATE)

There is no fiscal impact resulting from the assignment of numbers to recently authorized charter schools.

ATTACHMENT

Attachment 1: Assignment of Numbers for Charter School Petitions (1 Page)

March 2004 State Board of Education Meeting

Assignment of Numbers for Charter School Petitions

NUMBER	CHARTER SCHOOL NAME	CHARTER SCHOOL COUNTY	AUTHORIZING ENTITY	CHARTER SCHOOL CONTACT
612	University Preparatory School	Shasta	Shasta Union High School District	Erin Stuart 855 Hallmark Drive Redding, CA 96001 (530) 242-1903 (530) 225-4815
613	Woodland Star Charter School	Sonoma	Sonoma Valley Unified School District	Chip Romer P.O. Box 53 Sonoma, CA 95476 (707) 996-3849
614	High Desert Academy of Applied Arts and Sciences	San Bernardino	Victor Valley Union High School District	Anthony Chambers 15411 Village Road Victorville, CA 92392 (760) 245-7103
615	Bullis Charter School	Santa Clara	Santa Clara County Office of Education	Craig Jones 27297 Byrne Park Lane Los Altos Hills, CA 94022 (650) 941-9418

State of California **Department of Education**

LAST MINUTE MEMORANDUM

DATE: March 5, 2004

TO: MEMBERS, STATE BOARD OF EDUCATION

FROM: William J. Ellerbee, Jr., Deputy Superintendent
School and District Operations Branch

RE: Item No. 38

SUBJECT: Assignment of Numbers for Charter School Petitions

The SBE is responsible for assigning a number to each approved charter petition. On the advice of legal counsel, CDE staff is presenting this routine request for a charter number as a standard action item.

Since the charter school law was enacted in 1992, the SBE has assigned numbers to 616 charter schools, including nine approved by the SBE after denial by the local agencies. Of these 616 schools, approximately 475 are estimated to be operating in the 2003-04 school year. In addition, the SBE has approved eight all-charter districts containing a total of 15 charter schools

Attachment 1: Assignment of Numbers for Charter School Petitions (1 page)

March 2004 State Board of Education Meeting

Assignment of Numbers for Charter School Petitions

Number	Charter School Name	Charter School County	Authorizing Entity	Charter School Contact
616	Mark West Charter	Sonoma	Mark West Union School District	Joan Gibson 373 Baile de Ciervos Santa Rosa, CA 95403 (707) 579-4570

ITEM #39

CALIFORNIA STATE BOARD OF EDUCATION

MARCH 2004 AGENDA

SUBJECT Appointment to Advisory Commission on Charter Schools.	☒ Action
	☒ Information
	☐ Public Hearing

RECOMMENDATION

Appoint a member of the Advisory Commission on Charter Schools, representing school district superintendents, pursuant to Education Code Section 47634.2(b) and State Board Policy 01-04. The district superintendent representative is to serve a two-year term commencing January 1, 2004.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

The State Board appoints members to the Advisory Commission on Charter Schools (ACCS) pursuant to Education Code Section 47634.2(b) and State Board Policy 01-04. The ACCS is composed of nine members, eight of whom serve two-year, staggered terms. The ninth member is a designee of the State Superintendent. Members represent specific interest areas within the education community, including school district superintendents, charter schools, teachers, parents (guardians), members of the governing boards of school districts, and county superintendents of schools.

SUMMARY OF KEY ISSUES

It is anticipated that the State Board's charter school liaisons (Reed Hastings and Don Fisher) will recommend an individual for appointment to the position.

FISCAL ANALYSIS (AS APPROPRIATE)

N/A

ATTACHMENT

Information on the recommended applicant will be provided at the March 2004 meeting.

STATE OF CALIFORNIA ARNOLD SCHWARZENEGGER, *Governor*

CALIFORNIA STATE BOARD OF EDUCATION

1430 N Street, Suite 5111
Sacramento, CA 95814
(916) 319-0827
(916) 319-0175 (fax)

March 10, 2004

To: State Board of Education Members

From: Reed Hastings, President and Charter Schools Liaison

Subject: Item 39, March 2004 Agenda
Appointment to the Advisory Commission on Charter Schools

The Advisory Commission on Charter Schools includes representatives of various segments of the education community. Currently, there are two vacant positions, one representing school district superintendents and the other representing parents. I would like to recommend the appointment of John Deasy for vacant position representing district superintendents.

As Santa Monica-Malibu Unified School District Superintendent, John has been working on the development of a charter for one of the district's K-8 school. He has been intensely involved with charter school efforts across the country, including in New York and Rhode Island. During his two decades as an educator, John has been a teacher, a school administrator, and a district administrator. An outstanding administer, John was named the 2001 Rhode Island State Superintendent of the Year.

I am very appreciative of his willingness to serve in this capacity.

ITEM #40

CALIFORNIA STATE BOARD OF EDUCATION

MARCH 2004 AGENDA

SUBJECT	
Charter School Funding Requests Pursuant to Senate Bill (SB) 740 (Chapter 892, Statutes of 2001): Approval of Determination of Funding Requests	☒ **Action**
	☒ **Information**
	☐ **Public Hearing**

RECOMMENDATION

Approve various 2003-04 (and beyond) determination of funding requests from charter schools pursuant to *Education Code* sections 47612.5 and 47634.2, and *California Code of Regulations*, Title 5, sections 11963 to 11963.3, inclusive, based upon the recommendations of the Advisory Commission on Charter Schools (ACCS) and the California Department of Education (CDE).

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

SB 740 allows funding reductions for charter schools that offer nonclassroom-based instruction. Nonclassroom-based instruction occurs when a charter school does not require attendance of its pupils at the school site under the direct supervision and control of a qualified teaching employee of the school for at least 80 percent of the required instructional time. For 2003-04 and each fiscal year thereafter, the law states that funding reductions of 30 percent of qualifying charter schools' nonclassroom-based average daily attendance (ADA) shall be made unless the State Board of Education (SBE) determines that a greater or lesser percentage is appropriate for a particular charter school. Furthermore, pursuant to SB 740, a charter school is prohibited from receiving any funding for nonclassroom-based instruction unless the SBE determines its eligibility for funding.

SB 740 also established the ACCS to develop the criteria for the SBE to use in making funding determinations. The ACCS also provides recommendations to the SBE on appropriate funding determinations for nonclassroom-based charter schools and on other aspects of the SBE's duties under the Charter Schools Act.

The SBE adopted permanent regulations that became operative in November 2003 that specified the criteria that a nonclassroom-based charter school must meet in order for the SBE to determine that the school shall receive 100 percent funding. For 2003-04 and each fiscal year thereafter, the full funding criteria are that at least 50 percent of the school's public revenues must be spent on certificated employee salaries and benefits and at least 80 percent of all revenues must be spent on instruction and instruction-related costs. Schools must spend a minimum of 40 percent on certificated employee salaries and benefits and 60 percent on instruction and instruction-related costs or the funding percentage is zero. Pursuant to the regulations, the SBE may approve a higher

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION - CONTINUED

or lower funding level than the criteria would prescribe based upon mitigating circumstances of the school that indicate that a higher or lower funding level is appropriate.

At the January 2003 meeting, the SBE approved several 2003-04 (and beyond) funding determination requests.

SUMMARY OF KEY ISSUES

Pursuant to the SB 740 regulations, all funding determination requests are required to be submitted to the CDE by February 1. The ACCS will make recommendations on most of the remaining funding determination requests to be considered for 2003-04 at their meeting on February 19-20, 2004. There could be a few more funding determination requests for the ACCS' recommendation in March 2004 and for SBE action in May 2004.

FISCAL ANALYSIS (AS APPROPRIATE)

A determination of funding request approved at less than the 100 percent level may result in reduced apportionment claims to the state. The reductions in claims would result in a proportionate reduction in expenditure demands for Proposition 98 funds. All Proposition 98 funds, by law, must be expended each fiscal year. Thus, a reduction in apportionment claims may be more accurately characterized as an expenditure shift than as absolute savings under typical circumstances. In 2002-03, funding determination requests approved by the SBE at less than 100 percent resulted in over $30 million in reduced apportionment claims. The reduction in 2003-04 is expected to be smaller; however, the amount will not be known until after the Second Principal Apportionment in June 2004.

ATTACHMENT

None. The list of charter schools submitting funding determination requests and the recommendations of the ACCS and CDE on each request will be provided at the March 2004 meeting as a Last Minute Memorandum.

State of California **Department of Education**

LAST MINUTE MEMORANDUM

DATE: March 5, 2004

TO: MEMBERS, STATE BOARD OF EDUCATION

FROM: William J. Ellerbee, Jr., Deputy Superintendent
School and District Operations Branch

RE: Item No. 40

SUBJECT: Charter School Funding Requests Pursuant to Senate Bill (SB) 740 (Chapter 892, Statutes of 2001): Approval of Determination of Funding Requests

Attached are the 2003-2004 Funding Determination Requests recommended for State Board of Education approval.

2003-2004 Funding Determination Requests
March 2004

2003-2004 (AND BEYOND)

The following determination of funding request is recommended for approval by the State Board of Education for five years (2003-2004, 2004-2005, 2005-2006, 2006-2007, and 2007-2008) at the 100 percent level. The reasons justifying a level higher than 70 percent in 2003-2004 and beyond are that (1) the school met the minimum criteria specified in regulation for the 100 percent level; (2) the school presented sufficient evidence (taking the totality of the request into account along with any other credible information that may have been available) that the 100 percent funding determination level is necessary for the school to maintain nonclassroom-based instruction that is conducted for the instructional benefit of the student and is substantially dedicated to that function; and (3) the school met AB1137 criteria for a five-year funding determination.

Charter Number	Charter Name	2003-2004	2004-2005	2005-2006	2006-2007	2007-2008
#152	Circle of Independent Learning	100%	100%	100%	100%	100%

The following determination of funding request is recommended for approval by the State Board of Education for three years (2003-2004, 2004-2005, and 2005-2006) at the 100 percent level. The reasons justifying a level higher than 70 percent in 2003-2004 and beyond are that (1) the school met the minimum criteria specified in regulation for the 100 percent level; and (2) the school presented sufficient evidence (taking the totality of the request into account along with any other credible information that may have been available) that the 100 percent funding determination level is necessary for the school to maintain nonclassroom-based instruction that is conducted for the instructional benefit of the student and is substantially dedicated to that function.

Charter Number	Charter Name	2003-2004	2004-2005	2005-2006
#146	Plumas Charter School	100%	100%	100%
#149	School of Unlimited Learning	100%	100%	100%
#171	New Jerusalem Charter School	100%	100%	100%
#256	Shasta Secondary Home School	100%	100%	100%
#395	Eleanor Roosevelt Community Learning Center	100%	100%	100%

#423	Venture Academy	100%	100%	100%
#424	Wonder to Wisdom Charter Academy	100%	100%	100%
#490	Stellar Secondary Charter High	100%	100%	100%
#504	Whitmore Charter School	100%	100%	100%
#D2	Kingsburg Community Charter Extension	100%	100%	100%

The following determination of funding request is recommended for approval by the State Board of Education for two years (2003-2004 and 2004-2005) at the 100 percent level. The reasons justifying a level higher than 70 percent in 2003-2004 and beyond are that (1) the school met the minimum criteria specified in regulation for the 100 percent level; and (2) the school presented sufficient evidence (taking the totality of the request into account along with any other credible information that may have been available) that the 100 percent funding determination level is necessary for the school to maintain nonclassroom-based instruction that is conducted for the instructional benefit of the student and is substantially dedicated to that function.

Charter Number	Charter Name	2003-2004	2004-2005
#80	Hart Ransom Charter School	100%	100%
#301	Summit Charter Academy	100%	100%

The following determination of funding request is recommended for approval by the State Board of Education for one year only (2003-2004) at the 100 percent level. The reasons justifying a level higher than 70 percent in 2003-2004 and beyond are that (1) the school met the minimum criteria specified in regulation for the 100 percent level; and (2) the school presented sufficient evidence (taking the totality of the request into account along with any other credible information that may have been available) that the 100 percent funding determination level is necessary for the school to maintain nonclassroom-based instruction that is conducted for the instructional benefit of the student and is substantially dedicated to that function.

Charter Number	Charter Name	2003-2004
#44	West Park Charter School	100%
#88	Mid Valley Alternative School	100%
#103	Oakdale Home Study Charter School	100%
#170	Pacific Coast Charter School	100%
#223	Stellar Charter School	100%
#270	W.E.B. DuBois Charter School	100%

#279	Modoc Charter School	100%
#358	Castle Rock Charter School	100%
#378	Carter G. Woodson Charter School	100%
#381	West Fresno Performing Arts Academy	100%
#391	BASIS	100%
#411	Desert Sands Charter School	100%
#419	Dehesa Charter School	100%
#479	Glacier High School	100%
#482	Charter School of Big Bear Valley	100%
#493	California Virtual Academy@San Diego	100%
#494	California Virtual Academy@Kern	100%
#495	California Virtual Academy@Jamestown	100%
#571	Crossroads Charter School	100%
#519	Somis Academy Charter School	100%
#586	The Met Sacramento	100%

ITEM #41

CALIFORNIA STATE BOARD OF EDUCATION

MARCH 2004 AGENDA

SUBJECT	
Funding for Countywide Charter Schools [Assembly Bill (AB) 1994]: Adopt Amendments to Title 5, *California Code of Regulations*.	☒ **Action** ☒ **Information** ☐ **Public Hearing**

RECOMMENDATION

California Department of Education (CDE) staff recommends that the State Board of Education (SBE) consider comments received during the public comment period and at the public hearing, and take action to adopt the regulations.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

At the January 2004 meeting, the SBE took action to approve the proposed regulations, the Initial Statement of Reasons, and the Notice of Proposed Rulemaking, with technical modifications from the Executive Director of the SBE; direct staff to proceed with the 45-day public comment period in accordance with the Administrative Procedure Act; and direct staff to conduct a public hearing on the proposed regulations pursuant to *California Code of Regulations*, Title 5, Section 18460.

The public comment period will end and the public hearing will be held on March 8, 2004. A summary of the public comments will be provided in the CDE staff presentation at the March 2004 meeting.

SUMMARY OF KEY ISSUES

AB 1994 (Chapter 1058, Statutes of 2002) contained a number of significant programmatic provisions affecting charter schools, and the bill requires the SBE to adopt regulations to implement certain aspects of the statutory changes. The Advisory Commission on Charter Schools (ACCS) discussed various versions of AB 1994 programmatic implementation regulations on several occasions, both in concept and with regard to certain specific elements. During August 2003, SBE members received an information memorandum with a version of the permanent regulations that the ACCS had tentatively endorsed in July. However, at its September 2003 meeting, the ACCS considered the regulations further, and proposed several significant changes. The attached text, which was also provided as part of an information memorandum in October 2003 and approved by the SBE in January 2004, reflects the ACCS-recommended changes.

SUMMARY OF KEY ISSUES - CONTINUED

This proposed regulation has been separated from the other AB 1994 regulations in an effort to get them adopted and approved by the Second Principal Apportionment in June 2004. There is concern that some of the provisions of the other programmatic regulations may generate controversy and take longer to get through the adoption process. The funding mechanism proposed in this regulation is modeled after the existing funding method for other county-approved charter schools; therefore, it is anticipated that the adoption process for this regulation could be more straightforward. The other AB 1994 programmatic regulations are also before the SBE this month to commence the rulemaking process.

FISCAL ANALYSIS (AS APPROPRIATE)

There is no state or local fiscal impact resulting from these regulations. The activities specified in the regulations are necessary to implement AB 1994.

ATTACHMENT

Attachment 1: Notice of Proposed Rulemaking (4 Pages)
Attachment 2: Initial Statement of Reasons (2 Pages)
Attachment 3: Proposed Regulations (1 Page)
Attachment 4: Economic and Fiscal Impact Statement and Analysis (6 Pages) (This attachment is not available for web viewing. A printed copy is available for viewing in the State Board office.)

A summary of the public comments and any proposed changes to the regulations resulting from those comments will be provided at the March 2004 meeting as a Last Minute Memorandum.

STATE OF CALIFORNIA ARNOLD SCHWARZENEGGER, *Governor*

CALIFORNIA STATE BOARD OF EDUCATION

1430 N Street; Room 5111
Sacramento, CA 95814

TITLE 5. EDUCATION

CALIFORNIA STATE BOARD OF EDUCATION

NOTICE OF PROPOSED RULEMAKING

Countywide Charter Schools
[Notice published January 23, 2004]

The State Board of Education (State Board) proposes to adopt the regulations described below after considering all comments, objections, or recommendations regarding the proposed action.

PUBLIC HEARING

Program staff will hold a public hearing beginning at **1:00 p.m. on March 8, 2004** at 1430 N Street, Room 1101, Sacramento. The room is wheelchair accessible. At the hearing, any person may present statements or arguments, orally or in writing, relevant to the proposed action described in the Informative Digest. The State Board requests that any person desiring to present statements or arguments orally notify the Regulations Adoption Coordinator of such intent. The State Board requests, but does not require, that persons who make oral comments at the hearing also submit a summary of their statements. No oral statements will be accepted subsequent to this public hearing.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Regulations Adoption Coordinator. The written comment period ends at **5:00 p.m. on March 8, 2004**. The State Board will consider only written comments received by the Regulations Adoption Coordinator by that time (in addition to those comments received at the public hearing? Written comments for the State Board's consideration should be directed to:

Debra Strain, Regulations Adoption Coordinator
California Department of Education
LEGAL DIVISION
1430 N Street, Room 5319
Sacramento, California 95814
E-mail : dstrain@cde.ca.gov
Telephone: (916) 319-0860
FAX : (916) 319-0155

AUTHORITY AND REFERENCE

Authority for these regulations is found in *Education Code* Section 33031. *Education Code* Section 33031 is the State Board's general authority to adopt rules and regulations for the government of the day and evening schools of the state that are not inconsistent with the requirement of statute.

Additional authority is provided in *Education Code* Section 47605.6(b)(5)(I), which requires the State Board to adopt regulations to determine the manner in which financial audits for countywide charter schools shall be conducted.

References are made to *Education Code* sections 47632 and 47651. These statutes govern the funding of charter schools.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The proposed regulation is necessary to fund and to determine the manner in which financial audits shall be conducted for countywide charter schools, which were established by Assembly Bill (AB) 1994 (Chapter 1058, Statutes of 2002).

Specifically, this adds Section 11967.8 to Title 5 of the California Code of Regulations to provide technical clarity regarding the funding calculation and process for providing operational funding to countywide charter schools. This section addresses a similar issue as that addressed in Section 11967.7 above but for countywide, rather than statewide charters. However, in this case, the regulations apply an exiting statutory definition of "sponsoring local education agency" that is currently applied to other county-authorized charter schools.

DISCLOSURES REGARDING THE PROPOSED ACTION

Mandate on local agencies and school districts: None

Cost or savings to any state agency: None

Costs to any local agency or school district that must be reimbursed in accordance with Government Code Section 17561: None

Other non-discretionary cost or savings imposed on local educational agencies: None

Cost or savings in federal funding to the state: None

Significant, statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states: None.

Cost impacts on a representative private person or businesses: The State Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Adoption of this regulation will not:

(1) create or eliminate jobs within California;
(2) create new businesses or eliminate existing businesses within California; or
(3) affect the expansion of businesses currently doing business within California.

Significant effect on housing costs: None.

Effect on small businesses: The proposed amendments to the regulations do not have an effect on small businesses because they provide a process for a new type of charter school to obtain funding and therefore,

have no effect on existing charter schools or small businesses. The proposed regulations do not impose additional workload on small businesses or contractors funded by the Department.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code Section 11346.5(a)(13), the State Board must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of the State Board, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

The State Board invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations at the scheduled hearing or during the written comment period.

CONTACT PERSONS

Inquiries concerning the substance of the proposed regulations should be directed to:

Eileen Cubanski, Administrator
California Department of Education
Charter School Division
1430 N Street, Room 5401
Sacramento, CA 95814
E-mail: *ecubansk@cde.ca.gov*
Telephone: (916) 322-6029
FAX: (916) 322-1465

Requests for a copy of the proposed text of the regulations, the Initial Statement of Reasons, the modified text of the regulations, if any, or other technical information upon which the rulemaking is based or questions on the proposed administrative action may be directed to the Regulations Adoption Coordinator, or to the backup contact person, Najia Rosales, at (916) 319-0860.

AVAILABILITY OF INITIAL STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Regulations Adoption Coordinator will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at her office at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulation, and the Initial Statement of Reasons. A copy may be obtained by contacting the Regulations Adoption Coordinator at the above address.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

Following the public hearing and considering all timely and relevant comments received, the State Board may adopt the proposed regulations substantially as described in this notice. If the State Board makes modifications that are sufficiently related to the originally proposed text, the modified text (with changes clearly indicated) will be available to the public for at least 15 days before the State Board adopts the regulation as revised. Requests for copies of any modified regulations should be sent to the attention of the Regulations Adoption Coordinator at the address indicated above. The State Board will accept written comments on the modified regulations for 15 days after the date on which they are made available.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, a copy of the Final Statement of Reasons may be obtained by contacting the Regulations Adoption Coordinator at the above address.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, the text of the regulations in underline and strikeout, and the Final Statement of Reasons, can be accessed through the California Department of Education's Web site at http://www.cde.ca.gov/regulations.

REASONABLE ACCOMMODATION FOR ANY INDIVIDUAL WITH A DISABILITY

Pursuant to the *Rehabilitation Act of 1973* and the *Americans with Disabilities Act of 1990*, any individual with a disability who requires reasonable accommodation to attend or participate in a meeting or function of the California State Board of Education (SBE), may request assistance by contacting the Jennifer Jackson, Charter School Division, 1430 N Street, Sacramento, CA, 95814; telephone, (916) 322-6029; fax, (916) 322-1465.

INITIAL STATEMENT OF REASONS

SECTION 11967.8. Countywide Charter Schools

SPECIFIC PURPOSE OF THE REGULATIONS

The proposed regulations will clarify existing law with regard to the funding process to be used for countywide charter schools, and will determine the manner in which financial audits for countywide charter schools shall be conducted.

NECESSITY/RATIONALE

Assembly Bill (AB) 1994 (Chapter 1058, Statutes of 2002) amended the Charter School Act of 1992, and added *Education Code* Section 47605.6 that creates new responsibilities for county boards of education to review and approve charter schools of countywide interest that propose to operate on multiple sites within the county.

SECTION 11967.8

This section provides technical clarity regarding the funding and operations of countywide charter schools, as well as the conduct of audits and resolution of audit exceptions. The regulations are proposed to be effective for the whole of 2003-04 and each fiscal year thereafter.

Subdivision (a). Clarifies that a countywide charter school is funded in keeping with the funding provisions otherwise applicable to charter schools and is directly funded. These are sensible elaborations on a statute that is incomplete and result in no additional costs to the state for students who attend countywide charter schools in lieu of other charter schools.

Subdivision (b). Clarifies the meaning of "sponsoring local education agency" for purposes of countywide charter schools. This clarification ensures that local tax funds are transferred appropriately to countywide charter schools based upon the revenues accruing to the districts in which the schools' pupils resides, and ensures that related financial calculations are made properly. This is sensible elaboration on a statute that is incomplete and results in no additional costs to the state for students who attend countywide charter schools in lieu of other charter schools.

Subdivision (c). Clarifies how funds are technically to be allocated on behalf of countywide charter schools. This is a sensible elaboration on a statute that is incomplete and results in no additional costs to the state for students who attend countywide charter schools in lieu of other charter schools.

Subdivision (d). Provides technical authorization for inclusion of countywide charter schools in STRS and PERS (which is clearly envisioned in statute). These are sensible elaborations on a statute that is incomplete and result in no additional costs to the state for students who attend countywide charter schools in lieu of other charter schools.

Subdivision (e). Extends to countywide charter schools the regulations pertaining to audits and resolution of audit exceptions that apply to schools chartered by the State Board of Education on appeal. These are

sensible elaborations and are consistent with the specific direction set forth in Education Code Section 47605.6(b)(5)(I).

TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDIES, REPORTS, OR DOCUMENTS.

The State Board did not rely upon any other technical, theoretical, or empirical studies, reports, or documents in proposing the adoption of these regulations.

REASONABLE ALTERNATIVES TO THE REGULATIONS AND THE AGENCY'S REASONS FOR REJECTING THOSE ALTERNATIVES.

The State Board was not presented with other viable alternatives to the adoption of these regulations.

REASONABLE ALTERNATIVES TO THE PROPOSED REGULATORY ACTION THAT WOULD LESSEN ANY ADVERSE IMPACT ON SMALL BUSINESS.

The State Board has not identified any alternatives that would lessen any adverse impact on small business.

EVIDENCE SUPPORTING FINDING OF NO SIGNIFICANT ADVERSE ECONOMIC IMPACT ON ANY BUSINESS.

The proposed regulations would not have a significant adverse economic impact on any business because they provide a process for a new type of charter school to obtain funding and therefore, have no effect one existing charter schools or small businesses.

Title 5. EDUCATION

Division 1. State Department of Education

Chapter 11. Special Programs

Subchapter 19. Charter Schools

Add Section 11967.8 to read:

Section 11967.8. Countywide Charter Schools.

For the purpose of a countywide charter school approved pursuant to Education Code Section 47605.6, the following shall apply:

(a) The charter school shall be funded pursuant to Chapter 6 of Part 26.8 of the Education Code (commencing with Section 47630) and receive its funding directly.

(b) The charter school's "sponsoring local education agency" for purposes of Chapter 6 of Part 26.8 of the Education Code shall be the school district of residence of each of the pupils attending the school.

(c) The warrant shall be drawn in favor of the superintendent of schools of the county that approved the school, and that county superintendent is authorized to establish appropriate funds or accounts in the county treasury for the school.

(d) The county superintendent is authorized to make necessary arrangements for the school's participation in State Teachers' Retirement System and/or Public Employees Retirement System in accordance with Education Code Section 47611.3.

(e) For the purposes of Education Code Section 47605.6(b)(5)(I), the provisions of paragraph (9) of subdivision (f) of Section 11967.5.1 shall apply. If the school has multiple sites, the charter shall indicate how each of the school's sites will be appropriately included in the processes of auditing and resolving audit exceptions.

This section shall apply for the entire 2003-04 fiscal year and each fiscal year thereafter.

NOTE: Authority cited: Sections 33031 and 47605.6(b)(5)(I), Education Code. Reference Section 47611.3 and Chapter 6 of Part 26.8 (commencing with Section 47630), Education Code.

12-18-03

ITEM #42

CALIFORNIA STATE BOARD OF EDUCATION

MARCH 2004 AGENDA

SUBJECT Request by the Academy of Culture and Technology for an Extension of Time to Meet State Board of Education Condition Related to SELPA Membership	☒ **Action** ☒ **Information** ☐ **Public Hearing**

RECOMMENDATION

The following item is provided to the State Board of Education (SBE) for information and action as deemed necessary and appropriate. A recommendation will be provided as a last minute memorandum.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

SBE Authority to Grant Charters: Pursuant to *Education Code* Section 47605(j), as of January 1, 1999, a charter school that has been denied approval by a local chartering entity may petition the SBE to approve the charter. As of January 1, 2003, a charter school must be denied by both a local school district and county office of education before it may petition the SBE to approve the charter. *Education Code* Section 47607(a)(1) states that a charter may be granted for a period not to exceed five years. However, the SBE has chosen to grant three-year terms to the charter schools it has approved on appeal to date.

Previous Requests: Since January 1999, the SBE has reviewed several charter petitions that have been denied at the local level and has to date approved nine such requests. At its December 2000 meeting, the SBE approved two charter schools: the Oakland Military Institute in Alameda County and Ridgecrest Charter School in Kern County. In July 2001, the SBE approved the renewal of the Edison Charter Academy in San Francisco, which had been denied renewal by the district. At its December 2001 meeting, the SBE approved the New West Charter Middle School and the Animo Inglewood Charter High School, both of which are located in Los Angeles County. In February 2003, the SBE approved the Knowledge is Power Program (KIPP) Summit Academy in Alameda County. Finally, in November 2003, the SBE approved the Academy of Culture and Technology in Los Angeles County and Leadership Public Schools – San Rafael in Marin County.

Oversight of Charter Schools by the SBE: At the request of the SBE, California Department of Education (CDE) staff presented an issue paper at its May 2000 meeting that outlined a comprehensive proposal for the review, approval, and oversight of previously denied charters. The issue paper proposed that the SBE adopt regulations that define a process for review of a charter petition that has been denied locally. Regulations were developed and approved by the SBE at its December 2001 meeting and are currently in use.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION - CONTINUED

Academy of Culture and Technology (ACT): The SBE granted approval of the petition by the Pomona Valley Center for Community Development (PVCCD) to establish the ACT for a three year period (from July 1, 2005, through June 30, 2008), subject to the petitioners satisfying specified conditions. One of those conditions (#3) has two parts requiring first that the petitioners "not later than February 2, 2004, submit written verification of having applied to join a special education local plan area (SELPA) or having applied to the Pomona Unified School District to be considered a school of the district for special education purposes." The second part of the condition requires the petitioners to verify that the school is either participating in a SELPA or has an agreement with Pomona Unified School District for the provisions of special education services.

SUMMARY OF KEY ISSUES

The petitioners did not meet the February 2, 2004 date for complying with the first part of the SBE condition (#3) and would like a 60-day extension of time in which to meet the condition. The petitioners' letter to the Director of the East San Gabriel Valley SELPA indicates only that the petitioners are at this time requesting information regarding SELPA membership. This letter does not fulfill the requirement of having applied to join the SELPA. CDE staff have requested ACT to provide information in writing regarding: (1) what SELPA deadlines, if any, exist for submission of applications for membership; (2) when ACT expects to submit an application to the SELPA; (3) what other requirements the school must meet in order to be accepted into the SELPA, and; (4) the approximate time line for the approval process. The SBE has previously granted an extension of time to meet the SELPA application and membership condition to one other SBE-approved charter school.

FISCAL ANALYSIS (AS APPROPRIATE)

Approval of the request for an extension of time will not result in any measurable costs or savings to CDE or ACT.

ATTACHMENT

Attachment1: ACT Letter to the East San Gabriel Valley SELPA (1 Page) (This attachment is not available for Web viewing. A printed copy is available for viewing in the State Board office.)

The CDE staff analysis of the request for a time extension will be presented at the March 2004 meeting as a Last Minute Memorandum.

State of California **Department of Education**

LAST MINUTE MEMORANDUM

DATE: March 8, 2004

TO: MEMBERS, STATE BOARD OF EDUCATION

FROM: William J. Ellerbee, Jr., Deputy Superintendent
School and District Operations Branch

RE: Item No. 42

SUBJECT: Request by the Academy of Culture and Technology for an Extension of Time to Meet State Board of Education Condition Related to SELPA Membership

The Academy of Culture and Technology (ACT) petitioners requested a 60-day extension of time in which to meet the first part of the State Board condition #3, which requires the petitioners to submit written verification that they have applied to join a SELPA or have applied to the Pomona Unified School District to be considered a school of the district for special education purposes.

CDE oversight staff requested the petitioners to provide the following additional information in support of their request: (1) when petitioners expect to submit an application to the SELPA; (2) what SELPA deadlines, if any, exist for submission of applications; (3) what requirements the school must meet in order to be accepted into the SELPA; and (4) approximately how long the SELPA approval process is expected to take.

The ACT petitioners have provided some information indicating that they have been in contact with the East San Gabriel Valley SELPA director who has indicated that the school must submit an application to join the SELPA by February 2005 if the school intends to open in the fall of 2005. The ACT petitioners are now requesting that the deadline to meet the first part of condition #3 be extended to February 2005.

We recommend the petitioners be given a 60-day extension of time from the date of State Board approval of this item in which to submit evidence that the school has submitted an application to join a SELPA. We recommend a new deadline of May 10, 2004. The new date is in keeping with ACT's original request for a 60-day extension.

ITEM #43

CALIFORNIA STATE BOARD OF EDUCATION

MARCH 2004 AGENDA

SUBJECT	
Request by the Ridgecrest Charter School for Renewal of its State Board of Education-Approved Charter	☒ **Action**
	☒ **Information**
	☒ **Public Hearing**

RECOMMENDATION

The following item is provided to the State Board of Education (SBE) for information and action as deemed necessary and appropriate. A recommendation will be provided as a last minute memorandum.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

SBE Authority to Grant Charters: Pursuant to *Education Code* Section 47605(j), as of January 1, 1999, a charter school that has been denied approval by a local chartering entity may petition the SBE to approve the charter. As of January 1, 2003, a charter school must be denied by both a local school district and county office of education before it may petition the SBE to approve the charter. *Education Code* Section 47607(a)(1) states that a charter may be granted for a period not to exceed five years. However, the SBE has chosen to grant three-year terms to the charter schools it has approved on appeal to date.

Previous Requests: Since January 1999, the SBE has reviewed several charter petitions that have been denied at the local level and has to date approved nine such requests. At its December 2000 meeting, the SBE approved two charter schools: the Oakland Military Institute in Alameda County and Ridgecrest Charter School in Kern County. In July 2001, the SBE approved the renewal of the Edison Charter Academy in San Francisco, which had been denied renewal by the district. At its December 2001 meeting, the SBE approved the New West Charter Middle School and the Animo Inglewood Charter High School, both of which are located in Los Angeles County. In February 2003, the SBE approved the Knowledge is Power Program (KIPP) Summit Academy in Alameda County. Finally, in November 2003, the SBE approved the Academy of Culture and Technology in Los Angeles County and Leadership Public Schools – San Rafael in Marin County.

Oversight of Charter Schools by the SBE: At the request of the SBE, California Department of Education (CDE) staff presented an issue paper at its May 2000 meeting that outlined a comprehensive proposal for the review, approval, and oversight of previously denied charters. The issue paper proposed that the SBE adopt regulations that define a process for review of a charter petition that has been denied locally. Regulations were developed and approved by the SBE at its December 2001 meeting and are currently in use.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION - CONTINUED

At its October 2001 meeting, the SBE also appointed members to the Advisory Commission on Charter Schools (ACCS), which was established by Senate Bill 740 (Chapter 892, Statutes of 2001), and charged it with a number of responsibilities, including advising the SBE on charter petitions that have been denied at the local level.

Ridgecrest Charter School (RCS): RCS had previously been denied a charter by the Sierra Sands Unified School District governing board. RCS has been operating for the past three years under an oversight agreement between the SBE and the school. CDE staff, on behalf of the SBE, has been responsible for the oversight and monitoring of the school. The three-year period of operation for RCS will expire September 3, 2004, unless the SBE renews the charter prior to that date.

SUMMARY OF KEY ISSUES

Charter school law (Education Code Section 47605(k)(3) requires a charter school that has been granted a charter through an appeal to the State Board to seek renewal of that charter through the school district that originally denied the charter before the school may submit a petition for renewal to the SBE. RCS submitted its request for renewal of its charter to the Sierra Sands Unified School District on July 21, 2003. The district denied the renewal on September 18, 2003. The renewal request was subsequently submitted to the SBE on December 29, 2003. The ACCS will review this petition and hear testimony from the petitioners and representatives of the district that denied the renewal at its February 19, 2004 meeting, at which time the ACCS is expected to make a recommendation on this petition.

If the SBE approves the charter renewal, it must be for a five-year period. Unlike the original approval, *Education Code* Section 47607(a)(1) requires that renewals be for a five-year period.

FISCAL ANALYSIS (AS APPROPRIATE)

Approval of the request to renew the charter of RCS will result in continuing oversight and monitoring responsibilities for CDE staff. Two positions are currently funded for this work; one by the SBE and the other from the one percent oversight fee charged against the revenues of all SBE-approved charter schools. However, Assembly Bill 1137 (Chapter 892, Statutes of 2003) reduces the charter school revenues upon which the oversight fee may be charged. CDE staff is currently determining the impact of this reduction.

ATTACHMENT

Attachment 1: Ridgecrest Charter School Appeal for Renewal (30 Pages) (This attachment is not available for Web viewing. A printed copy is available for viewing in the State Board office)

Attachment 2: District Reasons for Denying the Ridgecrest Charter Petition and School Response to District Reasons for Denial (34 Pages) (This attachment is not available for Web viewing. A printed copy is available for viewing in the State Board office.)

ATTACHMENT - CONTINUED

The CDE staff analysis and findings will be presented at the March 2004 meeting as a Last Minute Memorandum.

State of California **Department of Education**

LAST MINUTE MEMORANDUM

DATE: February 26, 2004

TO: MEMBERS, STATE BOARD OF EDUCATION

FROM: William J. Ellerbee, Jr., Deputy Superintendent
School and District Operations Branch

RE: Item No. 43

SUBJECT: Request by the Ridgecrest Charter School for Renewal of its State Board of Education-Approved Charter

The Advisory Commission on Charter Schools considered the Ridgecrest renewal request at its meeting on February 19, 2004, and voted unanimously to recommend approval of the renewal to the State Board with the conditions recommended in the CDE staff analysis. CDE concurs with the ACCS action on the renewal. The conditions of renewal recommended by CDE are as follows:

(1) The school is to provide a program description and proposed timeline for incorporating the second language program into the co-curricular educational program.
(2) The school is to revise all outcomes, including those related to academic achievement, to provide measurable benchmarks against which to assess outcomes.
(3) The school is to provide specific information about the frequency of the school performance evaluation, what the evaluation will include, and how the information will be reported to parents and other interested parties.
(4) The school is to provide annual training for governing board members on the requirements of the Brown Open Meeting Act.
(5) The school is to conduct annual surveys of faculty and staff regarding the school's educational program and operation, and provide the results to CDE oversight staff.
(6) The school is to provide information regarding its proposed plan and timeline for securing permanent staff or vendors for its business management services.
(7) The school is to report on its efforts to fully engage parents in all aspects of the school's operations.
(8) The school is to amend the charter petition in conformance with the CDE recommendations on pages 6 –15.

Attachment 1: Summary of Findings on the Ridgecrest Charter School Request for Renewal of its Charter (15 Pages)

Summary of Findings on the Ridgecrest Charter School Request for Renewal of its Charter

March 2004

The Ridgecrest Charter School (RCS) submitted a request for renewal of its charter to the State Board of Education (SBE) on December 29, 2003, after having been denied renewal by the Sierra Sands Unified School District. RCS was the second school to be granted a three-year charter by the SBE on appeal in December 2000; however, it is the first SBE-approved charter school to be considered for renewal by the SBE. The Advisory Commission on Charter Schools considered this renewal request at its February 19, 2004 meeting and voted unanimously to recommend approval of the renewal to the SBE with the conditions specified in this analysis.

Overview of the Law and Oversight Agreement

Since this is the first renewal request to be presented to the SBE, a brief review of the statutes addressing charter school renewals and the oversight agreement under which SBE charter schools operate will provide a context for the California Department of Education (CDE) analysis of this renewal request.

Charter School law (*Education Code* Section 47607(a)(1)) states that a charter may be granted for a period not to exceed five years. The SBE historically has taken a conservative approach and granted charters on appeal for three-year periods of time. For that reason, RCS submitted its renewal request two and one-half years after the school opened its doors. This same section in the law also requires that each renewal be granted for a period of five years, thus limiting the ability of the SBE to grant a renewal for a greater or lesser period of time.

Existing law (*Education Code* Section 47605(k)(3)) also requires a charter school that has been granted a charter on appeal by the SBE to submit its petition for renewal first to the district that initially denied the charter. If that district denies the renewal the school may submit the renewal request to the SBE. In this case, the Sierra Sands Unified School District was the district that originally denied the RCS charter petition. Therefore, RCS was required to submit the renewal request to Sierra Sands prior to submitting it to the SBE.

The SBE has also established criteria for the review and approval of charter petitions that are presented to the board (Title 5, Subchapter 19, sections 11967.5 and 11967.5.1) that address all the elements in law required for charter approval. The petition for renewal has been reviewed using this set of criteria as the framework.

Finally, the SBE has an oversight agreement with each of the schools it has chartered, including RCS, which delineates the expectations of each school and of the CDE staff responsible for performing oversight responsibilities on behalf of the SBE.
In addition, the SBE has described four fundamental interests that it wants to be assured that the school is upholding and carrying out in the oversight agreement. These fundamental interests are:

- Implementing the Charter – Is the school implementing the provisions of the charter as approved by the SBE?

- Obeying the law – Is the school obeying all requirements of federal, state, and local law that apply to the charter school?

- Being operated prudently – Is the school being operated prudently in all respects, including governance; educational program; faculty and staff; facilities; business management and support services; and students and families?

- Providing a sound education – Is the school providing a sound education for all of its students?

These four fundamental interests provide the guiding framework for our review of RCS and its operations over the last two and one-half years.

One other consideration merits attention at the beginning of this analysis. The Sierra Sands USD, in its denial of the RCS renewal request, made a series of allegations against the school, which the district superintendent forwarded to the State Superintendent of Public Schools and requested an investigation. The allegations and our findings and recommendations regarding them are woven throughout this analysis under each of the fundamental interests and are not treated separately in this document.

Description of the School

The State Board approved the RCS petition with conditions on December 6, 2000. Petitioners spent the next eight months working to meet the SBE conditions and preparing to open the school. The school opened in September 2001 with an enrollment of approximately 225 students in grades K-8. The school originally proposed to serve grades K-9 with an estimated enrollment of 300 students. Within the life of the charter, the school expected to expand to serve grades K-12 with an enrollment of approximately 592 students. Before the school opened, a decision was made to limit the school to grades K-8. RCS currently serves approximately 225 students and reported ADA of 211.95 at the First Principal Apportionment for the current year. The school operates in a leased church facility that houses the administrative functions and has added 12 portable classrooms to the site.

RCS is located in a small, relatively isolated community in the high desert area near the China Lake Naval Weapons Station. The school sought to provide an alternative to the other schools within the Sierra Sands USD and to create a comprehensive educational plan that would enable students to become “literate, well-prepared life-long learners through participation in a primarily teacher-directed, phonics-based, highly disciplined core knowledge program.”

RCS contracts with BWG Consultants, which has during the life of the charter, provided assistance with the approval process, start-up activities, curriculum and instruction, and business functions.

Findings

(1) Is the school implementing the provisions of the charter as approved by the State Board?

Oversight staff finds that the charter school has substantially implemented the charter as the SBE originally approved it, with the exceptions described in this document. The start-up year presented some cash flow problems, which led to some changes in the educational program, but overall, the school has continued to implement the terms of the charter.

RCS has integrated the Core Knowledge curriculum into the state standards and is using this as the framework for curriculum and instruction. The governance structure is functioning as proposed in the charter and the school board has adopted policies to govern the school in a number of areas, such as health and safety procedures, suspension and expulsion procedures, evaluation processes for both the principal and teachers, etc. RCS applied to and was accepted into the Kern County Consortium SELPA as an LEA and appears to have established good rapport and communication with the SELPA director.

There are three areas in which the school has either failed to fulfill provisions of the charter or provided no evidence to substantiate that RCS has fulfilled the provisions. These areas are:

The World Language Program – in the original charter petition, one of the school's 11 stated Literacy Standard outcomes included "speaking, reading and writing two or more languages as a second language program in Spanish." RCS has not added the second language program to date. This was also pointed out in the Sierra Sands analysis of the charter renewal. The school reports that it had funding and cash flow issues the first year and decided to put the second language program on hold until such time as resources permitted the school to incorporate the program into the curriculum. The school was also unable to hire a certificated teacher. The charter renewal request now indicates that the second language program will be added as a co-curricular program within the life of the charter.

CDE oversight staff recommends that RCS provide a program description and proposed timeline for incorporating the second language program into the co-curricular educational program.

School Outcomes – the school outcomes unrelated to academic achievement (that the school will have a higher rate of parent participation than similar schools in Kern County and that the school would provide new professional opportunities for teachers and create opportunities to tap the expertise and experience of qualified professionals

previously excluded from the public school system) are vague and appear not to have been analyzed by the school; therefore, it is difficult to determine if the outcomes have been satisfactorily met. ***CDE oversight staff recommends that all outcomes, including those related to academic achievement, be revised to provide measurable benchmarks against which to assess outcomes.***

Plan for Evaluating School Performance - RCS indicated in the original charter that it would compile and compare student attendance and teacher attendance records with the district statistics. The charter also indicated that the school would hire outside evaluators, either from the Core Knowledge Foundation or other "acknowledged evaluative organizations" to look at student test results and other measures of student performance. RCS has not yet had an outside evaluator review the school's performance. The school has sent weekly and monthly reports to oversight staff and provided a program update with the First Interim Budget Report in 2001-02, which the school considers to have met the school evaluation provision of the charter. We believe that the monthly report and program update do not constitute a complete school evaluation. ***CDE staff recommends that the school be specific in the charter about the frequency of the evaluation, what the evaluation will include, and how the information will be reported to parents and other interested parties.***

(2) Is the school obeying all requirements of federal, state, and local law that apply to the charter school?

RCS appears to be substantially compliant with all relevant laws that apply to charter schools. CDE oversight staff has visited the school annually each year before the beginning of the school year to determine if the school is ready to begin serving students. We have found no instances of noncompliance. The school has complied with local building code ordinances and local health and safety provisions with respect to the school's facilities; RCS has been in conformance with the criminal records statutes; the school has submitted timely financial audit reports, apportionment data and interim budget data. RCS has submitted its LEA Plan in conformance with the requirements of NCLB and the plan was approved by the California Department of Education.

RCS did have some problems with its special education program during its first year of operation. Some students with IEPs were without services for a few months. These problems stemmed largely from turning the program over to a private service provider and the geographic isolation of the community, which made it difficult to find and retain qualified special education personnel. The school has made progress since that first year.

RCS no longer relies on the private service provider and is providing services with its own staff and contracted employees, as specific services are required. The director of the Kern County Consortium SELPA reports that the school, which is an LEA in the SELPA, has a good relationship with that organization and the CDE Special Education Division indicates that RCS is reporting California Special Education Management

Information System (CASEMIS) data. In order to ensure that the school continues to improve its special education services, oversight and CDE Special Education Division staff will conduct a visit to the school as soon as is practical to review the quality of services being provided to special needs students and to ensure that IEPs are being implemented.

The Sierra Sands USD in its denial of the RCS renewal alleged violations of law on the part of the school in two areas.

First, two RCS governing board members and one member of BWG Consultants provided interest-free loans to the school during the first year of operation to meet cash flow needs. The district alleges that these loans constitute a conflict of interest and the district has secured a legal opinion supporting its position. RCS has secured its own legal opinion stating that the loans do not violate any conflict of interest provisions of law. The loans were all repaid at the beginning of the 2003-04 fiscal year. The CDE Legal Office has not issued a legal opinion on this matter, but it indicates informally that as long as the loans and terms were fully disclosed to the governing board, there does not appear to be a violation. Consequently, **we have no further recommendations on this issue.**

The second allegation against RCS is that the school violated the Brown Open Meeting Act on numerous occasions. The district provided documentation of the alleged violations to the local district attorney for his review. RCS also took action to cure some specific violations, which the district attorney accepted. The district attorney, after reviewing the allegations in total, communicated to both the school and district that it was his opinion that violations did occur, but that it appeared that the "violations occurred due to the Board's lack of knowledge, and not based upon any intent to deprive the public of information." The district attorneys' office also required the school to provide instruction and training to board members on the proper methods of conducting and recording a board meeting. Legal counsel for RCS provided the training in December 2003**. We recommend that RCS provide training for board members on an annual basis.**

(3) Is the school being operated prudently in all respects, including governance; educational program; faculty and staff; facilities; business management and support services; and students and families?

It appears that the school is being operated prudently in most respects. The school has been assisted in its operations by BWG Consultants who have advised the school on all aspects of its operations. In that respect, RCS is fortunate to have had the knowledge and expertise of a firm with experience in starting other charter schools to guide the school in its first years of operation.

Governance – RCS is constituted as a non-profit corporation in accordance with its charter. The governing board was duly established and the governance structure is inclusive of parents. Because this is a small close-knit school community, parents are governing board members, volunteers in the classroom and provide additional services

to the school. School leadership also occurs through a curriculum committee, a site council, and a parent/teacher group. The governing board conducts regularly scheduled monthly meetings and is quite active in adopting board policies in a variety of areas (i.e. suspension/expulsion and health and safety procedures). The conduct of board meetings has not always strictly adhered to Brown Act requirements (see fundamental interest #2 for discussion on this issue); however, the school has taken actions to prevent future violations from occurring. This is a board that is still growing and maturing. The principal of RCS has been with the school the entire time the school has been open and appears to effectively manage the school.

Educational Program – the educational program appears to be operating substantially in accordance with the charter, with the exception of the second language program noted previously. The school is integrating the Core Knowledge Program with the state content standards and teachers have had multiple professional development opportunities on the program. The 2001-02 mid-year site visit revealed that the teachers were teaching to the state standards, using a variety of teaching/learning strategies, had high expectations for students, using multiple assessment techniques, and were closely monitoring student progress. The school uses state-adopted textbooks in all subject areas.

Faculty and Staff – faculty and staff at the school have been relatively stable over the life of the school to date. CDE oversight staff has received one complaint from a teacher who was not rehired after one year at the school. The principal, office staff, and custodian have all been with the school for at least two years.

There appear to be sufficient faculty to conduct the program described in the charter. Many of the faculty have or had emergency credentials. It appears to be difficult to attract fully qualified teachers, most likely because of the geographic isolation of the Ridgecrest community. All staff has received fingerprint clearances and has been screened for tuberculosis. The oversight agreement requires the school to survey annually faculty and staff regarding the RCS educational program and operation. To date, we have not seen the results of any such surveys. **We recommend that RCS conduct the annual surveys and provide the results to CDE oversight staff.**

Facilities – RCS is located in a leased church facility that houses the school's administrative functions. In addition, the school has leased 12 portable classrooms, which are on the same site. RCS filed a Proposition 39 facilities request with Sierra Sands for the current school year. However, the district's offer of facilities would have resulted in the charter school's eight classrooms being spread out over 5 separate school sites. RCS thought this was an untenable solution and initiated a lawsuit against the district. The lower court ruled that the district did not act unreasonably and the school has decided to go forward with an appeal of that decision. It does appear that the school will remain at its current location for the foreseeable future. CDE oversight staff has visited the school facilities on four separate occasions and has found them to be safe, clean, and suitable for the program being operated by the school.

Business Management and Support Services - RCS has been using BWG Consultants to manage and maintain its business functions. However, that is changing as BWG winds down its contractual relationship with the school. The consulting firm has been responsible for compiling and reporting Average Daily Attendance (ADA) for apportionment purposes. However, this year the school converted over to an attendance reporting system that is tied to the Kern County Office of Education. The consulting firm continues to provide other business services to the school; however, it is our understanding that this arrangement is to be phased out. **We recommend that RCS provide information regarding its proposed plan and timeline for phasing BWG out and either hiring staff or contracting with the county office or another vendor for its business services.**

RCS has submitted its interim budget reports, annual budgets, unaudited past year expenditures and annual financial audits in accordance with established deadlines and/or statute. The annual financial audits for the past two years have contained no findings or exceptions in RCS's financial reporting or practices. The audit firm has issued management letters in both years and the school has followed up on the auditor's recommendations (develop an accounting practices and procedures manual, acquire bonding insurance, and requesting the Kern County Office of Education to detail, for revenues received from the county office, the actual source of revenue so that it may be properly allocated). The district alleges that the school did not undertake the audit recommendations. However, the district did not ask for any information from the school and was apparently unaware that RCS was in the process of carrying out the recommendations. **We have no further recommendations in this area.**

Our internal review of interim budget reports and budgets has uncovered no significant problems. As has been previously stated, the school did have cash flow problems the first year of its operation; however, the budget seems to have stabilized. CDE's review of the school's 2003-04 adopted budget identified a few minor issues where budget estimates need to be refined. For example, fiscal staff found the budgeted reserves are approximately 3%, rather than the recommended 5%; cost of living adjustments projected for 2004-05, 2005-06 and 2006-07 are probably high given the state's fiscal crisis; and that the first interim report should reflect the most current ADA figures.

RCS has been invoiced and has paid for the 1% oversight costs for the previous two years ($27,254) and only has recently been invoiced for the estimated current year costs of oversight.

Finally, RCS has maintained insurance consistent with common practice for organizations of like magnitude, and the SBE has been listed on the policy for purposes of notification of termination of insurance coverage.

Students and Families - it appears that a majority of parents are satisfied with the experience their children are having at RCS, as evidenced by the latest parent survey. Family responses on the survey indicate that they think their children are working at grade level, they help children with homework, and they feel that the teachers and principal are approachable. The original charter petition stated that the school would have a standing Parent Association to ensure significant parent involvement and that

parents would be provided the opportunity to sign a contract stating, among other things, that they would donate at least four hours of service monthly per family to the school. The survey seems to indicate that families are not as engaged as they could be in the Parent/Teacher Organization, the board or other school committees, and 36% of parents are volunteering at the school "sometimes" to "not at all." ***We recommend that RCS report on its efforts to further engage parents in the life of the school.***

The school provides no transportation for students and has had a difficult time finding a vendor to provide meals to the school. RCS has approached the Sierra Sands School District, a local community college and other vendors, but have been unable to work out an arrangement.

RCS has a student attendance reporting system in place that allows parents to be notified when students are absent and provides accurate information to CDE for purposes of apportionment. As noted previously, the school has for the first time this year begun using the Kern County office system.

The school maintains student discipline policies, which are provided to parents in the student/parent handbook. CDE oversight staff has received less than five complaints during the life of the charter from parents regarding discipline procedures or about teachers' handling of the classrooms. Most of the complaints from parents have been with regard to violations of the student dress code.

(4) Is the school providing a sound education for its students?

Judging by state STAR test results and the school's own internal ITBS testing results, it appears that RCS students are performing well and therefore we conclude that RCS is providing a sound education for its students. The school has participated in the STAR program as required by law and the oversight agreement. The growth for RCS was 774 in 2002-03 compared to a base score of 735 in 2001-02. These figures exceeded the statewide median growth for similar schools in 2002-03. The 2003 API is not yet available for testing conducted last spring. However, the school has met its AYP target under NCLB for its Annual Measurable Objectives (AMOs) and participation rates in the state tests.

The Iowa Test of Basic Skills (ITBS), which the school administers to students at the beginning and end of the school year and uses for diagnostic purposes indicate that students are performing at grade level.

Sierra Sands USD has alleged that RCS violated state testing requirements and its charter because the school "failed to test a significant portion of students who were not exempt from testing in 2002 in at least one STAR content area." Because of this, the school did not receive an API for the 2001 school year. The facts of the situation are that due to a teacher error in failing to give directions for one part of the English/Language Arts test to the 7th grade class 24 of 26 students failed to complete seven questions in the English grammar multiple-choice test. RCS called this to the attention of the CDE Assessment Division and oversight staff immediately upon learning of the test results.

Due to miscommunication among CDE staff, RCS was inadvertently given an API, which was later invalidated when CDE staff determined that the number of students failing to answer questions on the tests was greater than that allowed under state testing statute and regulations. The API initially given to the school indicated that RCS had a strong score with a similar schools rank of 9 and a statewide rank of 7. *There was no attempt by the school to cover up this incident or cheat on the test. It was simply an error on the part of one teacher. Apparently this error occurred in about 20 other schools around the state and the test directions for teachers have been revised to ensure these types of errors are minimized.* **We have no further recommendations on this issue.**

The district also alleges that RCS is not performing as well as district schools and has a higher mobility rate than the district, and therefore the district has to remediate students that return to district schools. Although RCS has not yet received a 2003 base API, the mean scaled scores and percent of students' proficient and advanced in subject areas are available. The table below compares RCS test data to the other schools in Sierra Sands USD serving the same grade levels.

ENGLISH/LANGUAGE ARTS

Scale Score

Grade	2	3	4	5	6	7	8
Ridgecrest	**345.3**	**351.5**	**352.5**	**348.8**	**343.4**	**333.2**	**337.0**
Faller	337.4	345.1	350.1	338.2			
Gateway	363.3	350.4	348.9	335.5			
Inyokern	330.3	344.9	355.3	329.8			
Las Flores	342.7	339.6	363.5	340.6			
Monroe					338.2	330.6	333.9
Murray					351.1	346.1	330.0
Pierce	339.6	333.4	343.9	317.7			
Richmond	355.6	345.3	372.6	349.4			

Percent Proficient and Advanced

Grade	2	3	4	5	6	7	8
Ridgecrest	**42**	**42**	**54**	**52**	**39**	**39**	**57**
Faller	42	37	51	44			
Gateway	64	50	44	36			
Inyokern	31	47	53	33			
Las Flores	44	48	61	42			
Monroe					39	35	33
Murray					55	46	33
Pierce	32	40	37	20			
Richmond	59	45	69	52			

MATHEMATICS

Scale Score

Grade	2	3	4	5	6	7	8
Ridgecrest	**330.2**	**382.6**	**362.7**	**368.4**	**333.9**	**316.9**	**329.1**
Faller	357.5	355.8	348.0	328.1			
Gateway	391.2	377.2	348.4	334.8			
Inyokern	337.4	365.0	341.9	312.9			
Las Flores	381.0	372.3	378.8	339.4			
Monroe					316.9	321.7	330.0
Murray					337.8	334.3	328.1
Pierce	366.2	350.0	338.3	292.4			
Richmond	363.6	349.4	395.3	324.6			

Percent Proficient and Advanced

Grade	2	3	4	5	6	7	8
Ridgecrest	**37**	**84**	**50**	**63**	**32**	**26**	**45**
Faller	58	54	50	26			
Gateway	78	77	51	38			
Inyokern	34	65	45	22			
Las Flores	68	64	69	43			
Monroe					28	22	31
Murray					40	34	31
Pierce	58	53	40	10			
Richmond	59	50	77	27			

As these tables show, RCS is performing about as well as the Sierra Sands district and in some grade levels RCS is performing better than district schools in English/Language Arts and Mathematics. It is also of interest that the mobility rates for the six elementary schools in Sierra Sands USD, as reported on the 2002 Base API Reports, range from 20-24%. Therefore, it appears that RCS's mobility rate is in the same range as the district's rate even though RCS is a school of choice, not one assigned on the basis of home address. **We have no recommendations in this area**.

Recommendation

Based on the findings in the previous pages, we recommend that RCS be granted a renewal of its charter for five additional years, in accordance with statute. The five-year period would begin on September 4, 2004, and continue until September 3, 2009. As a condition of the renewal, we recommend that RCS, in cooperation with CDE oversight staff, institute the recommendations described in this document (highlighted in bold and italics).

CDE oversight staff observations at the school site and a review of documents submitted to staff over the previous two and one-half years indicated that the school is being operated in a fiscally prudent manner and is providing overall a sound educational program. The school is carrying out the terms of its charter to a reasonable degree, with the exception of items as noted in this document, and is substantially in compliance with federal, state and local laws that are applicable to charter schools.

The school has been in operation for a short period of time and has performed well in light of the problems normally facing start-up charter schools, including lack of funding for facilities and transportation. The geographic isolation of the community has compounded the problem and made it difficult for the school to work out contractual arrangements with other entities in terms of the provision of school lunches, special education staff or facilities.

State Board of Education
Charter School Renewal Findings

School Name: **Ridgecrest Charter School**	
Denying District: **Sierra Sands Unified School District**	Date Denied: **9/18/03**
Denying County: **N/A**	Date Denied: **N/A**
Date Received by SBE: **12/29/03**	

SUMMARY OF FINDINGS	**Concerns***
1. The Charter School presents an unsound educational program for pupils to be enrolled in the charter school.	☒
2. The petitioners are demonstrably unlikely to successfully implement the program set forth in the petition.	☒
3. The petition does not contain the number of required signatures.	☐
4. The petition does not contain an affirmation that the school shall be nonsectarian, shall not charge tuition and shall not discriminate.	☐
5. The petition does not contain reasonably comprehensive descriptions of the required elements.	☒
*See detail regarding concerns on findings 1, 2, and 5 on the following pages.	

GENERAL COMMENTS AND AFFIRMATIONS	**Included**	
	Yes	No
Evidence of local governing board denial per *Education Code* (EC) Section 47605 (j)(1) and 5 CCR 11967(a)(2)	☒	☐
Reason for denial included (5 CCR 1967(a)(2))	☒	☐
Full charter included (EC 47605(b)(5)).	☒	☐
Signed certification of Compliance with applicable law (5 CCR 11967(b)(3))	☒	☐
Written verification of SELPA participation or district delegation to accept charter in the LEA for Special Education (EC 47641© and (d))	☒	☐
Serves pupils in grade levels that are served by the school district of the governing board that considered the petition (EC 47605(a)(6))	☒	☐

FINDING #1	**No Concerns**
The charter school presents an unsound educational program for pupils to be enrolled in the charter school. • Program presents the likelihood of physical, educational, or psychological harm; • Program is not likely to be of educational benefit to the pupils who attend.	
Comments: See comments under the 4 fundamental interests of the State Board on previous pages. CDE oversight staff concludes that the Ridgecrest Charter School is providing overall a sound educational program for its students.	

FINDING #2	**No Concerns**
The petitioners are demonstrably unlikely to successfully implement the program set forth in the petition. • Petitioners have a past history of involvement with charter schools or other education agencies that are regarded as unsuccessful; • Petitioners are unfamiliar with the contents of petition or requirements of law; • Petitioners have presented an unrealistic financial and operational plan for the charter school; • Petitioners lack the necessary background in curriculum, instruction and assessment, and finance and business management, and have no plan for securing individuals with the necessary background.	
Comments: See comments under the 4 fundamental interest of the State Board on previous pages. CDE oversight staff concludes that the Ridgecrest Charter School is demonstrably successful in implementing the program set forth in the charter.	

FINDING #3	**No Concerns**
The petition does not contain the number of signatures required by law.	
Comments: None	

FINDING #4	**No Concerns**
The petition does not contain an affirmation of each of the following: • Shall be nonsectarian • Shall not charge tuition • Shall not discriminate	
Comments: None	

FINDING #5	Reasonably Comprehensive	Not Reasonably Comprehensive
The petition contains reasonably comprehensive descriptions of the following:		
(A) A description of the educational program, including how information will be provided to parents on transferability of courses and eligibility of courses to meet college entrance requirements.	☒	☐
Comments: None		
(B) The measurable pupil outcomes	☐	☒
Comments: See comments on page 3 of Summary of Findings on the Ridgecrest Charter School Renewal.		
(C) The method by which pupil progress is to be measured (compliance with statewide assessments and standards)	☒	☐
Comments: None		
(D) Governance structure, including the process to ensure parental involvement	☐	☒
Comments: The charter language needs to be amended to provide for the addition of a representative of the SBE on the governing board, if the SBE so chooses. The member should be a voting member.		
(E) Qualifications to be met by those employed	☒	☐
Comment: None		
(F) Procedures to ensure health and safety of pupils and staff, including criminal records summary (per EC Section 44237)	☒	☐
Comments: None		
(G) The means by which the school will achieve racial and ethnic balance reflective of the district population	☒	☐
Comments: None		
(H) Admission requirements, if applicable (District priority or lottery per EC 47605 (d)(2))	☒	☐
Comments: None		
(I) The manner in which an independent annual financial audit is to be conducted	☒	☐
Comments: We note that the charter contains language under this section that refers to fiscal memoranda of understanding with the SBE. This language should be deleted from the charter because it has no applicability.		
(J) The procedures by which pupils can be suspended or expelled	☒	☐
Comments: None		

(K) The manner by which staff will be covered by STRS, PERS, or Social Security	☒	☐
Comments: None		
(L) The public school attendance alternatives for pupils residing in the school district who choose not to attend charter schools (No governing board of a school district shall require any pupil enrolled in the school district to attend a charter school)	☐	☒
Comments: If approved, standard language from the Criteria for Review and Approval of Charter School Petitions needs to be added to the charter specifying that the parent of each student enrolled in the school shall be informed that the student has no right to admission in a particular school of any LEA or program of any LEA as a consequence of enrollment in the charter school, except to the extent that such a right is extended by the LEA.		
(M) A description of the rights of any employee of the district, upon leaving the employment of the district to work in the charter, and of any rights of return to the school district after employment at the charter school (No governing board of a school district shall require any employee of the school district to be employed in a charter school (EC 47605(e))	☐	☒
Comments: If approved, the petition needs to be amended to include the standard language from the Criteria for the Review and Approval of Charter School Petitions related to this element, which states that charter school employees shall have any right upon leaving the LEA to work in the charter school that the LEA may specify, any rights of return to employment in a LEA after employment in the school that the LEA may specify, and any other rights upon leaving employment to work in the school that the SBE determines to be reasonable and not in conflict with any law.		
(N) Process for resolution of disputes with chartering entity	☐	☒
Comments: If approved, the petition needs to be amended to include the standard language from the Criteria for the Review and Approval of Charter School Petitions related to this element, which states that because the SBE is not a LEA, the SBE may choose to resolve a dispute directly instead of pursuing the dispute resolution process specified in the charter, provided that if the SBE intends to resolve a dispute directly, it must first hold a public hearing to consider arguments for and against the direct resolution of the dispute.		
(O) Declaration whether or not the charter school shall be deemed the exclusive public employer for the purposes of EERA	☒	☐
Comments: None		
(P) A description of the procedures to be used if the charter school closes	☐	☒
Comments: If approved, the petition needs to be amended to add language regarding how notification of closure will be communicated to the SBE, CDE, and the county of education as well as to students and parents and potential receiving districts. The procedures need to further address the process for the transfer of student records, and the performance of an independent audit with timelines. Finally, the sentence in the charter that states, “Assets purchased with public funds belong to the SBE” should be removed from the petition.		

ITEM #44

CALIFORNIA STATE BOARD OF EDUCATION

MARCH 2004 AGENDA

SUBJECT	
Legislative Update: Including, but not limited to, information on legislation.	☒ Action
	☒ Information
	☐ Public Hearing

RECOMMENDATION

The following items are presented to the State Board of Education (SBE) for information and action as deemed necessary and appropriate.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

The February 2004 informational memorandum provided an update of legislative measures that fall under the six core principals adopted by the board at the November 2003 meeting. Deliberations on the proposed budget have not yet begun given the second half of the 2003-2004 legislative session remains in its early stages. February 20, 2004, is the last day to introduce legislation and we will continue to update the Board on the status of relevant bills, including the budget proposal, as they move though the legislative process.

SUMMARY OF KEY ISSUES

Given California's enormous deficit, the Governor's proposed 2004-05 budget as it relates to K-12 education is optimistic. Specific funding amounts are included in the attached documents.

FISCAL ANALYSIS (AS APPROPRIATE)

On January 9, 2004 Governor Schwarzenegger released his proposed state budget for 2004-05 fiscal year. The attached information summarizes this budget as it relates to K-12 education. The fiscal impact of the 2004-05 proposed budget and its potential impacts to K-12 education and the California Department of Education will be presented during the meeting.

ATTACHMENT

Attachment 1: Quick Summary-The Governor's Budget Proposal. January 9, 2004, Senate Committee on Budget & Fiscal Review

Attachment 2: K-12 Programs to Eliminate and Shift Funds to Revenue Limits as presente by Strategic Education Services on January 13, 2004. (This attachment is not available fo web viewing, however, a copy can be obtained in the State Board Office)

K-12 Education

Total K-12 Education Funding Available. The Governor proposes and estimated $1.5 billion in additional funding for K-12 schools in 2004-2005. These new funds are the result of $432 million in new Prop 98 funds proposed by the Governor and the $1.1 billion in existing Proposition 98 funds that have been "freed-up" and will be available to spend for new purposes in 2004-2005.

Per Pupil Increases in Prop 98. The Governor proposes K-12 Proposition 98 per pupil expenditures of $6,945 in 2004-05, which provides an additional $5 per pupil above the 2003-04 budget.

Statutory Growth and COLA's Fully Funded. The Governor proposes to fully fund statutory growth and COLA's (cost-of-living adjustments) for K-12 revenue limit and categorical programs in 2004-05.

Categorical Reform – Funding Shift. The Governor proposes to eliminate separate funding for 22 categorical education programs and shift $2 billion in funding for those programs to revenue limits in 2004-05. These programs include home-to-school transportation, school improvement, supplemental grants, non-court desegregation funds, most professional development programs, year round schools, and English Learner Student Assistance. Funds shifted into revenue limits could be used for general purposes, or schools could continue to provide funding for categorical purposes if they desire.

Categorical Reform – Separate Funding Retained. The Governor proposes to retain separate funding for most education categorical programs including such major programs as Class Size Reduction, Economic Impact Aid, Special Education, Child Care, court based desegregation, Adult Education, and ROC/P's.

*Source: Quick Summary -The Governor's Budget Proposal.
January 9, 2004, Senate Committee on Budget & Fiscal Review

CALIFORNIA STATE BOARD OF EDUCATION

MARCH 2004 AGENDA

SUBJECT	
2003-04 Consolidated Applications – Update on Local Educational Agency (LEAs) that received Conditional Approval	☒ **Action**
	☒ **Information**
	☐ **Public Hearing**

RECOMMENDATION

This item is presented upon request by the State Board of Education (SBE) as a follow-up to the SBE meeting in September 2003. It is presented for information and action as deemed necessary and appropriate.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

There are 17 state and federal programs that LEAs may apply for in the Consolidated Applications. Approximately $3.2 billion is distributed annually through the Consolidated Applications process. Consolidated Applications are presented to SBE for approval after they have been received and reviewed. The California Department of Education (CDE) recommendation is based upon application completeness and the status of outstanding compliance issues. CDE provides the SBE with two types of approval recommendations. Regular approval is recommended when an LEA has submitted a correct and complete Consolidated Application, Part I and have no serious noncompliant issues over 365 days. Conditional approval is recommended when an LEA has submitted a correct and complete Consolidated Application, Part I, but has one or more serious noncompliant issues over 365 days. Conditional approval provides authority to the LEA to spend their categorical funds on the condition that they resolve or make significant progress toward resolving noncompliant issues. In extreme cases, conditional approval may include the withholding of funds.

At the meeting in September, the SBE gave conditional approval to the 2003-04 Consolidated Applications for 38 LEAs that have noncompliant issues over 365 days. At the meeting in January, the SBE granted an additional LEA (Oakland USD) conditional approval. No action was recommended to withhold funds. These 38 LEAs will continue to receive funds on the condition that they continue to make progress toward full compliance. The SBE requested an update on the progress of these 38 LEAs at the March SBE Meeting. A progress report for Oakland USD has been requested for the May SBE Meeting.

SUMMARY OF KEY ISSUES

As of February 6, 17 of the 38 LEAs have resolved all noncompliant issues that resulted in the conditional approval. The attached report describes the progress of the other 21 LEAs that have not yet resolved their noncompliant issues. All except one of these LEAs are on this list due to noncompliant issues related to services to English learners. The top five issues of noncompliance with these remaining districts are: 1) inadequate qualified staff to provide core content instruction; 2) a lack of access to core content instruction; 3) a lack of access to English language development instruction; 4) no school level English Learner Advisory Committee; and 5) inadequate use of student results to evaluate progress. A noncompliant issue can be quite different from one LEA to another. The extent to which an LEA is noncompliant will range in scope. For example, one LEA may be noncompliant due to one school lacking an English Learner Advisory Committee (ELAC) while another LEA may be noncompliant for the same issue, but have multiple schools without an ELAC. The attached report includes a summary of the noncompliant issues by LEA. For a more indepth review of each specific noncompliant issue within an LEA, case files can be made available for review to the SBE upon request.

FISCAL ANALYSIS (AS APPROPRIATE)

This item does not request or require any SBE action. CDE has determined that there are no additional costs or fiscal impact associated with this agenda item.

ATTACHMENT

Attachment 1: 2003-04 Consolidated Applications, Status of Districts Given "Conditional Approval" (3 Pages)

Attachment 2: Reference List of 2003-04 English Learner Compliance Issues (1 page)

2003-04 Consolidated Applications
Status of Districts Given "Conditional Approval"

The following LEAs have resolved all noncompliant issues:

Allensworth Elementary
Alpaugh Unified
Columbia Union Elementary
Ducor Union Elementary
Jefferson Union High
Mojave Unified
Muroc Joint Unified
Raisin City Elementary
Ravenswood City Elementary
Redondo Beach Unified
Rincon Valley Union Elementary
San Luis Obispo County Office of Education
Saucelito Elementary
Sonora Elementary
Stanislaus County Office of Education
Terra Bella Union Elementary
Tracy Joint Unified

The following LEAs have not yet resolved all noncompliant issues:

District Name	Noncompliant Issues	Comments
Ballico-Cressey Elementary	EL 2b, 3ab, 9a, 9b	1 issue already resolved.
Cloverdale Unified	EL 3b, 6b, 9a	Technical Assistance provided in January 2004.
Compton Unified	EL 1, 2ab, 3ab, 4bcd, 5abc, 6ab, 7, 8ab, 9ab, 10	CDE/OCR staff has jointly collaborated with Compton USD to provide extensive technical assistance and conducted three to four compliance-monitoring visits during 2001-02 and 2002-03 school years. The district has made significant improvement.
Grant Joint Union High	EL 1, 2ab, 3ab, 6b, 7, 8a, 9a	Since 2001 CDE/OCR have conducted 6 on-site reviews. . The district has made significant progress since 2001. Grant has met benchmarks f last year so no funding was withheld for this fiscal year. Reviews scheduled for Feb. 3-4 and June 1-3. Expect all issues resolved by June
Graves Elementary	EL 1, 3a, 4d, 7, 8a	Review scheduled for March to verify resolution of issues.
Las Virgenes Unified	EL 3b, 6b	
Los Angeles Unified	EL 4ab, 6ab, 8a, 9a	8 issues already resolved. Submitted information on the other issues in February.
Madera Unified	EL 2b, 3b, 6b	Technical Assistance scheduled for March; onsite review scheduled for April.
Monrovia Unified	EL 2ab, 3ab, 9ab	Technical Assistance provided in December. Review scheduled for April.
Ojai Unified	EL 6ab, 9ab	Most issues resolved in February.
Orchard Elementary	EL 1, 2ab, 4cd, 8a, 9b	Technical Assistance provided in November. Review scheduled for May.
Piner-Olivet Union	EL 1, 2b, 3a, 4cd, 8a, 9ab	

Elementary		
Pittsburg Unified	EL 2ab, 3ab, 6ab, 7	CDE and OCR staff have worked with Pittsburg USD through the instability brought about by the series of changes in district administration, and is working with PUSD current administration to bring compliance with state and federal law to top priority. On January 22, 2004 CDE/OCR staff met with PUSD staff to discuss the current status of compliance and specific next steps to resolve remaining issues.
Potter Valley Comm. Unified	EL 2a, 2b, 3a, 6b, 7	Technical Assistance scheduled for March.
San Francisco Unified	EL1, 2ab, 3ab, 4bcd, 5b, 6ab, 7, 8a, 9ab, 10ab	Technical Assistance scheduled for March 16 and April 20-23.
Santa Clara County Office of Education	EL 3a, 6ab	6 issues already resolved.
Santa Paula Elementary	EL 5ac, 8a	
Santa Paula High	EL 1, 2ab, 3ab, 4d, 5a, 6ab, 8ab, 9a	2 issues already resolved.
Silver Valley Unified	EL 3b	
Solano County Office of Education	EL 2a	Most issues already resolved.
Whittier Union High	IKE 2	Professional Development not appropriately provided to private school staff.

Reference List of 2003-04 English Learner Compliance Issues

EL 1	Reclassification
EL 2a	Program evaluation process
EL 2b	Program evaluation implementation with student results
EL 3a	English language development instructional services
EL 3b	Access to core curriculum
EL 4a	Home language survey
EL 4b	Initial assessment in English
EL 4c	Initial assessment in the primary language
EL 4d	Parent notification of assessment results
EL 5a	Placement in structured-English immersion program
EL 5b	Placement in English language mainstream program
EL 5c	Placement in alternative course of educational study program
EL 6a	Adequate qualified staff for English language development instruction
EL 6b	Adequate qualified staff for core curriculum instruction
EL 7	Professional Development
EL 8a	Parent notification of placement and opportunity to apply for waiver
EL 8b	Waiver policies and procedures
EL 9a	English learner advisory committee (ELAC – school level committee)
EL 9b	District English learner advisory committee (DELAC)
EL 10a	Adequate general fund resources for English learner services
EL 10b	Appropriate use of EIA-LEP (Economic Impact Aid – Limited-English Proficient) funds